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California Legislature

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CHAPTER 969

An act to amend Sections 55631, 55633, 55635, 55636, and 55638 of, and to repeal Article 10 (commencing with Section 55681) of Chapter 6, Division 20 of, the Food and Agricultural Code, relating to agriculture

[Approved by Governor September 22, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1. Section 55631 of the Food and Agricultural Code is amended to read

55631 Every producer of any farm product that sells any product which is grown by him to any processor under contract, express or implied, in addition to all other rights and remedies which are provided for by law, has a lien upon such product and upon all processed or manufactured forms of such farm product for his labor, care, and expense in growing and harvesting such product The lien shall be to the extent of the agreed price, if any, for such product so sold. If there is no agreed price or a method for determining it which is agreed upon, the extent of the lien is the value of the farm product as of the date of the delivery. Any portion of such product or the processed or manufactured forms of such product, in excess of the amount necessary to satisfy the total amount owed to producers under contract, shall be free and clear of such lien.

SEC. 2. Section 55633 of the Food and Agricultural Code is amended to read:

55633. The producer's lien is a preferred lien prior in dignity to all other liens, claims, or encumbrances except the following:

(a) Labor claims for wages and salaries for personal services which are rendered by any person to any processor in connection with such processing business after the delivery of any such product for processing

(b) The lien of a warehouseman as provided by Division 7 (commencing with Section 7101) of the Uniform Commercial Code

SEC. 3 Section 55635 of the Food and Agricultural Code is amended to read:

55635 The lien of a producer, unless sooner released by payment or by security which is given for such payment as provided in this article, is complete from the date of delivery of such product, or if there is a series of deliveries, it is complete from the date of the last delivery

SEC. 4. Section 55636 of the Food and Agricultural Code is amended to read

55636. If suit is commenced by any such producer to enforce any lien, such lien shall remain in effect until one of the following occurs:

(a) The payment of the agreed price or the value of such product.

(b) Deposit of the amount of the lien or claims with the clerk of the court in which any such action is pending.

(c) The final determination of such court proceeding.

SEC. 5. Section 55638 of the Food and Agricultural Code is amended to read·

55638. It is unlawful for any processor to remove, from this state or beyond his ownership or control, any farm product which is delivered to him, or any processed form of the farm product, to which any of the liens provided for in this chapter has attached, except for any of such product or processed product as may be in excess of a quantity on hand which is of a value that is sufficient to satisfy all existing liens Furthermore, this section shall not prohibit the sale of any farm product or processed form of the product to which such a lien has attached, so long as the total proceeds of the sale are used to satisfy obligations to producers which are secured by a lien established pursuant to this chapter.

SEC. 6. Article 10 (commencing with Section 55681) of Chapter 6 of Division 20 of the Food and Agricultural Code is repealed.

SEC. 7. Any loan made prior to, or any loan made pursuant to a commitment to lend made prior to, January 1, 1980, shall be governed by the provisions of Article 10 (commencing with Section 55681) of Chapter 6 of Division 20 of the Food and Agricultural Code which were in effect immediately prior to the effective date of this act.

CHAPTER 970

An act to amend Sections 3301, 3306, 3307, 3320, 3327, 3350, 3351 3, 3352, 3353, 3356, 3357, 3362, 3365, 3365.5, 3401, 3422, 3425, 3427, 3428, 3429, 3453, and 3454 of, and to add Section 655.2 to, the Business and Professions Code, relating to hearing aid dispensers, and making an appropriation therefor.

[Approved by Governor September 22, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1. Section 655.2 is added to the Business and Professions Code, to read:

655.2. No physician and surgeon or medical corporation licensed under Chapter 5 (commencing with Section 2000), nor any audiologist who is not a licensed hearing aid dispenser shall employ any individual licensed pursuant to Chapter 7.5 (commencing with Section 3300) for the purpose of fitting or selling hearing aids.

This section shall not apply to any physician and surgeon or medical corporation which contracts with or is affiliated with a comprehensive group practice health care service plan licensed pursuant to the Knox-Keene Health Care Service Plan Act, Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code.

SEC. 2. Section 3301 of the Business and Professions Code is amended to read:

3301. "Advertise," and any of its variants, as used in this chapter, includes the use of a newspaper, magazine, or other publication, book, notice, circular, pamphlet, letter, handbill, poster, bill, sign, placard, card, label, tag, window display, store sign, radio, television announcement, or any other means or methods now or hereafter employed to bring to the attention of the public the practice of fitting or sale of hearing aids.

SEC. 3. Section 3306 of the Business and Professions Code is amended to read:

3306. "Practice of fitting or selling hearing aids," as used in this chapter, means those practices used solely for the purpose of making selections, adaptations, or retail sale of hearing aids.

The practice of selling hearing aids does not include the act of concluding the transaction by a retail clerk.

When any audiometer or other equipment is used in the practice of fitting or selling hearings aids, it shall be kept properly calibrated and in good working condition, and the calibration of such audiometer or other equipment shall be checked annually.

SEC 4. Section 3307 of the Business and Professions Code is amended to read·

3307. "Hearing aid dispenser," as used in this chapter, means a person engaged in the fitting or selling of hearing aids to an individual with impaired hearing.

SEC 5. Section 3320 of the Business and Professions Code is amended to read:

3320 There is within the jurisdiction of the board a Hearing Aid Dispensers Examining Committee which shall prepare, approve, grade, and conduct examinations of applicants for a hearing aid dispenser's license The committee may provide that the preparation and grading of the examination be conducted by a competent person or organization other than the committee, provided, however, that the committee shall establish the guidelines for the examination and

shall approve the actual examination. The committee shall consist of seven members who shall be appointed by the Governor. Four members shall be public members, one of whom shall be a licensed physician and surgeon specializing in treatment of the diseases of the ear and certified by the American Board of Otolaryngology, and another public member shall be an audiologist licensed under Chapter 5.3 (commencing with Section 2530). Each public member shall be a citizen of the United States, a resident of the State of California, and of good moral character. The remaining three members shall be, and shall have been for at least five years immediately preceding their appointment, engaged exclusively in this state in the practice of fitting or selling hearing aids to persons with impaired hearing. All hearing aid dispenser members, other than those first appointed, who are appointed to the committee after the date on which the board first issued a license, as provided in Section 3354, shall be persons who hold valid licenses under this chapter.

The director or his deputy shall be entitled to attend all meetings of the committee, except that neither shall have the power to vote nor shall be counted for quorum purposes

SEC. 6. Section 3327 of the Business and Professions Code is amended to read:

3327 The committee may recommend the preparation of and administration by the State Department of Education of the course of instruction concerned with the fitting and selection of hearing aids. The committee may require that after 1975, prospective licensees shall first complete the required course of instruction or otherwise satisfy the committee that the licensee possesses the necessary background and qualifications to fit or sell hearing aids.

The committee may publish and distribute information concerning the examination requirements for obtaining a license to engage in the practice of fitting and selling hearing aids within this state.

SEC 7 Section 3350 of the Business and Professions Code is amended to read:

3350. It is unlawful for an individual to engage in the practice of fitting or selling of hearing aids, or to display a sign or in any other way to advertise or hold himself out as being so engaged without having first obtained a license from the board under the provisions of this chapter Nothing in this chapter shall prohibit a corporation, partnership, trust, association or other like organization maintaining an established business address from engaging in the business of fitting or selling, or offering for sale, hearing aids at retail without a license, provided that any and all such fitting or selling of hearing aids is conducted by the individuals who are licensed pursuant to the provisions of this chapter Such corporations, partnerships, trusts, associations or other like organizations shall file annually with the board a list of all individuals holding valid licenses who are directly or indirectly employed by them.

SEC. 7.5. Section 3351.3 of the Business and Professions Code is amended to read:

3351.3. This chapter does not apply to nor affect any physician and surgeon licensed under Chapter 5 (commencing with Section 2000) of Division 2 who does not directly or indirectly engage in the sale or offering for sale of hearing aids, nor to any audiologist licensed under Chapter 5.3 (commencing with Section 2530), or to an individual supervised by such audiologist in conducting fitting procedures, and who does not directly or indirectly engage in the sale or offering for sale of hearing aids.

SEC. 8. Section 3352 of the Business and Professions Code is amended to read:

3352. Each person desiring to obtain a license from the board to engage in the practice of fitting or selling hearing aids shall make application to the committee. The application shall be made upon a form and shall be made in such manner as is provided by the committee and shall be accompanied by the fee provided for in Section 3456.

SEC. 9. 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 or 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 or 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 10 Section 3356 of the Business and Professions Code is amended to read.

3356 An applicant who has fulfilled the requirements of Section 3352 and has made application therefor, and proves to the satisfaction of the board that he has been engaged in the fitting or selling of hearing aids at an established place of business in a state other than

the State of California for a period of two years within a five-year period immediately prior to his application, may have a temporary license issued to him which shall be valid and effective for a period ending 30 days after the conclusion of a qualifying examination given not earlier than 90 days after the date of issue of such temporary license.

SEC. 11. Section 3357 of the Business and Professions Code is amended to read:

3357. An applicant who has fulfilled the requirements of Section 3352, and has made application therefor, and who proves to the satisfaction of the board that he will be supervised and trained by a person who holds a valid license issued pursuant to the provisions of Section 3354 or Section 3355 or Section 3356, may have a temporary license issued to him which shall entitle him to be engaged, under such supervision, in the fitting or selling of hearing aids for a period of six months from the date of the commencement of his employment or for a period ending 30 days after the conclusion of a qualifying examination given not earlier than 150 days after the date of issue of such temporary license, whichever is later.

Such temporary license shall be effective and valid only while the applicant remains in the employ of a person who holds a valid license issued pursuant to the provisions of Section 3354, Section 3355, or Section 3356. Such licensee shall be responsible for the supervision and training of such applicant.

An applicant who has filed an application for a temporary license under this section may, between the date of receipt of notice that the application is on file, and the denial of said application or the date of issuance of the temporary license, practice under the supervision of a duly licensed hearing aid dispenser The supervisor shall be responsible for any acts or omissions committed by an applicant for a temporary license under his or her supervision arising out of the practice of fitting or selling hearing aids which constitutes a violation of this chapter. If the board determines that the temporary license applied for should not be issued, the applicant shall cease employment upon notification of the denial of the application by the board

SEC. 12. Section 3362 of the Business and Professions Code is amended to read:

3362. Before engaging in the practice of fitting or selling hearing aids, each licensee shall notify the board in writing of the address or addresses where he is to engage, or intends to engage, in the fitting or selling of hearing aids and, also, of any changes in his place of business. Any notice required to be given by the board or by the committee to a licensee may be given by United States mail to such address, postage thereon prepaid.

SEC. 13 Section 3365 of the Business and Professions Code is amended to read:

3365. A licensee shall, upon the consummation of a sale of a hearing aid, deliver to the purchaser a written receipt, signed by or

on behalf of the licensee, containing all of the following:

(a) The date of consummation of the sale.

(b) Specifications as to the make, serial number, and model number of the hearing aid or aids sold.

(c) The address of the principal place of business of the licensee.

(d) A statement to the effect that the aid or aids delivered to the purchaser are used or reconditioned, as the case may be, if that is the fact.

(e) The number of the licensee's license.

(f) The terms of any guarantee or express warranty, if any, made to the purchaser with respect to such hearing aid or hearing aids.

(g) Such receipt shall bear, or have attached to it in no smaller type than the largest used in the body copy portion, the following:

"The purchaser has been advised at the outset of his relationship with the hearing aid dealer that any examination or representation made by a licensed hearing aid dealer or fitter in connection with the practice of fitting or selling of this hearing aid, or hearing aids, is not an examination, diagnosis, or prescription by a person licensed to practice medicine in this state, or by certified audiologists and therefore must not be regarded as medical opinion or professional advice."

SEC. 14. Section 3365.5 of the Business and Professions Code is amended to read:

3365.5. Whenever any of the following conditions are found to exist either from observations by the licensee or on the basis of information furnished by the prospective hearing aid user, a licensee shall, prior to fitting or selling a hearing aid to any individual, suggest to that individual in writing that his best interests would be served if he would consult a licensed physician specializing in diseases of the ear or if no such licensed physician is available in the community then to a duly licensed physician:

(1) Visible congenital or traumatic deformity of the ear.

(2) History of, or active drainage from the ear within the previous 90 days.

(3) History of sudden or rapidly progressive hearing loss within the previous 90 days.

(4) Acute or chronic dizziness.

(5) Unilateral hearing loss of sudden or recent onset within the previous 90 days

(6) Significant air-bone gap (when generally acceptable standards have been established).

No such referral for medical opinion need be made by any licensee in the instance of replacement only of a hearing aid which has been lost or damaged beyond repair within one year of the date of purchase. A copy of the written recommendation shall be retained by the licensee for the period provided for in Section 3366. A person receiving the written recommendation who elects to purchase a hearing aid shall sign a receipt for the same, and the receipt shall be kept with the other papers retained by the licensee for the period

provided for in Section 3366. Nothing in this section required to be performed by a licensee shall mean that the licensee is engaged in the diagnosis of illness or the practice of medicine or any other activity prohibited by the provisions of this code.

SEC. 15. 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 or sells hearing aids, unless authorized by law.

(e) Fraud or misrepresentation in the fitting or 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. 16. Section 3422 of the Business and Professions Code is amended to read:

3422. It is unlawful to purchase or procure by barter any license issued by the board with intent to use the same as evidence of the holder's qualification to practice the fitting or selling of hearing aids.

SEC. 17. Section 3425 of the Business and Professions Code is amended to read:

3425. It is unlawful to engage in the practice of fitting or selling hearing aids under a false or assumed name except as provided in Section 3359.

SEC. 18. Section 3427 of the Business and Professions Code is amended to read:

3427. It is unlawful to engage in the practice of fitting or selling hearing aids in this state without having at the time of so doing a valid, unrevoked and unexpired license or temporary license.

SEC. 19. Section 3428 of the Business and Professions Code is amended to read:

3428 It is unlawful to advertise by displaying a sign or otherwise or hold himself out to be a person engaged in the practice of fitting or selling hearing aids without having at the time of so doing a valid, unrevoked license or temporary license.

SEC. 20. Section 3429 of the Business and Professions Code is amended to read·

3429 It is unlawful to engage in the practice of fitting or selling hearing aids without the licensee having and maintaining an established business address, routinely open for service to his clients.

SEC. 21 Section 3453 of the Business and Professions Code is amended to read:

3453. A license 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 license, while it remains suspended and until it is reinstated, to engage in the fitting or selling of hearing aids, or in any other activity or conduct in violation of the order or judgment by which the license was suspended. A license which has been revoked is subject to expiration, but it may not be renewed. If it is reinstated after its expiration, the licensee, as a condition precedent to its reinstatement, shall pay a reinstatement fee in an amount equal to the renewal fee in effect on the last regular renewal date before the date on which it is reinstated, plus the delinquency fee, if any, accrued at the time of its revocation.

SEC. 22. 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 or 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 23 Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of

Division 1 of that code.

CHAPTER 971

An act to add Section 711.5 to the Civil Code, and to amend Section 51068 of, to add Section 51068.5 to, and to repeal Section 51068.5 of, the Health and Safety Code, relating to housing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 22, 1979. Filed with Secretary of State September 22, 1979]

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

SECTION 1. Section 711.5 is added to the Civil Code, to read:

711.5. (a) Notwithstanding the provisions of Sections 711 and 1916.5, a state or local public entity directly or indirectly providing housing purchase or rehabilitation loans shall have the authority to deny assumptions, or require the denial of assumptions, by a subsequent ineligible purchaser or transferee of the prior borrower of the obligation of any such loan made for the purpose of rehabilitating or providing affordable housing If such a subsequent purchaser or transferee does not meet such an entity's eligibility requirements, that entity may accelerate or may require the acceleration of the principal balance of the loan to be all due and payable upon the sale or transfer of the property.

(b) As a condition of authorizing assumption of a loan pursuant to this section, the entity may recast the repayment schedule for the remainder of the term of the loan by increasing the interest to the current market rate at the time of assumption, or to such lower rate of interest as is the maximum allowed by an entity that provided any insurance or other assistance which results in an assumption being permitted. Any additional increment of interest produced by increasing the rate of interest upon a loan pursuant to this subdivision shall be transmitted or forwarded to the entity for deposit in the specified fund from which the loan was made, or, if no such fund exists, or the public entity has directed otherwise, then to the general fund of such entity.

(c) The state or local public entity providing assistance as specified in this section may implement appropriate measures to assure compliance with this section.

SEC. 1 5. 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.

SEC. 2. Section 51068.5 of the Health and Safety Code is repealed.

SEC. 3. Section 51068.5 is added to the Health and Safety Code, to read:

51068 5. (a) Except as otherwise provided in subdivision (b) and notwithstanding the provisions of Sections 711, 711.5, and 1916.5 of the Civil Code, the agency shall not permit assumption of the obligation of any mortgage loan made pursuant to Chapter 5 (commencing with Section 51100) or Chapter 6 (commencing with Section 51300) of this part by a subsequent ineligible purchaser or transferee of the prior borrower. If the subsequent purchaser or transferee does not meet the agency's eligibility requirements, the agency shall require acceleration of repayment of the principal balance of the loan to be all due and payable upon the sale or transfer of the property.

(b) With respect to mortgage loans made prior to July 1, 1979, the agency may waive the requirements of subdivision (a) when necessary to permit participation in mortgage insurance, guarantee, or purchase programs, or when the provisions of subdivision (a) would interfere with the financial structuring or the administration of any bond financing program. The requirements of subdivision (a) may be waived with respect to any mortgage loan made on or after July 1, 1979, only if the loan is federally assisted or insured and the waiver is necessary to obtain such federal assistance or insurance. As a condition to authorizing assumption of a mortgage loan pursuant to this subdivision, the agency shall recast the repayment schedule for the remainder of the term of the loan by increasing the interest to the current market rate at the time of assumption, or to such lower rate of interest as is the maximum allowed by an entity that provided any insurance or other assistance with respect to which a waiver was granted pursuant to this subdivision. Any additional increment of interest produced by increasing the rate of interest upon a mortgage loan pursuant to this subdivision shall be transmitted or forwarded to the agency for deposit in the California Housing Finance Fund.

(c) The agency shall implement appropriate measures to assure

compliance with this section.

(d) This section applies to all mortgage loans made by the agency pursuant to Chapter 5 (commencing with Section 51100) or Chapter 6 (commencing with Section 51300) of this part, whether directly or through a qualified mortgage lender, and including mortgage loans made prior to the effective date of this section.

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:

To avoid disruption in California Housing Finance Agency or other state or local agency programs meeting of the special needs of low- and moderate-income persons and families for decent, sanitary, and safe housing and to avoid litigation, it is necessary that this act go into immediate effect.

CHAPTER 972

An act to add Section 21140.6 to the Business and Professions Code, relating to franchises

[Approved by Governor September 22, 1979. Filed with Secretary of State September 22, 1979]

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

SECTION 1. The Legislature finds and declares that distribution and sales of motor vehicle fuels and oils in the State of California affect the general economy of the state, the public interest, and the public welfare, and that competition and the well-being of service station franchisees are essential to the fair and efficient functioning of a free market economy within the petroleum industry. The Legislature finds and declares that existing petroleum franchise agreements provide for their automatic termination upon the death of the franchisee The Legislature finds and declares that the protections hereinafter provided encourage the fair and efficient functioning of a free market economy within the petroleum industry.

SEC. 2. Section 21140.6 is added to the Business and Professions Code, to read·

21140.6. (a) On and after January 1, 1980, it shall be unlawful to include in any franchise agreement any term which provides for the termination of the franchise by the franchisor upon the death of the franchisee if the franchisee, prior to his demise, designates a successor-in-interest in a form prescribed by and delivered to the franchisor

(b) For the purposes of this section, "successor-in-interest" shall be restricted to either a surviving spouse or adult child of the

franchisee, provided that such spouse or child, at the time of the franchisee's death, shall meet the reasonable qualifications then being required of dealers by the franchisor for the operation of such service stations.

(c) This section shall not apply to a "trial franchise" as defined in the Petroleum Marketing Practices Act (Public Law 95-297).

(d) The designated successor-in-interest shall be allowed 21 days after the death of the franchisee to give written notice of his or her election to assume and operate the franchise. The notification shall contain such information regarding business experience and creditworthiness as is reasonably required by the franchisor. The successor-in-interest must offer to assume the franchise in writing three days (excluding Saturdays, Sundays, and holidays) after such election and must commence operation of the franchise within 10 days after it has been assumed.

(e) Franchisors may require that franchisees desiring to designate a successor-in-interest pursuant to this section deposit with the franchisor at the time of such designation such sum as would be reasonably estimated to be necessary to compensate the franchisor for rent for a period of 21 days. This deposit is intended to compensate the franchisor in the event the designated successor-in-interest fails for such period after the death of the franchisee to assume the franchise obligation. Any unearned portion of such deposit resulting from the successor-in-interest assuming responsibility for the franchise sooner than 21 days after the date of the franchisee's death, or from the temporary operation of the facility by the franchisor during such 21 days, shall be refunded by the franchisor to the estate or legal representative of the deceased franchisee. In addition to such deposit, the franchisor may require a franchisee desiring to qualify under this section to arrange for the discharge or performance of other franchise obligations such as, but not limited to, insurance, but excluding any obligation to be open to the public, for a period of up to 21 days after his demise.

(f) The franchise available to the successor-in-interest pursuant to this section is intended to be no greater than or less than the franchise as it existed in the name of the deceased franchisee at the time of such franchisee's death. This section is not intended to expand or diminish the rights of franchisors or franchisees under either federal or state law.

(g) A franchisee may designate a primary and one alternate successor-in-interest. The alternate, if one is designated, shall have no rights under this section in the event of any exercise of rights by the primary successor-in-interest. If an alternate desires to assume and operate the franchise in the event the primary successor-in-interest fails to do so, the alternate must give notice of such election and otherwise comply with paragraph (d) of this section.

(h) Unless otherwise specifically provided herein, any actions to be performed by the franchisor or by the successor-in-interest

hereunder shall in each instance be performed within a reasonable time.

(i) Unless the franchisor otherwise agrees in writing, there shall be no operation of the franchise following the death of the franchisee by anyone (other than the franchisor for its own account) until all parts of the franchise have been expressly assumed as herein provided, including, but not limited to, such items as lease or leases, products agreement, loaned equipment agreement, federal and state environmental law compliance agreements, licensing, and tax permits.

(j) Following the death of a franchisee, and prior to the operation of the franchise by the successor-in-interest as herein provided, the franchisor shall have the option to operate the franchise by contract or otherwise for its own account without obligation or duty to the heirs or estate of the deceased franchisee or to the successor-in-interest except for the obligation to account to the heirs or the estate of the deceased franchisee for the inapplicable portion of any prepaid rent or other sums prepaid to the franchisor, and for any physical inventory salvaged from the franchise and used or sold by the franchisor.

(k) If the successor-in-interest assumes the franchise and there has been no intervening operation of the franchise by the franchisor, the successor-in-interest shall account to the heirs or estate of the deceased franchisee for the value or other disposition of personal property of the franchisee located at or related to the franchise.

(*l*) The liability for failure to comply with this section shall be limited to those damages provided by Section 3300 of the Civil Code. Any action pursuant to this section shall be commenced within one year after the cause of action accrued.

(m) In the event any provision of this section is deemed void or unenforceable, the remaining portions, to the extent severable, shall be given effect.

CHAPTER 973

An act to amend Section 430.10 of, and to add and repeal Section 411.35 of, the Code of Civil Procedure, relating to civil actions.

[Approved by Governor September 22, 1979. Filed with Secretary of State September 22, 1979.]

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

SECTION 1. Section 411.35 is added to the Code of Civil Procedure, to read:

411.35. (a) In any action for damages arising out of the professional negligence of a person holding a valid architect's certificate issued pursuant to Chapter 3 (commencing with Section

5500) of Division 3 of the Business and Professions Code, or of a person holding a valid registration as a professional engineer issued pursuant to Chapter 7 (commmencing with Section 6700) of Division 3 of the Business and Professions Code, or a person holding a valid land surveyor's license issued pursuant to Chapter 15 (commencing with Section 8700) of Division 3 of the Business and Professions Code on or before the date of service of the complaint on any defendant, the plaintiff's attorney shall file the certificate specified in subdivision (b)

(b) A certificate shall be executed by the attorney for the plaintiff declaring one of the following:

(1) That the attorney has reviewed the facts of the case, that the attorney has consulted with at least one architect, professional engineer, or land surveyor 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.

(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.

(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 architects, professional engineers, or land surveyors 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) Where the attorney intends to rely solely 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 procedure, or both, this section shall be inapplicable 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 procedure or both, and for that reason is not filing a certificate required by this section

(e) For purposes of this section, and subject to Section 912 of the Evidence Code, 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 architect, professional engineer, or land surveyor consulted and the contents of such consultation Such

privilege shall also be held by the architect, professional engineer, or land surveyor 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 architect, professional engineer, or land surveyor, the court may require the attorney to divulge the names of architects, professional engineers, or land surveyors refusing such consultation

(f) A violation of the provisions of this section may constitute unprofessional conduct and be grounds for discipline against the attorney, except that the failure to file the certificate required by paragraph (1) of subdivision (b), within 60 days after filing the complaint and certificate provided for by paragraph (2) of subdivision (b), shall not be grounds for discipline against the attorney.

(g) The failure to file a certificate required by this section shall be grounds for a demurrer pursuant to Section 430.10.

(h) This section shall be operative until January 1, 1984, and on such date is repealed.

SEC. 2. Section 430 10 of the Code of Civil Procedure is amended to read:

430 10. The party against whom a complaint or cross-complaint has been filed may object, by demurrer or answer as provided in Section 430 30, to the pleading on any one or more of the following grounds:

(a) The court has no jurisdiction of the subject of the cause of action alleged in the pleading.

(b) The person who filed the pleading does not have the legal capacity to sue.

(c) There is another action pending between the same parties on the same cause of action.

(d) There is a defect or misjoinder of parties.

(e) The pleading does not state facts sufficient to constitute a cause of action.

(f) The pleading is uncertain. As used in this subdivision, "uncertain" includes ambiguous and unintelligible.

(g) In an action founded upon a contract, it cannot be ascertained from the pleading whether the contract is written or oral.

(h) The complaint was not accompanied by the certificate required by Section 411.35

CHAPTER 974

An act to add and repeal Chapter 2.6 (commencing with Section 8475) of Part 6 of the Education Code, relating to child care, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 22, 1979 Filed with Secretary of State September 22, 1979.]

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

SECTION 1 Chapter 2.6 (commencing with Section 8475) is added to Part 6 of the Education Code, to read:

CHAPTER 2.6. INTERGENERATIONAL CHILD CARE ACT OF 1979

8475. This chapter shall be known and may be cited as the Intergenerational Child Care Act of 1979.

8476. The Legislature finds that there is an urgent need to provide for more quality child care services in California, particularly in light of recent statistical data collected by the Department of Education which indicates that more single parents are entering the work force.

The Legislature further finds that the lifestyles of older people often result in greatly diminished contact between the elderly and children. Further, the Department of Aging has documented that older people often lack opportunities for involvement in meaningful community activities.

8477. The intent of the Legislature in enacting the provisions of this chapter is to bring older people together with children in a child care program which will provide for urgently needed nurturing child care services and, at the same time, provide a meaningful way in which the elderly may become involved in their own communities.

The Legislature intends to accomplish this purpose, at least in part, through the establishment of experimental project centers in which child care programs will be organized and in which the elderly will serve as aides.

The Department of Education shall encourage the use of intergenerational staff in all agencies with which it contracts for child development services.

8478. The Superintendent of Public Instruction shall establish the Intergenerational Child Care Center Projects statewide in a minimum of two counties. Rules and regulations adopted under Chapters 2 (commencing with Section 8200) and 2.5 (commencing with Section 8400) of this part shall be applicable, as nearly as may be practicable, to the projects under this chapter.

The superintendent shall consult with the Department of Aging and with the Elvirita Lewis Foundation for Geriatric Health and Nutrition which developed the first intergenerational child care center in the state.

8479 Each center shall be operated by a viable, fiscally sound public or private nonprofit corporation. To encourage the private and public sectors to work together in providing quality child development, the superintendent shall encourage the nonprofit

operator of each center to cooperate with a local school district and to locate the center on an elementary school campus.

To the maximum extent possible, each school district shall provide in-kind services such as:

(a) Access to resources, such as the libraries, and discount purchasing of school supplies;

(b) Janitorial services;

(c) Utilities.

8480. Fees for services to parents shall be based on a sliding scale so that parents will make some financial contribution to the care of their children yet will be able to utilize the services regardless of income.

8481. The centers may seek, receive, and make use of integrated funding to subsidize the centers. Such funds may be made available from federal, voluntary, philanthropic, or other sources in order to augment any state funds appropriated for the purposes of this chapter.

8482. The provisions of this chapter shall be in effect for three years after the effective date of this chapter, and as of such date are repealed, unless a later enacted statute, which is chaptered before such date deletes or extends such date.

SEC. 2. No later than six months prior to the repeal of this chapter, the Department of Education shall submit a report to the Legislature describing the effectiveness of the projects under this act and recommending whether or not the program shall be established on a more permanent basis.

SEC. 3. It is the intent of the Legislature that the source of funds for the experimental project centers and the one-time administrative costs for development of guidelines and project implementation under this act shall be Item 328(*l*) of the Budget Act of 1979, and shall not exceed one hundred ninety-two thousand dollars ($192,000). It is further the intent of the Legislature that funding for development of materials and statewide in-service sessions to promote intergenerational staff in existing and future child development programs under this act shall be Title 20 Social Service Act training appropriation which has been allocated to the Department of Education.

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:

Recent statistical data collected by the Department of Education has shown an urgent statewide need for quality child care, particularly in view of the fact that more single parents are entering the work force. Furthermore, the Department of Aging has documented the serious lack of meaningful opportunities for older people to become involved in community activities, particularly those which include children. The Elvirita Lewis Foundation, in creating and operating the first intergenerational child care center,

has demonstrated that intergenerational child care is one of the most effective and fiscally conservative approaches to quality child development. In order to insure that these vital child care services are available and that older people will have a vehicle by which to become involved, it is necessary for this act to take effect immediately.

CHAPTER 975

An act to amend Section 655 of the Business and Professions Code, relating to healing arts.

[Approved by Governor September 22, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1 Section 655 of the Business and Professions Code is amended to read:

655. (a) No person licensed under Chapter 7 (commencing with Section 3000) of this division may have any membership, proprietary interest, coownership, landlord-tenant relationship, or any profit-sharing arrangement in any form, directly or indirectly, with any person licensed under Chapter 5 5 (commencing with Section 2550) of this division.

(b) No person licensed under Chapter 5.5 (commencing with Section 2550) of this division may have any membership, proprietary interest, coownership, landlord-tenant relationship, or any profit sharing arrangement in any form directly or indirectly with any person licensed under Chapter 7 (commencing with Section 3000) of this division.

(c) No person licensed under Chapter 7 (commencing with Section 3000) of this division may have any membership, proprietary interest, coownership, landlord-tenant relationship, or any profit-sharing arrangement in any form, directly or indirectly, either by stock ownership, interlocking directors, trusteeship, mortgage, trust deed, or otherwise with any person who is engaged in the manufacture, sale, or distribution to physicians and surgeons, optometrists, or dispensing opticians of lenses, frames, optical supplies, optometric appliances or devices or kindred products

Any violation of this section constitutes a misdemeanor as to such person licensed under Chapter 7 (commencing with Section 3000) of this division and as to any and all persons, whether or not so licensed under this division, who participate with such licensed person in a violation of any provision of this section

SEC 2 Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because this act creates a new crime or infraction, eliminates

a crime or infraction, or changes the penalty for a crime or infraction. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC 3. This act shall become operative January 1, 1983.

CHAPTER 976

An act to amend Section 19827 of, to add an article heading immediately preceding Section 19825 of, and to add Article 2 (commencing with Section 19830) to Chapter 9 of Part 3 of Division 13 of, the Health and Safety Code, relating to local building permits.

[Approved by Governor September 22, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1. An article heading is added immediately preceding Section 19825 of the Health and Safety Code, to read:

Article 1 Contents

SEC. 2. Section 19827 of the Health and Safety Code is amended to read:

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, that property owners are informed about, and protected from, fraudulent representations, liability for worker's injuries, liability for material and labor costs unpaid by contractors, licensing requirements, and employer's tax liabilities when improving their property as owner-builders, and that uniformity of enforcement necessitates that the provisions of this chapter apply uniformly statewide.

(b) This article shall become operative on July 1, 1980.

SEC. 3. Article 2 (commencing with Section 19830) is added to Chapter 9 of Part 3 of Division 13 of the Health and Safety Code, to read

Article 2. Owner-Builder Information

19830 Every city or county, whether general law or chartered, 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, prepare and give notice to the owner of the building or structure whenever an application for a building permit is submitted in the owner's name as builder of such improvements. Such notice shall be given by mail; or such notice may be given to the applicant at the time the application for the permit is made, provided that the applicant presents identification sufficient to identify himself or herself as the owner. The notice shall be in substantially the following form:

"OWNER-BUILDER INFORMATION

"Dear Property Owner.

"An application for a building permit has been submitted in your name listing yourself as the builder of the property improvements specified.

"For your protection you should be aware that as 'owner-builder' you are the responsible party of record on such a permit. Building permits are not required to be signed by property owners unless they are personally performing their own work. If your work is being performed by someone other than yourself, you may protect yourself from possible liability if that person applies for the proper permit in his or her name.

"Contractors are required by law to be licensed and bonded by the State of California and to have a business license from the city or county. They are also required by law to put their license number on all permits for which they apply.

"If you plan to do your own work, with the exception of various trades that you plan to subcontract, you should be aware of the following information for your benefit and protection:

"If you employ or otherwise engage any persons other than your immediate family, and the work (including materials and other costs) is $200 or more for the entire project, and such persons are not licensed as contractors or subcontractors, then you may be an employer.

"If you are an employer, you must register with the state and federal government as an employer and you are subject to several obligations including state and federal income tax withholding, federal social security taxes, workers' compensation insurance, disability insurance costs, and unemployment compensation contributions.

"There may be financial risks for you if you do not carry out these obligations, and these risks are especially serious with respect to workers' compensation insurance

"For more specific information about your obligations under federal law, contact the Internal Revenue Service (and, if you wish, the U S. Small Business Administration) For more specific information about your obligations under state law, contact the Department of Benefit Payments and the Division of Industrial

Accidents.

"If the structure is intended for sale, property owners who are not licensed contractors are allowed to perform their work personally or through their own employees, without a licensed contractor or subcontractor, only under limited conditions.

"A frequent practice of unlicensed persons professing to be contractors is to secure an 'owner-builder' building permit, erroneously implying that the property owner is providing his or her own labor and material personally. Building permits are not required to be signed by property owners unless they are performing their own work personally.

"Information about licensed contractors may be obtained by contacting the Contractors' State License Board in your community or at 1020 N Street, Sacramento, California 95814.

"Please complete and return the enclosed owner-builder verification form so that we can confirm that you are aware of these matters. The building permit will not be issued until the verification is returned.

Very truly yours,

"(Name of permitting agency)".

19831. A city or county, which is required to give notice pursuant to Section 19830, shall attach to such notice, and, as a condition precedent to issuing a building permit, require the completion, and whenever notice is given by mail, require the return of, an owner-builder verification in substantially the following form:

"OWNER-BUILDER VERIFICATION

"Attention Property Owner:

"An 'owner-builder' building permit has been applied for in your name and bearing your signature.

"Please complete and return this information in the envelope provided at your earliest opportunity to avoid unnecessary delay in processing and issuing your building permit. No building permit will be issued until this verification is received.

1 I personally plan to provide the major labor and materials for construction of the proposed property improvement (yes or no) _____

2. I (have/have not) _____ signed an application for a building permit for the proposed work.

3 I have contracted with the following person (firm) to provide the proposed construction:

Name _____

Address _____ City _____

Phone _____ Contractors License No. _____

4 I plan to provide portions of the work, but I have hired the following person to coordinate, supervise, and provide the major work

Name _____
Address _____ City _____
Phone _____ Contractors License No. _____
5. I will provide some of the work but I have contracted (hired) the following persons to provide the work indicated:

Name	Address	Phone	Type of Work

Signed:
Property owner _____
Social Security number _____
Date: _____".

19832. A city or county, whether general law or chartered, shall transmit the notice required pursuant to Section 19830 and the owner-builder verification required pursuant to Section 19831 by mail to the property owner applying for such owner-builder building permit and shall not provide such notice or such verification in person to the person applying for such building permit The return of the owner-builder verification shall be a condition precedent to issuance of the building permit.

SEC. 4. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation made by this act pursuant to these sections because revenue is provided in Section 17951 of the Health and Safety Code to cover these costs. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of the Revenue and Taxation Code.

CHAPTER 977

An act to amend Sections 8092 and 52302 of, and to add Sections 52301.5, 52302.3, 52519, 52520, 78015, and 78016 to, the Education Code, relating to vocational education, and declaring the urgency thereof, to take effect immediately

[Approved by Governor September 22, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1. Section 8092 of the Education Code is amended to read:

8092. Any school district or districts; any community college district or districts; any county superintendent or superintendents; or the governing body of any agency maintaining a regional occupational center or program may contract with a private postsecondary school authorized or approved pursuant to the provisions of Chapter 3 (commencing with Section 94300) of Part 59 and which has been in operation not less than two full calendar years prior to the effective date of such contract, to provide vocational skill training authorized by this code.

All contracts between a public entity and a private postsecondary school entered into pursuant to this section shall.

(1) Be approved by the Department of Education or Chancellor of the California Community Colleges as appropriate pursuant to rules and regulations adopted by the State Board of Education or the Board of Governors of the California Community Colleges as appropriate;

(2) Provide that the amount contracted for per student shall not exceed the total direct and indirect costs to provide the same training in the public schools or the tuition the private postsecondary school charges its private students, whichever is lower;

(3) Provide that the public school or community college students receiving training in a private postsecondary school pursuant to such contract may not be charged additional tuition for any training included in the contract. The attendance of such students pursuant to a contract authorized by this section shall be credited to the public entity for the purposes of apportionments from the State School Fund,

(4) Provide that all programs, courses, and classes of instruction shall meet the standards set forth in the California State Plan for Vocational Education.

The students who attend a private postsecondary school pursuant to a contract under this section shall be enrollees of the public entity and the vocational instruction provided pursuant to such contract shall be under the exclusive control and management of the governing body of the contracting public entity.

The State Department of Finance and the Department of Education, or the board of governors, as the case may be, may audit the accounts of both the public entity and the private party involved in such contracts to the extent necessary to assure the integrity of the public funds involved.

SEC 2 Section 52301.5 is added to the Education Code, to read:

52301.5 For the purposes of this chapter

(a) "California Occupational Information System" means that information system established in Article 7 (commencing with Section 8120) of Chapter 1 of Part 6

(b) "Job market study" means a review of the existing educational programs in light of available labor market information, including supply and demand, for a standard metropolitan statistical area.

(c) "Standard metropolitan statistical area" means a county or aggregation of counties designated by the Employment Development Department that has one or more central core cities and that meets criteria of population, population density, commute patterns, and social and economic integration specified by the Employment Development Department.

SEC. 3. Section 52302 of the Education Code is amended to read:

52302 The school or community college district or districts, or county superintendent or superintendents, sponsoring the regional occupational center or program shall conduct a job market study in the standard metropolitan statistical area in which they propose to establish a regional occupational center or program. To the extent possible, the study shall use the California Occupational Information System established in Article 7 (commencing with Section 8120) of Chapter 1 of Part 6 and other available sources of labor market information The study shall be conducted in cooperation with the Employment Development Department, prospective employers, the district's advisory committee on vocational education, and the appropriate advisory committee for each of the proposed training programs. The Employment Development Department may cooperate in the study, to the extent possible, within existing resources. The study shall include an analysis of existing vocational and occupational training programs maintained by high schools, community colleges, and private postsecondary schools in the area to insure that the anticipated employment demand for trainees in the proposed regional occupational centers and programs justifies the establishment of the proposed courses of instruction

SEC. 4. Section 52302.3 is added to the Education Code, to read

52302 3. (a) Every vocational course or program offered by a school district or community college district or districts or county superintendent or superintendents sponsoring a regional occupational center or program shall be reviewed every two years by the appropriate governing body to assure that each such course or program does all of the following

(1) Meets a documented labor market demand

(2) Does not represent unnecessary duplication of other manpower training programs in the area

(3) Is of demonstrated effectiveness as measured by the employment and completion success of its students

(b) Any course or program that does not meet the requirements of subdivision (a) and the standards promulgated by the governing body shall be terminated within one year

(c) The provisions of this section shall apply to each course or program commenced subsequent to the effective date of this section

SEC 5 Section 52519 is added to the Education Code, to read

52519 (a) The governing board of any high school district or

unified school district shall, prior to establishing a vocational or occupational training program, conduct a job market study of the standard metropolitan statistical area in which it proposes to establish the program To the extent possible, the study shall use the California Occupational Information System and other available sources of labor market information. The study shall be conducted in cooperation with the Employment Development Department, prospective employers, and the district's advisory committee on vocational education. The Employment Development Department may cooperate in the study, to the extent possible, within existing resources. The study shall include an analysis of existing vocational and occupational education or training programs for adults maintained by high schools, community colleges, and private postsecondary schools in the area to insure that the anticipated employment demand for the adults enrolled in the proposed program justifies the establishment of the proposed courses of instruction.

(b) Subsequent to completing the study required by this section and prior to establishing the program, the governing board of the high school or unified school district shall determine whether or not the study justifies the proposed vocational education program.

(c) If the governing board of the high school district or unified school district determines that the job market study justifies the initiation of the proposed program, it shall, by resolution, determine whether the program shall be offered through the district's own facilities or through a contract with an approved private postsecondary school pursuant to the provisions of Section 8092.

SEC. 6 Section 52520 is added to the Education Code, to read:

52520 (a) Every vocational or occupational training program for adults offered by any high school district or unified school district shall be reviewed every two years by the governing board to assure that each such program does all of the following:

(1) Meets a documented labor market demand.

(2) Does not represent unnecessary duplication of other manpower training programs in the area.

(3) Is of demonstrated effectiveness as measured by the employment and completion success of its students.

(b) Any program that does not meet the requirements of subdivision (a) and the standards promulgated by the governing board shall be terminated within one year

(c) The provisions of this section shall apply to each program commenced subsequent to the effective date of this section.

SEC 7 Section 78015 is added to the Education Code, to read:

78015 (a) The governing board of a community college district shall, prior to establishing a vocational or occupational training program, conduct a job market study of the standard metropolitan statistical area, as those terms are defined in Section 52301 5, in which it proposes to establish the program To the extent possible, the study shall use the California Occupational Information System, as defined

in Section 52301.5, and other available sources of labor market information. The study shall be conducted in cooperation with the Employment Development Department, prospective employers, and the district's advisory committee on vocational education. The Employment Development Department may cooperate in the study, to the extent possible, within existing resources. The study shall include an analysis of existing vocational and occupational education or training programs for adults maintained by high schools, community colleges, and private postsecondary schools in the area to insure that the anticipated employment demand for students in the proposed programs justifies the establishment of the proposed courses of instruction.

(b) Subsequent to completing the study required by this section and prior to establishing the program, the governing board of the community college district shall determine whether or not the study justifies the proposed vocational education program.

(c) If the governing board of the community college district determines that the job market study justifies the initiation of the proposed program, it shall, by resolution, determine whether the program shall be offered through the district's own facilities or through a contract with an approved private postsecondary school pursuant to the provisions of Section 8092.

SEC. 8. Section 78016 is added to the Education Code, to read:

78016. (a) Every vocational or occupational training program offered by a community college district shall be reviewed every two years by the governing board of the district to assure that each such program does all of the following:

(1) Meets a documented labor market demand.

(2) Does not represent unnecessary duplication of other manpower training programs in the area

(3) Is of demonstrated effectiveness as measured by the employment and completion success of its students.

(b) Any program that does not meet the requirements of subdivision (a) and the standards promulgated by the governing board shall be terminated within one year

(c) The provisions of this section shall apply to each program commenced subsequent to the effective date of this section.

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 immediate effect. The facts constituting such necessity are:

In order that the provisions of this act be implemented as soon as possible and that the training to be provided under this act be made available to students as soon as possible, it is necessary that this act take effect immediately In addition, this bill would diminish the constitutional cloud over existing vocational education contracts

CHAPTER 978

An act to amend Section 904 of, and to add Section 903.3 to, the Welfare and Institutions Code, relating to juvenile court law.

[Approved by Governor September 22, 1979. Filed with Secretary of State September 22, 1979]

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

SECTION 1. Section 903.3 is added to the Welfare and Institutions Code, to read:

903.3. The father, mother, spouse, or other person liable for the support of a minor person, the person himself if an adult, or the estates of such persons shall, unless indigent, be liable for the cost to the county for the sealing of any traffic infraction records pertaining to such person pursuant to this chapter. The liability of such persons and estates shall be a joint and several liability.

SEC. 2. Section 904 of the Welfare and Institutions Code is amended to read:

904. The monthly or daily charge, not to exceed cost, for care, support, and maintenance of minor persons placed or detained in or committed to a county institution by order of a juvenile court, the cost of legal services referred to by Section 903.1, the cost of probation supervision referred to by Section 903 2, and the cost of sealing records referred to by Section 903.3 shall be determined by the board of supervisors.

CHAPTER 979

An act to add Section 1239 to the Financial Code, and to amend Section 12640.025 of the Insurance Code, relating to loans.

[Approved by Governor September 22, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1. Section 1239 is added to the Financial Code, to read:

1239. A bank may make amortized loans upon the security of real property in an amount in excess of 80 percent of the appraised value of such real property, if:

(a) The security real property is any of the following.

(1) A structure designed for residential use for one family or a structure designed for residential use for one family and structures ancillary to such residential use.

(2) A condominium, as defined in Civil Code Section 783, designed for one-family occupancy

(3) A residential unit designed for one-family occupancy within a community apartment project in which an undivided interest in the real property is coupled with the exclusive right of occupancy of such residential unit

(4) A residential unit, designed for one-family occupancy, within a cluster-type residential project, in which the interest in such real property is coupled with an undivided interest in common in a portion of the remaining real property on which such project is located.

(b) The loan includes amounts to finance the rehabilitation of a structure described in subdivision (a) hereof and the loan amount is not in excess of (1) fifty-two thousand five hundred dollars ($52,500), or (2) 90 percent of the appraised value of the real property plus up to an additional 15 percent of the appraised value for amounts attributable to rehabilitation or (3), if the loan is made to finance the purchase of the real property, 90 percent of the purchase price plus up to an additional 15 percent of the purchase price for amounts attributable to rehabilitation, whichever is less Rehabilitation includes improvements, repairs, alterations, and the equipping of a structure which will enable such structure to meet applicable state and local building and housing standards

(c) If the loan is sought or assumed for the purpose of enabling a purchaser to acquire the security property, the purchaser and the vendor or vendors have jointly executed a certification in writing stating the purchase price of the security property and the items comprising such price.

(d) The bank has made or obtained, prior to approval of the loan, a written report on the credit standing of the borrower and the financial ability of such borrower to undertake and pay off the obligation involved in the loan

(e) The borrower makes a certification in writing that he intends to occupy the property as his home and that no lien or charge upon the property other than the lien of the bank or liens or charges which will be discharged from the proceeds of the loan, or, in the case of real property of the type described in paragraphs (2), (3) and (4) of subdivision (a), liens or charges to secure unpaid assessments for management and common expenses, has been given or executed by him

(f) The loan requires repayment in monthly installments and each such payment includes the monthly proration of annual taxes in advance until the unpaid balance of such loan shall have been reduced to 80 percent of the appraised value or the purchase price if any, which ever is less, of such property

(g) The loan is insured or guaranteed in whole or in part by the California Housing Finance Agency or by the State of California or any instrumentality of the United States

No bank shall have such investments under this section aggregating at any one time more than 30 percent of its total assets Whenever the unpaid balance of any such loan made under this

section shall have been reduced to 80 percent of the appraised value or the purchase price if any, whichever is less, of such property, such loan may be removed from the above imposed limitation of assets.

Notwithstanding Section 1227, a loan made pursuant to this section may be for a term of not more than 35 years.

SEC 2. Section 12640.025 of the Insurance Code is amended to read:

12640.025. Notwithstanding the other loan or security requirements or definitions under subdivision (b) of Section 12640.02, a mortgage guaranty insurer shall be permitted to insure any type of loan which a bank, savings and loan association, mortgage banker, credit union, or an insurance company, which is supervised and regulated by a department of this state or an agency of the federal government, is authorized to make, or would be authorized to make disregarding any requirement applicable to such an institution that the amount of the loan not exceed a certain percentage of the value of the real estate.

A loan insured by a mortgage guaranty insurer shall not exceed 95 percent of the fair market value of the real estate. However, if the loan is secured by a mortgage, deed of trust, or other instrument constituting a lien or charge on real estate in conjunction with a pledge or lien on personal property in the form of cash, or equivalent, or is a loan of a type authorized by Section 1237, or 7153 9 of the Financial Code, the loan insured shall not exceed 100 percent of the fair market value of the real estate Moreover, if the loan is of a type authorized by Section 1239 or 7153.10 of the Financial Code, the loan may exceed 95 percent of the fair market value of the real estate so long as it does not exceed the limits of the amount, percent of appraised value, and percent of sales price if applicable, specified in such section.

Nothing herein contained shall be deemed to permit mortgage guaranty insurance on a loan secured by a mortgage, deed of trust, or other instrument unless it is (a) a first lien or charge, and (b) the improvement is on real estate and consists of a residential building or buildings designed for occupancy by not more than four families.

The commissioner may adopt, pursuant to the provisions of Chapter 4 5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code, such reasonable rules and regulations as may be necessary to limit the amount of mortgage guaranty insurance in force on loans of the type authorized by Section 1237, 1239, 7153 9, or 7153 10 of the Financial Code. Such rules and regulations, if adopted, shall apply to any insurer authorized to write and writing mortgage guaranty insurance in this state and shall be predicated on the total volume of such insurance written anywhere Full compliance with such rules and regulations shall be a condition for the renewal of the insurer's certificate of authority

CHAPTER 980

An act to add Section 31484 to the Government Code, relating to the County Employees Retirement Law of 1937.

[Approved by Governor September 22, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1. Section 31484 is added to the Government Code, to read.

31484. Notwithstanding any other provision of law, whenever the governing body of a county or district has made a particular provision or provisions of this chapter providing for increased benefits applicable to such county or district through the adoption of an ordinance or resolution, such governing body may at any time thereafter adopt another ordinance or resolution terminating the applicability of such provision or provisions as to current employees of the county or district who elect by written notice filed with the board to have the applicability of such provision or provisions terminated as to them. This section is intended only to authorize the termination of those benefits which the governing body of a county or district elected to increase over the basic benefits or to make applicable in addition to the basic benefits pursuant to the provisions of this chapter. Nothing herein shall be construed as authorizing the governing body of a county or district to terminate the basic benefits required under the provisions of this chapter

The governing board of a county or district prior to adopting an ordinance or resolution allowing the termination of the applicability of any increased benefit provisions shall provide oral or written explanation of the effect and impact of such termination for each member requesting termination of the applicability of any such provisions.

The governing board shall require members requesting termination of the applicability of any provisions to sign an affidavit stating that such member has been fully informed regarding the effect of such termination, and understands that such termination of a provision or provisions is irrevocable. Such affidavit shall also state that the employee has chosen termination of the provision or provisions of the employee's own free will and was not coerced into termination of any provision by the employer or any other person.

The governing body shall, in the ordinance or resolution granting current employees the option of electing to have the applicability of such provision or provisions terminated, specify the provision or provisions which shall be applicable to current employees making the election Employees who elect to have such provision or provisions terminated, shall have their retirement allowance for service rendered after the effective date of election calculated on the

basis of the provision made applicable by the governing body.

Except as otherwise provided herein, the retirement allowance for service rendered prior to the effective date of the election shall be calculated on the basis of the provision or provisions applicable during that period of service. Any employee who has made such an election shall not be eligible for retirement unless the employee meets the minimum requirements of the provision or provisions applicable at the date of retirement. Any employee who has made an election whereby the definition of "final compensation" in Section 31462.1 no longer applies, shall have the definition of "final compensation" in Section 31462 applied at the date of retirement regardless of previous service under the provisions of Section 31462.1. Any employee who has made an election whereby a cost-of-living adjustment provision of Article 16 5 (commencing with Section 31870) no longer applies shall have the cost-of-living adjustment provision, if any, specified by the governing body applied to all previous service at the date of retirement regardless of previous service under such other provision of Article 16 5. Any employee who has made an election whereby a death benefit provision of Article 12 (commencing with Section 31780) no longer applies, shall have the death benefit provisions specified by the governing body applied at the date of retirement regardless of previous service under other provisions of Article 12

A current employee who has elected to have the applicability of such provision or provisions terminated may not rescind such an election unless the governing body of the county or district again makes the particular provision or provisions applicable to the county or district through the adoption of a subsequent ordinance or resolution Any such election made by a current employee shall be binding upon the employee's spouse and all others claiming benefits under such employee's entitlement

This section shall not be applicable to safety members.

This section shall only be applicable to a county of the third class as described by Section 28024

CHAPTER 981

An act to amend and renumber Section 1120 of, and to add Section 1120 to, the Welfare and Institutions Code, relating to the Youth Authority

[Approved by Governor September 22, 1979 Filed with Secretary of State September 22, 1979]

The people of the State of California do enact as follows

SECTION 1. Section 1120 of the Welfare and Institutions Code is amended and renumbered to read:

1120.5. At each institution under this chapter the Youth Authority shall organize and maintain a division of instruction and such other divisions as it deems necessary and advisable in the conduct of the school.

SEC. 2. Section 1120 is added to the Welfare and Institutions Code, to read:

1120. (a) It is the intent of the Legislature to insure an appropriate educational program for wards committed to the Department of the Youth Authority. The objective of such program shall be to improve the academic, vocational, and life survival skills of each ward so as to enable such wards to return to the community as productive citizens.

(b) The department shall assess the educational needs of each ward upon commitment and at least annually thereafter until released on parole. The initial assessment shall include a projection of the academic, vocational, and psychological needs of the ward and shall be used both in making a determination as to the appropriate educational program for the ward and as a measure of progress in subsequent assessments of the educational development of the ward.

The educational program of the department shall be responsive to the needs of all wards, including those who are educationally handicapped or limited-English speaking wards.

(c) The state-wide educational program of the department shall include, but shall not be limited to, all of the following courses of instruction:

(1) Academic preparation in the areas of verbal communication skills, reading, writing, and arithmetic.

(2) Vocational preparation including vocational counseling, training in marketable skills, and job placement assistance.

(3) Life survival skills, including preparation in the areas of consumer economics, family life, and personal and social adjustment.

All of the aforementioned courses of instruction shall be offered at each institution within the jurisdiction of the department except camps and those institutions whose primary function is the initial reception and classification of wards. At such camps and institutions the educational program shall take into consideration the purpose and function of the camp and institutional program.

(d) The department shall report to the Legislature and the Superintendent of Public Instruction by February 1, 1980, on the department's assessment of and plan to improve its educational program, including, but not limited to, the training needs of its educational staff, a statement of departmental priorities with regard to its educational program, compliance with state and federal laws with regard to teaching credentials and staffing patterns within its educational program, and plans to implement the provisions of this section

CHAPTER 982

An act to amend Sections 7514, 7523, and 7580 of, to amend and renumber Sections 7514.1 and 7514.2 of, and to add Sections 7514.1 and 7528.5 to, the Business and Professions Code, and to amend Section 11105 of the Penal Code, relating to private investigators, and making an appropriation therefor.

[Approved by Governor September 22, 1979. Filed with Secretary of State September 22, 1979.]

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

SECTION 1. 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, alarm company operators, and armored contract carriers 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, or (subject to the provisions of subdivision (a) of Section 7514.1) employed by an armored contract carrier, or employed by an alarm company operator as an alarm agent must meet as a condition of becoming eligible to carry firearms pursuant to subdivision (d) of Section 12031 of the Penal Code and Section 7514.1.

(f) Requiring each uniformed employee of a private patrol operator and each armored vehicle guard, 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 or its equivalent as determined by the director and approved by the Department of Justice; 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 lacks good moral character, 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 or its equivalent as determined by the director and approved by the Department of Justice; 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 lacks good moral character, 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 patrol person, 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. 2. Section 7514.1 of the Business and Professions Code is amended and renumbered to read:

7514.2. (a) Every private investigator, private patrol operator, alarm company operator, alarm agent employed by an alarm company operator, and any person employed and compensated by a private patrol operator, other lawful business or public agency as a security guard or patrolperson, and who in the course of such employment or business 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. This subdivision shall not apply to armored vehicle guards hired prior to January 1, 1977. Armored vehicle guards hired on or after January 1, 1977, shall complete a course of training in the carrying and use of firearms, but shall not be required to complete a course of training in the exercise of the powers to arrest. 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) No uniformed employee of a licensee shall carry or use any firearm unless such employee has in his or her possession a valid firearm qualification card.

SEC. 3. Section 7514.1 is added to the Business and Professions Code, to read·

7514.1. (a) Every employee of a licensee who performs guard or private patrol service shall complete a course in exercising the power to arrest.

(b) The course of training in the exercise of the power to arrest may be administered, tested and certified by any licensed private patrol operator. The Department of Consumer Affairs may approve any person or school to teach the course in the exercise of the power to arrest. The course of training shall be approximately two hours in length and cover the following topics·

(1) Responsibilities, ethics in citizen arrest.

(2) Relationship with the public police in arrest.

(3) Limitations on security guard power to arrest.

(4) Restrictions on searches and seizures

(5) Criminal and civil liabilities.

(A) Personal liability.

(B) Employer liability

The department shall make available a guide book as a standard for teaching the course on exercising the power to arrest.

(c) No employee of a private patrol operator will be issued a registration card until proper certification that this course has been taught and the employee's certification that the instruction was received has been made to the department.

(d) An employee of a licensee may be assigned to work on a temporary certification indicating completion of the course on exercise of powers to arrest and application for registration until issued a registration card or denied registration by the department.

SEC 4. Section 7514.2 of the Business and Professions Code is amended and renumbered to read:

7514.3. A city, county, or city and county may regulate the uniforms and insignias worn by uniformed employees of a private patrol operator and vehicles used by a private patrol operator to make the uniforms and vehicles clearly distinguishable from the uniforms worn by, and the vehicles used by, local regular law enforcement officers

SEC 5. Section 7523 of the Business and Professions Code is amended to read

7523 (a) The provisions of this chapter shall not prevent the local authorities of any city, county, or city and county, by ordinance and within the exercise of the police power of such city, county, or

city and county from imposing local regulations upon any street patrol special officer or upon any person who furnishes street patrol service or street patrol special officers requiring registration with an agency to be designated by the city, county, or city and county, including in such registration full information as to the identification and employment and subject to the right of the city, county, or city and county to allocate certain portions of the territory in such city, county, or city and county within which the activities of any such street patrol service or person shall be confined Any city, county, or city and county may refuse such registration to any person of bad moral character and may impose such reasonable additional requirements as are necessary to meet local needs and are not inconsistent with the provisions of this chapter.

(b) The provisions of this chapter shall not prevent the local authorities of any city, county, or city and county, by ordinance and within the exercise of the police power of such city, county, or city and county from imposing local regulations upon any employees of a private patrol operator who are unable to furnish evidence of current registration pursuant to subdivision (f) of Section 7514.

(c) The provisions of this chapter shall not prevent the local authorities in any city, county, or city and county, by ordinance and within the exercise of the police power of such city, county, or city and county from requiring private patrol operators and their employees or alarm agents to register their name and a file copy of their state identification card with the city, county, or city and county. No fee may be charged nor may any application be required by the city, county, or city and county for such registration

SEC. 6. Section 7528.5 is added to the Business and Professions Code, to read.

7528 5 (a) The department, upon receipt of criminal offense records or records of subsequent arrests from the California Department of Justice, shall make an immediate determination of fitness for licensure of applicants for security guard or alarm agent registrations or firearms qualification permits, when information contained in such records makes such a determination possible. Applications or licenses of those determined to be unfit shall be denied or revoked immediately.

(b) The department shall keep a record of the names and other necessary identifying information of those who have applied for and been denied security guard or alarm agent registrations or firearms qualification permits pursuant to Section 7514. Such listing shall be updated monthly, and made available to interested licensees and law enforcement agencies.

(c) Notwithstanding any other provision of law, the department is required to store, for five years, criminal offense record summaries, police reports and other necessary information about applicants who have been granted security guard or alarm agent registrations, but who may be denied a weapons qualification permit pursuant to Section 7528

SEC. 7. Section 7580 of the Business and Professions Code is amended to read:

7580. The amount of fees prescribed by this chapter, unless otherwise fixed, is that fixed in the following schedule:

(a) The application fee for an original license in any classification is twenty-five dollars ($25).

(b) The application fee for an original branch office certificate is fifteen dollars ($15).

(c) The fee for an original license 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 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 director 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.

(d) The renewal fee shall be fixed by the director as follows:

(1) For a license as an insurance adjuster, repossessor, private investigator or alarm company operator, not more than one hundred dollars ($100).

(2) For a license as a private patrol operator, not more than two hundred dollars ($200)

(3) For a branch office certificate, not more than twenty dollars ($20).

(4) For a license as a private investigator and private patrol operator, not more than two hundred fifty dollars ($250).

(e) The application and license fee for classifications prescribed by the director, in addition to those provided for in this chapter, and the application and license fees for a change in the type of business organization of a licensee, shall be in the amount prescribed by rule and regulation of the director.

(f) The delinquency fee shall be 50 percent of the renewal fee in effect on the date of expiration, but not more than twenty-five dollars ($25).

(g) The fee for reexamination of an applicant or his manager is ten dollars ($10)

(h) Fees to carry out the provisions of subdivisions (f) and (g) of Section 7514 shall be fixed by the director as follows:

(1) A registration fee of not more than twelve dollars ($12).

(2) A registration renewal fee of not more than ten dollars ($10).

(3) The firearms qualification fee is not more than ten dollars ($10)

(4) A firearms requalification fee of not more than ten dollars ($10).

(i) A reinstatement fee is equal to the amount of the renewal fee plus the regular delinquency fee.

SEC 8. Section 11105 of the Penal Code is amended to read:

11105. (a) (1) The Department of Justice shall maintain state

summary criminal history information.

(2) As used in this section:

(i) "State summary criminal history information" means the master record of information compiled by the Attorney General pertaining to the identification and criminal history of any person, such as name, date of birth, physical description, date of arrests, arresting agencies and booking numbers, charges, dispositions, and similar data about such person.

(ii) "State summary criminal history information" does not refer to records and data compiled by criminal justice agencies other than the Attorney General, nor does it refer to records of complaints to or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice.

(b) The Attorney General shall furnish state summary criminal history information to any of the following, when needed in the course of their duties, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any entity, in fulfilling employment, certification, or licensing duties, the provisions of Chapter 1321 of the Statutes of 1974 and of Section 432.7 of the Labor Code shall apply:

(1) The courts of the state.

(2) Peace officers of the state as defined in Section 830.1, subdivisions (a) and (b) of Section 830.2, subdivisions (a), (b), and (j) of Section 830.3, subdivisions (a), (b), and (c), of Section 830.5, and Section 830.5a.

(3) District attorneys of the state.

(4) Prosecuting city attorneys of any city within the state.

(5) Probation officers of the state.

(6) Parole officers of the state.

(7) A public defender or attorney of record when representing a person in proceedings upon a petition for a certificate of rehabilitation and pardon pursuant to Section 4852.08 of the Penal Code.

(8) A public defender or attorney of record when representing a person in a criminal case and when authorized access by statutory or decisional law.

(9) Any agency, officer, or official of the state when such criminal history information is required to implement a statute or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon such specified criminal conduct.

(10) Any city or county, or city and county, or district, or any officer, or official thereof when access is needed in order to assist such agency, officer, or official in fulfilling employment, certification, or licensing duties, and when such access is specifically authorized by the city council, board of supervisors or governing board of the city, county, or district when such criminal history information is required

to implement a statute, ordinance, or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon such specified criminal conduct

(11) The subject of the state summary criminal history information under procedures established under Article 5 (commencing with Section 11120), Chapter 1, Title 1 of Part 4 of the Penal Code.

(12) Any person or entity when access is expressly authorized by statute when such criminal history information is required to implement a statute or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon such specified criminal conduct.

(13) Health officers of a city, county, or city and county, or district, when in the performance of their official duties enforcing Section 3110 of the Health and Safety Code.

(14) Any managing or supervising correctional officer of a county jail or other county correctional facility.

(c) The Attorney General may furnish state summary criminal history information upon a showing of a compelling need to any of the following, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any entity, in fulfilling employment, certification, or licensing duties, the provisions of Chapter 1321 of the Statutes of 1974 and of Section 432.7 of the Labor Code shall apply:

(1) Any public utility as defined in Section 216 of the Public Utilities Code which operates a nuclear energy facility when access is needed in order to assist in employing persons to work at such facility, provided that, if the Attorney General supplies such data, he shall furnish a copy of such data to the person to whom the data relates.

(2) To a peace officer of the state other than those included in subdivision (b).

(3) To a peace officer of another country.

(4) To public officers (other than peace officers) of the United States, other states, or possessions or territories of the United States, provided that access to records similar to state summary criminal history information is expressly authorized by a statute of the United States, other states, or possessions or territories of the United States when such information is needed for the performance of their official duties.

(5) To any person when disclosure is requested by a probation, parole, or peace officer with the consent of the subject of the state summary criminal history information and for purposes of furthering the rehabilitation of the subject.

(6) The courts of the United States, other states or territories or

possessions of the United States.

(7) Peace officers of the United States, other states, or territories or possessions of the United States.

(8) To any individual who is the subject of the record requested when needed in conjunction with an application to enter the United States or any foreign nation.

(d) Whenever an authorized request for state summary criminal history information pertains to a person whose fingerprints are on file with the Department of Justice and the department has no criminal history of that person, and the information is to be used for employment, licensing, or certification purposes, the fingerprint card accompanying such request for information, if any, may be stamped "no criminal record" and returned to the person or entity making the request

(e) Whenever state summary criminal history information is furnished pursuant to this section, the Department of Justice may charge the person or entity making the request a fee which it determines to be sufficient to reimburse the department for the cost of furnishing such information Any state agency required to pay a fee to the department for information received under this section may charge the applicant a fee sufficient to reimburse the agency for such expense All moneys received by the department pursuant to this section, Section 12054 of the Penal Code, and Section 13588 of the Education Code shall be deposited in a special account in the General Fund to be available for expenditure by the department to offset costs incurred pursuant to such sections when appropriated by the Legislature therefor

(f) Whenever there is a conflict, the processing of criminal fingerprints and fingerprints of applicants for security guard or alarm agent registrations or firearms qualification permits submitted pursuant to Section 7514 of the Business and Professions Code shall take priority over the processing of applicant fingerprints.

(g) It is not a violation of this section to disseminate statistical or research information obtained from a record, provided that the identity of the subject of the record is not disclosed.

(h) It is not a violation of this section to include information obtained from a record in (1) a transcript or record of a judicial or administrative proceeding or (2) any other public record when the inclusion of the information in the public record is authorized by a court, statute, or decisional law.

CHAPTER 983

An act to add Article 4.5 (commencing with Section 4720) to Chapter 2 of Part 2 of Division 4 of the Labor Code, relating to public official death benefits.

[Approved by Governor September 22, 1979 Filed with Secretary of State September 22, 1979.]

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

SECTION 1. Article 4.5 (commencing with Section 4720) is added to Chapter 2 of Part 2 of Division 4 of the Labor Code, to read:

Article 4 5. Public Official Death Benefits

4720. As used in this article:

(a) "Elected public official" means any person other than the President or Vice President of the United States who holds any federal, state, local, or special district elective office as a result of winning election in California to such office or being appointed to fill a vacancy in such office.

(b) "Assassination" means the killing of an elected public official as a direct result of an intentional act perpetrated by an individual or individuals acting to prevent, or retaliate for, the performance of official duties, acting because of the public position held by the official, or acting because of pathological reasons.

4721. The surviving spouse or dependent minor children of an elected public official who is killed by assassination shall be entitled to a special death benefit which shall be in addition to any other benefits provided for by this division or Division 4.5.

4722. If the deceased elected public official is survived by a spouse with or without dependent minor children, such special death benefit shall be payable to the surviving spouse. If the deceased elected public official leaves no surviving spouse but one or more dependent minor children, benefits shall be paid to a guardian ad litem and trustee for such child or children appointed by the Workers' Compensation Appeals Board. In the absence of a surviving spouse and dependent minor children, the benefit shall be payable to any legally recognized dependent parent of the deceased elected public official.

4723. The person or persons to whom the special death benefit is payable pursuant to Section 4722 shall, within one year of the date of death of the elected public official, choose either of the following benefits:

(a) An annual benefit equal to one-half of the average annual salary paid to the elected public official in his elected capacity, less credit for any other death benefit provided for under existing law or by public funds, except benefits payable pursuant to this division or Division 4.5. Payments shall be paid not less frequently than monthly, and shall be paid from the date of death until the spouse dies or remarries, or until the youngest minor dependent child reaches the age of 18 years, whichever occurs last. If payments are being made to a dependent parent or parents they shall continue during dependency.

(b) A lump-sum benefit of one hundred fifty thousand dollars ($150,000), less any other death benefit provided for under existing law or by public funds, except benefits payable pursuant to this division or Division 4.5.

4724. The person or persons to whom the special death benefit is payable pursuant to Section 4722 shall file a claim therefor with the State Board of Control, which shall be processed pursuant to the provisions of Part 4 (commencing with Section 13900) of Division 3 of Title 2 of the Government Code.

4725. The State Compensation Insurance Fund shall be the disbursing agent for payments made pursuant to this article and shall receive a fee for its services to be negotiated by the State Board of Control. Unless otherwise provided herein, payments shall be made in accordance with the provisions of this division.

4726. The State Board of Control and the Administrative Director of the Division of Industrial Accidents shall jointly adopt such rules and regulations as may be necessary to carry out the provisions of this article.

4727 Any person who is convicted of any crime in connection with the assassination of an elected public official shall not be eligible for any benefits pursuant to this article.

CHAPTER 984

An act to amend Sections 18587, 18626, and 18627 of, and to add Section 18643 to, the Financial Code, relating to loans.

[Approved by Governor September 22, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1. Section 18587 of the Financial Code is amended to read:

18587. The provisions of Sections 18607, 18625, and 18626, shall not apply to (1) any bona fide consumer insurance premium finance loan with a principal amount of ten thousand dollars ($10,000) or more or (2) to any other bona fide loan with a principal amount of five thousand dollars ($5,000) or more or to a premium finance agency in connection with such loans if the provisions of this section are not used for the purpose of evading this division.

SEC. 2. Section 18626 of the Financial Code is amended to read:

18626. A premium finance agency may, in a premium finance agreement, contract for, charge, receive, and collect a finance charge which shall not exceed in the aggregate:

(a) Two percent per month on that part of the unpaid principal balance of any loan up to, including, but not in excess of, one thousand dollars ($1,000).

(b) One percent per month on any remainder of such unpaid principal balance in excess of one thousand dollars ($1,000).

As used in this article "consumer insurance premium finance loan" shall mean an insurance premium finance loan where the insurance policies which are security for the loan are for personal, family or household use.

SEC. 3. Section 18627 of the Financial Code is amended to read:

18627. If the finance charge computed under Section 18626 is less than twenty-five dollars ($25), a minimum finance charge of twenty-five dollars ($25) may be imposed.

SEC. 4. Section 18643 is added to the Financial Code, to read:

18643. Notwithstanding any other provision of law not within this article, with respect to precomputed loans, premium finance agencies derive authority only from this article.

CHAPTER 985

An act to add Section 14016.2 to the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor September 22, 1979. Filed with Secretary of State September 22, 1979.]

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

SECTION 1. Section 14016.2 is added to the Welfare and Institutions Code, to read:

14016.2. If a person who is incapable of acting on his own behalf and who would otherwise be eligible is discontinued from Medi-Cal eligibility because the guardian or authorized representative of the person fails or refuses to provide information needed to determine eligibility, then anyone with knowledge of the person's need for Medi-Cal coverage may apply for retroactive eligibility for any of the three preceding months on behalf of the person. If the necessary information becomes available within three months of the application the county department shall act on the application to determine the person's eligibility for the retroactive period.

The provisions of this section shall become inoperative to the extent that they are found to conflict with federal requirements governing federal reimbursements of state Medicaid costs.

CHAPTER 986

An act to add Section 656 to the Unemployment Insurance Code, relating to unemployment insurance

[Approved by Governor September 22, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1. Section 656 is added to the Unemployment Insurance Code, to read:

656 "Employment" does not include professional services performed by a consultant working as an independent contractor.

For the purpose of this section, there shall be a rebuttable presumption that services provided by an individual engaged in work requiring specialized knowledge and skills attained through completion of recognized courses of instruction or experience are rendered as an independent contractor. Such services shall be limited to those provided by attorneys, physicians, dentists, engineers, architects, accountants, and the various types of physical, chemical, natural, and biological scientists. Professional services shall not include services generally provided by persons who do not have a degree from a four-year institution of higher learning relating to the specialized knowledge and skills of the professional service being provided.

For the purposes of this section, the rebuttable presumption shall not apply to an individual who enters into a contract agreement with the recipient of the professional services which establishes an employer-employee relationship.

CHAPTER 987

An act to amend Section 830 6 of the Penal Code, relating to peace officers.

[Approved by Governor September 22, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1. Section 830.6 of the Penal Code is amended to read:

830 6 (a) Whenever any qualified person is deputized or appointed by the proper authority as a reserve or auxiliary sheriff or city policeman, a deputy sheriff, or a reserve police officer of a regional park district, and is assigned specific police functions by such authority, such person is a peace officer; provided, such person qualifies as set forth in Section 832 6, and provided further, that the

authority of such person as a peace officer shall extend only for the duration of such specific assignment.

(b) Whenever any person is summoned to the aid of any uniformed peace officer, such person shall be vested with such powers of a peace officer as are expressly delegated him by the summoning officer or as are otherwise reasonably necessary to properly assist such officer.

CHAPTER 988

An act to amend Sections 411.30 and 430.10 of the Code of Civil Procedure, and to add Section 11589 to the Insurance Code, relating to health.

[Approved by Governor September 22, 1979. Filed with Secretary of State September 22, 1979.]

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

SECTION 1. Section 411.30 of the Code of Civil Procedure is amended 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, on or before the date of service of the complaint on any defendant, the plaintiff's attorney shall file the certificate specified in subdivision (b).

(b) A certificate shall be executed by the attorney for the plaintiff declaring one of the following:

(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.

(2) That the attorney was unable to obtain the consultation required by paragraph (1) because a statute of limitations, including the provisions of Section 581a, 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 service of the complaint.

(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) Where the attorney intends to rely solely 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 procedure, or both, this section shall be inapplicable. 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) The failure to file a certificate required by this section shall be grounds for a demurrer pursuant to Section 430.10.

(i) The provisions of this section shall not be applicable to a plaintiff who is not represented by an attorney

(j) This section is repealed as of January 1, 1984.

SEC. 2. Section 430.10 of the Code of Civil Procedure is amended to read.

430.10 The party against whom a complaint or cross-complaint has been filed may object, by demurrer or answer as provided in Section 430.30, to the pleading on any one or more of the following grounds·

(a) The court has no jurisdiction of the subject of the cause of action alleged in the pleading.

(b) The person who filed the pleading does not have the legal capacity to sue.

(c) There is another action pending between the same parties on the same cause of action.

(d) There is a defect or misjoinder of parties

(e) The pleading does not state facts sufficient to constitute a cause of action.

(f) The pleading is uncertain. As used in this subdivision, "uncertain" includes ambiguous and unintelligible

(g) In an action founded upon a contract, it cannot be ascertained from the pleading whether the contract is written or oral.

(h) No certificate was filed as required by Section 411.30.

SEC. 3. Section 11589 is added to the Insurance Code, to read:

11589. No insurer who provides professional liability insurance for physicians and surgeons or dentists shall increase the premium for such insurance, impose a surcharge with respect to such insurance, or otherwise require additional compensation for such insurance, or institute or increase a deductible amount payable by the insured, because a notice of intention to commence an action has been given pursuant to Section 364 of the Code of Civil Procedure, unless a complaint has been served on the physician and surgeon or dentist with respect to such action.

(b) For the purposes of this section, "professional liability insurance" means insurance against liability for damages caused by any act or omission of a physician and surgeon or dentist in rendering professional services within this state issued by any insurer, including, but not limited to, a joint underwriting association, cooperative corporation or reciprocal or interinsurance exchange.

CHAPTER 989

An act to amend Section 72410 of the Education Code, relating to community colleges, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 22, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1 Section 72410 of the Education Code is amended to read·

72410 (a) No governing board shall affix the title of deputy, associate, or assistant superintendent to any position not defined by this code as a position requiring certification qualifications or which does not qualify under the provisions set forth by the Board of

Governors of the California Community Colleges as a position requiring certification qualifications; except that any such title may be assigned to the position of business manager or a related business position. Except as provided in subdivision (b), such position shall not, if so designated, require certification qualifications, nor shall the employee be deemed to be a certificated employee.

(b) Notwithstanding any other provision of law, when the title of deputy, associate, or assistant superintendent or vice chancellor has been affixed to the position of business manager of a community college district having resident average daily attendance of more than 60,000, the governing board of the district may, without reference to the certification qualifications of such business manager, appoint, employ, and terminate persons holding such position in accordance with provisions of this code which apply to certificated administrative employees.

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 for this act to be effective for the 1979–80 school year, it is necessary for this act to take effect immediately.

CHAPTER 990

An act to add Title 9 (commencing with Section 14100) to Part 4 of the Penal Code, relating to causes of violence and crime.

[Approved by Governor September 22, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1. Title 9 (commencing with Section 14100) is added to Part 4 of the Penal Code, to read:

TITLE 9. CALIFORNIA COMMISSION ON CRIME CONTROL AND VIOLENCE PREVENTION

14100 The Legislature finds the following:

(a) The incidence of violent acts between and amongst our people continues to grow.

(b) Violence has become a central, social, and personal issue.

(c) Current methods are proving insufficient to prevent the occurrence of crime and violence in our society.

(d) Our criminal justice system (including criminal penalties and other methods of crime containment) presently established in law operates essentially after the perpetration of violence or after the buildup of the violent personality

(e) The government is by itself unable to sufficiently prevent crime and violence, and active individual personal involvement of the citizenry of California is essential to this effort.

(f) It is incumbent upon all Californians, in order to enhance our chances for a safe society, to explore and discover what kinds of environments best enable humans to grow healthy, strong, and gentle, rather than violent.

The Legislature further finds the following:

(a) There is increasing research being undertaken to search out the root causes of violence.

(b) Such research heretofore has been little, if at all, presented to the public and little, if at all, utilized in forming public policy.

(c) It is in our public interest to encourage, foster, and coordinate such research to bring it to more common public knowledge.

(d) A statewide citizens' effort, including public hearings, is the means most likely to accomplish these purposes.

The Legislature therefore intends:

(a) To establish, as a supplement to current efforts at crime control and violence prevention, a long-term preventive approach.

(b) To generate an effort to involve and inform the public of the latest research discoveries and developments in the field of the causes of crime and violence, so as to enable individuals to exercise more personal responsibility for crime control and violence prevention.

14101. (a) There is hereby created in the Governor's office the California Commission on Crime Control and Violence Prevention for the purpose of studying the root causes of violence in our society.

(b) The commission shall:

(1) Identify, review, evaluate, coordinate, and encourage research and other available information relevant to its mission and the areas of study specified in Section 14102, except that the commission shall not directly engage in research activities.

(2) Sponsor and conduct public hearings, conferences and other efforts, collect and disseminate information, and issue periodic reports relating to its findings concerning the root causes of violent behavior.

(3) Make findings, conclusions, and recommendations applicable to its relevant areas of study, as specified in Section 14102, that will assist in the prevention and detection of the root causes of violent behavior Any such recommendation shall contain a discussion of the immediate and long-term possible impacts of each area of study, as well as specific proposals for immediate implementation, especially looking toward the development of a broader and deeper public awareness of the root causes of, and possible solutions for, crime and violence, and hopefully leading to voluntary, more responsible personal preventative action (rather than governmental mandate), but also including, but not limited to, possible legislation, departmental regulations, funding for research, and other matters of state policy and administration.

(4) Develop a program or a series of programs for immediate and long-term implementation individually and personally by the people of California that will impact upon the root causes and the incidence of violent activities. Such programs shall focus upon preventing the development of the causes of violence and the rehabilitation of individuals, and shall contain recommendations for the effective dissemination and implementation of such programs in the major social, political, economic, and geographic centers of our state, including but not limited to, the home, the schools, and the work place.

(5) Render advice and information, as requested, to the state and municipal governments, and in response to inquiries by the public.

(6) Annually report its progress to the Legislature by January 15, 1981, and January 15, 1982, and submit its findings and recommendations in a final report to the Legislature on or before January 15, 1983.

(7) Apply to the federal government or any agency thereof, and to any other source or agency, whether public or private, for a gift or grant of funds, up to five hundred thousand dollars ($500,000), for any of the purposes of this title

(c) The commission shall consist of 25 members, who shall be broadly reflective of the general public, including ethnic minorities, women, and persons from varying economic levels, and who shall consult with the Attorney General, the Director of Social Services, and the Superintendent of Public Instruction.

The membership of the commission shall include the Attorney General or a designee, the Secretary of the Health and Welfare Agency or a designee, and the Superintendent of Public Instruction or a designee. In addition, the Attorney General shall appoint one other citizen member. Three citizen members shall be appointed by each of the following: the Senate Rules Committee, the Speaker of the Assembly, and the Judicial Council The League of California Cities and the County Supervisors Association of California shall each provide a list of five names to the Governor, who shall appoint two commission members from each list. In addition, the Governor shall appoint eight more commission members Each appointing authority shall make the required appointments within 30 days of the effective date of this title.

In the event of a resignation, the inability of a member to continue service, or other vacancy, a new member shall be appointed to the commission by the original appointing authority in accordance with the requirements applicable to an original appointment.

The commission shall elect its chairperson and shall hire an executive director who shall employ such staff as is appropriate The commission may delegate to an executive committee comprised of its members the responsibility of overseeing the operations of the commission. Such delegation, however, shall not release a commission member from the obligations imposed by this title Office facilities and other in-kind services shall be provided by the

Health and Welfare Agency.

In making appointments to the commission, each appointing authority shall be responsible for appointing persons from different backgrounds, abilities, interests, and opinions to create a balanced commission, reflective of the areas to be studied by the commission. At least one, but no more than five, persons shall be appointed from each of the following: social science, law enforcement, mental health, education, religion, business, labor, a street level law enforcement officer with at least five years' experience, a victim of a crime, a member of the legal profession, and an ex-convict.

The Governor or a designee shall call the first meeting of the commission within 45 days of the effective date of this title.

Commissioners shall be reimbursed for their travel and per diem expenses.

The commission shall expire January 1, 1983.

14102 The commission shall study the root causes of violent behavior in our society.

The areas of study of the commission shall include, but shall not be limited to, the following:

(a) The birthing process.
(b) The parenting process.
(c) Nutrition.
(d) Significance of tactile development
(e) Healthy emotional development.
(f) Healthy bodily development.
(g) Self-esteem
(h) Healthy sexual development.
(i) The effects of television.
(j) Powerlessness.
(k) Poverty.
(*l*) Prejudice.
(m) Social and economic environment.

SEC. 2. The California Council on Criminal Justice is encouraged to make funds available to the commission from the state share of federal dollars under its control to carry out the purposes of this title.

CHAPTER 991

An act to amend Sections 6316.2 and 6327 of the Welfare and Institutions Code, relating to mentally disordered sex offenders and making an appropriation therefor.

[Approved by Governor September 22, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1. Section 6316.2 of the Welfare and Institutions Code is amended to read:

6316.2. (a) A person may be committed beyond the term prescribed by Section 6316.1 only under the procedure set forth in this section and only if such person meets all of the following:

(1) The "sex offense" as defined in subdivision (a) of Section 6302 of which the person has been convicted is a felony, whether committed before or after July 1, 1977, or is a misdemeanor which was committed before July 1, 1977.

(2) Suffers from a mental disease, defect, or disorder, and as a result of such mental disease, defect, or disorder, is predisposed to the commission of sexual offenses to such a degree that he or she presents a substantial danger of bodily harm to others.

(b) If during a commitment under this part, the Director of Mental Health has good cause to believe that a patient is a person described in subdivision (a), the director may submit such supporting evaluations and case file to the prosecuting attorney who may file a petition for extended commitment in the superior court which issued the original commitment. Such petition shall be filed no later than 90 days before the expiration of the original commitment. Such petition shall state the reasons for the extended commitment, with accompanying affidavits specifying the factual basis for believing that the person meets each of the requirements set forth in subdivision (a).

(c) At the time of filing a petition, the court shall advise the patient named in the petition of his or her right to be represented by an attorney and of his or her right to a jury trial. The rules of discovery in criminal cases shall apply

(d) The court shall conduct a hearing on the petition for extended commitment. The trial shall be by jury unless waived by both the patient and the prosecuting attorney. The trial shall commence no later than 30 days prior to the time the patient would otherwise have been released by the State Department of Mental Health.

(e) The patient shall be entitled to the rights guaranteed under the Federal and State Constitutions for criminal proceedings. All proceedings shall be in accordance with applicable constitutional guarantees The State Controller shall reimburse the counties for all expenses of transportation, care and custody of the patient and all trial and related costs. The state shall be represented by the Attorney General or the district attorney with the consent of the Attorney General. If the patient is indigent, the State Public Defender shall be appointed. The State Public Defender may provide for representation of the patient in any manner authorized by Section 15402 of the Government Code. Appointment of necessary psychologists or psychiatrists shall be made in accordance with this article and Penal Code and Evidence Code provisions applicable to criminal defendants who have entered pleas of not guilty by reason

of insanity or asserted diminished capacity defenses.

(f) If the court or jury finds that the patient is a person described in subdivision (a), the court may order the patient committed to the State Department of Mental Health in a treatment facility. A commitment or a recommitment under Section 6316.1 shall be for a period of two years from the date of termination of the previous commitment.

(g) A person committed under this section to the State Department of Mental Health shall be eligible for outpatient release as provided in this article.

(h) Prior to termination of a commitment under this section, a petition for recommitment may be filed to determine whether the person remains a person described in subdivision (a). Such recommitment proceeding shall be conducted in accordance with the provisions of this article.

(i) Any commitment to the State Department of Mental Health under this article places an affirmative obligation on the department to provide treatment for the underlying causes of the person's mental disorder.

(j) The provisions of Section 6327 shall apply to a commitment ordered pursuant to this section.

SEC. 2. Section 6316.2 of the Welfare and Institutions Code, as amended by Section 1 of Senate Bill 898, is amended to read:

6316.2. (a) A person may be committed beyond the term prescribed by Section 6316.1 only under the procedure set forth in this section and only if such person meets all of the following:

(1) The "sex offense" as defined in subdivision (a) of Section 6302 of which the person has been convicted is a felony, whether committed before or after July 1, 1977, or is a misdemeanor which was committed before July 1, 1977.

(2) Suffers from a mental disease, defect, or disorder, and as a result of such mental disease, defect, or disorder, is predisposed to the commission of sexual offenses to such a degree that he presents a substantial danger of bodily harm to others

(b) If during a commitment under this part, the Director of Mental Health has good cause to believe that a patient is a person described in subdivision (a), the director may submit such supporting evaluations and case file to the prosecuting attorney who may file a petition for extended commitment in the superior court which issued the original commitment. Such petition shall be filed no later than 90 days before the expiration of the original commitment. Such petition shall state the reasons for the extended commitment, with accompanying affidavits specifying the factual basis for believing that the person meets each of the requirements set forth in subdivision (a).

(c) At the time of filing a petition, the court shall advise the patient named in the petition of his right to be represented by an attorney and of his right to a jury trial. The rules of discovery in criminal cases shall apply

(d) The court shall conduct a hearing on the petition for extended commitment. The trial shall be by jury unless waived by both the patient and the prosecuting attorney. The trial shall commence no later than 30 days prior to the time the patient would otherwise have been released by the State Department of Mental Health.

(e) The patient shall be entitled to the rights guaranteed under the Federal and State Constitutions for criminal proceedings. All proceedings shall be in accordance with applicable constitutional guarantees. The State Controller shall reimburse the counties for all expenses of transportation, care and custody of the patient and all trial and related costs. The state shall be represented by the Attorney General or the district attorney with the consent of the Attorney General. If the patient is indigent, the State Public Defender shall be appointed. The State Public Defender may provide for representation of the patient in any manner authorized by Section 15402 of the Government Code. Appointment of necessary psychologists or psychiatrists shall be made in accordance with this article and Penal Code and Evidence Code provisions applicable to criminal defendants who have entered pleas of not guilty by reason of insanity or asserted diminished capacity defenses.

(f) If the court or jury finds that the patient is a person described in subdivision (a), the court may order the patient committed to the State Department of Mental Health in a treatment facility A commitment or a recommitment under Section 6316 1 shall be for a period of two years from the date of termination of the previous commitment.

(g) A person committed under this section to the State Department of Mental Health shall be eligible for outpatient release as provided in this article.

(h) Prior to termination of a commitment under this section, a petition for recommitment may be filed to determine whether the person remains a person described in subdivision (a). Such recommitment proceeding shall be conducted in accordance with the provisions of this article.

(i) Any commitment to the State Department of Mental Health under this article places an affirmative obligation on the department to provide treatment for the underlying causes of the person's mental disorder.

(j) Amenability to treatment is not required for a finding that any person is a person as described in subdivision (a), nor is it required for treatment of such person. Treatment programs need only be made available to such person. Treatment does not mean that the treatment be successful or potentially successful, nor does it mean that the person must recognize his or her problem and willingly participate in the treatment program

(k) The person committed pursuant to this section shall be confined in a state hospital unless released as an outpatient as provided in Section 6325.1 The Director of Mental Health may, with the consent of the Director of Corrections, transfer the person to a

treatment unit in the Department of Corrections for confinement and treatment if the person is not amenable for treatment in existing hospital programs or is in need of stricter security and custody measures than are available within the state hospitals. The treatment unit shall be designated by the Director of Corrections. A person transferred under this section shall be entitled to a hearing by the State Department of Mental Health to determine whether he may be confined and treated in a state hospital.

The person shall be entitled to be present at the hearing, to ask and answer questions, to speak on his own behalf, and to offer relevant evidence. The hearing shall be held before any transfer to the Department of Corrections unless the person is already in the custody of the Director of Corrections or the need for transfer becomes immediate making a hearing before transfer impractical.

Any person transferred to the Department of Corrections pursuant to this section shall be entitled to treatment of a kind and quality similar to that which he would receive if confined by the State Department of Mental Health. He shall be treated in a unit at a level of staffing that will enable him to receive the equivalent quality of care and therapy that would be received in a similar state hospital program.

(*l*) The provision of Section 6327 shall apply to a commitment ordered pursuant to this section.

SEC. 3. Section 6327 of the Welfare and Institutions Code is amended to read:

6327. After a person has been committed pursuant to this article to the department for placement in a state hospital or to a county mental health director for placement in an appropriate facility as a mentally disordered sex offender and has been confined for a period of not less than six months from the date of the order of commitment, the committing court may upon its own motion or on motion by or on behalf of the person committed, require the superintendent of the state hospital or other facility to which the person was committed to forward to the committing court and to the county mental health director or his or her designee, within 30 days his or her opinion under (a) or (b) of Section 6325, including therein a report, diagnosis and recommendation concerning the person's future care, supervision, or treatment After receipt of the report, the committing court may order the return of the person to the court for a hearing as to whether the person is still a mentally disordered sex offender within the meaning of this article.

The hearing shall be conducted substantially in accordance with Sections 6306 to 6314, inclusive If, after the hearing, the judge finds that the person has not recovered from his or her mental disorder and is still a danger to the health and safety of others, the judge shall order the person returned to the State Department of Mental Health or county mental health director under the prior order of commitment The court shall transmit a copy of its order to the county mental health director or his or her designee. A subsequent

hearing may not be held under this section until the person has been confined for an additional period of six months from the date of his or her return to the department or county mental health director If the court finds that the person has recovered from his or her mental disorder to such an extent that he or she is no longer a danger to the health and safety of others, or that he or she will not benefit by further care and treatment in the hospital or other facility and is not a danger to the health and safety of others, the committing court 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. The court shall transmit a copy of its order to the county mental health director or his designee

SEC 4. It is the intent of the Legislature, if this bill and Senate Bill 898 are both chaptered and become effective on or before January 1, 1980, both bills amend Section 6316.2 of the Welfare and Institutions Code, and this bill is chaptered after Senate Bill 898, that Section 6316 2 of the Welfare and Institutions Code, as amended by Section 1 of Senate Bill 898, 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 6316.2 proposed by this bill. Therefore, if this bill and Senate Bill 898 are both chaptered and become effective on or before January 1, 1980, and Senate Bill 898 is chaptered before this bill and amends Section 6316.2, Section 2 of this act shall become operative on the effective date of this act and Section 1 of this act shall not become operative.

SEC. 5 The sum of fifteen thousand dollars ($15,000) is hereby appropriated from the General Fund to the Controller for allocation and disbursement to local agencies and school districts pursuant to Section 2231 of the Revenue and Taxation Code to reimburse the agencies for costs incurred by them pursuant to this act

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CHAPTER 992

An act to amend Section 6316.2 of the Welfare and Institutions Code, relating to mentally disordered sex offenders, and declaring the urgency thereof, to take effect immediately

[Approved by Governor September 22, 1979 Filed with Secretary of State September 22, 1979]

The people of the State of California do enact as follows

SECTION 1. Section 6316 2 of the Welfare and Institutions Code is amended to read

6316 2 (a) A person may be committed beyond the term prescribed by Section 6316 1 only under the procedure set forth in this section and only if such person meets all of the following

(1) The "sex offense" as defined in subdivision (a) of Section 6302

of which the person has been convicted is a felony, whether committed before or after July 1, 1977, or is a misdemeanor which was committed before July 1, 1977.

(2) Suffers from a mental disease, defect, or disorder, and as a result of such mental disease, defect, or disorder, is predisposed to the commission of sexual offenses to such a degree that he presents a serious threat of substantial harm to the health and safety of others.

(b) If during a commitment under this part, the Director of Mental Health has good cause to believe that a patient is a person described in subdivision (a), the director may submit such supporting evaluations and case file to the prosecuting attorney who may file a petition for extended commitment in the superior court which issued the original commitment. Such petition shall be filed no later than 90 days before the expiration of the original commitment. Such petition shall state the reasons for the extended commitment, with accompanying affidavits specifying the factual basis for believing that the person meets each of the requirements set forth in subdivision (a).

(c) At the time of filing a petition, the court shall advise the patient named in the petition of his right to be represented by an attorney and of his right to a jury trial The rules of discovery in criminal cases shall apply

(d) The court shall conduct a hearing on the petition for extended commitment. The trial shall be by jury unless waived by both the patient and the prosecuting attorney The trial shall commence no later than 30 days prior to the time the patient would otherwise have been released by the State Department of Mental Health.

(e) The patient shall be entitled to the rights guaranteed under the Federal and State Constitutions for criminal proceedings. All proceedings shall be in accordance with applicable constitutional guarantees The State Controller shall reimburse the counties for all expenses of transportation, care and custody of the patient and all trial and related costs. The state shall be represented by the Attorney General or the district attorney with the consent of the Attorney General. If the patient is indigent, the State Public Defender shall be appointed. The State Public Defender may provide for representation of the patient in any manner authorized by Section 15402 of the Government Code. Appointment of necessary psychologists or psychiatrists shall be made in accordance with this article and Penal Code and Evidence Code provisions applicable to criminal defendants who have entered pleas of not guilty by reason of insanity or asserted diminished capacity defenses.

(f) If the court or jury finds that the patient is a person described in subdivision (a), the court may order the patient committed to the State Department of Mental Health in a treatment facility A commitment or a recommitment under Section 6316 1 shall be for a period of one year from the date of termination of the previous commitment

(g) A person committed under this section to the State

Department of Mental Health shall be eligible for outpatient release as provided in this article.

(h) Prior to termination of a commitment under this section, a petition for recommitment may be filed to determine whether the person remains a person described in subdivision (a). Such recommitment proceeding shall be conducted in accordance with the provisions of this article.

(i) Any commitment to the State Department of Mental Health under this article places an affirmative obligation on the department to provide treatment for the underlying causes of the person's mental disorder.

(j) Amenability to treatment is not required for a finding that any person is a person as described in subdivision (a), nor is it required for treatment of such person. Treatment programs need only be made available to such person. Treatment does not mean that the treatment be successful or potentially successful, nor does it mean that the person must recognize his or her problem and willingly participate in the treatment program.

(k) The person committed pursuant to this section shall be confined in a state hospital unless released as an outpatient as provided in Section 6325 1. The Director of Mental Health may, with the consent of the Director of Corrections, transfer the person to a treatment unit in the Department of Corrections for confinement and treatment if the person is not amenable for treatment in existing hospital programs or is in need of stricter security and custody measures than are available within the state hospitals. The treatment unit shall be designated by the Director of Corrections. A person transferred under this section shall be entitled to a hearing by the State Department of Mental Health to determine whether he may be confined and treated in a state hospital.

The person shall be entitled to be present at the hearing, to ask and answer questions, to speak on his own behalf, and to offer relevant evidence. The hearing shall be held before any transfer to the Department of Corrections unless the person is already in the custody of the Director of Corrections or the need for transfer becomes immediate making a hearing before transfer impractical

Any person transferred to the Department of Corrections pursuant to this section shall be entitled to treatment of a kind and quality similar to that which he would receive if confined by the State Department of Mental Health. He shall be treated in a unit at a level of staffing that will enable him to receive the equivalent quality of care and therapy that would be received in a similar state hospital program

This section shall remain in effect only until January 1, 1980, and on such date is repealed. The provisions of this section shall remain in effect for the remainder of the term of commitment for any person committed under this section prior to January 1, 1980

SEC 2 Section 6316 2 of the Welfare and Institutions Code, as amended by Section 1 of this act, is amended to read

6316.2. (a) A person may be committed beyond the term prescribed by Section 6316 1 only under the procedure set forth in this section and only if such person meets all of the following:

(1) The "sex offense" as defined in subdivision (a) of Section 6302 of which the person has been convicted is a felony, whether committed before or after July 1, 1977, or is a misdemeanor which was committed before July 1, 1977.

(2) Suffers from a mental disease, defect, or disorder, and as a result of such mental disease, defect, or disorder, is predisposed to the commission of sexual offenses to such a degree that he presents a substantial danger of bodily harm to others.

(b) If during a commitment under this part, the Director of Mental Health has good cause to believe that a patient is a person described in subdivision (a), the director may submit such supporting evaluations and case file to the prosecuting attorney who may file a petition for extended commitment in the superior court which issued the original commitment. Such petition shall be filed no later than 90 days before the expiration of the original commitment. Such petition shall state the reasons for the extended commitment, with accompanying affidavits specifying the factual basis for believing that the person meets each of the requirements set forth in subdivision (a).

(c) At the time of filing a petition, the court shall advise the patient named in the petition of his right to be represented by an attorney and of his right to a jury trial. The rules of discovery in criminal cases shall apply.

(d) The court shall conduct a hearing on the petition for extended commitment The trial shall be by jury unless waived by both the patient and the prosecuting attorney. The trial shall commence no later than 30 days prior to the time the patient would otherwise have been released by the State Department of Mental Health.

(e) The patient shall be entitled to the rights guaranteed under the Federal and State Constitutions for criminal proceedings. All proceedings shall be in accordance with applicable constitutional guarantees. The State Controller shall reimburse the counties for all expenses of transportation, care and custody of the patient and all trial and related costs. The state shall be represented by the Attorney General or the district attorney with the consent of the Attorney General. If the patient is indigent, the State Public Defender shall be appointed. The State Public Defender may provide for representation of the patient in any manner authorized by Section 15402 of the Government Code Appointment of necessary psychologists or psychiatrists shall be made in accordance with this article and Penal Code and Evidence Code provisions applicable to criminal defendants who have entered pleas of not guilty by reason of insanity or asserted diminished capacity defenses

(f) If the court or jury finds that the patient is a person described in subdivision (a), the court may order the patient committed to the State Department of Mental Health in a treatment facility A

commitment or a recommitment under Section 6316.1 shall be for a period of two years from the date of termination of the previous commitment

(g) A person committed under this section to the State Department of Mental Health shall be eligible for outpatient release as provided in this article.

(h) Prior to termination of a commitment under this section, a petition for recommitment may be filed to determine whether the person remains a person described in subdivision (a) Such recommitment proceeding shall be conducted in accordance with the provisions of this article.

(i) Any commitment to the State Department of Mental Health under this article places an affirmative obligation on the department to provide treatment for the underlying causes of the person's mental disorder

(j) Amenability to treatment is not required for a finding that any person is a person as described in subdivision (a), nor is it required for treatment of such person Treatment programs need only be made available to such person. Treatment does not mean that the treatment be successful or potentially successful, nor does it mean that the person must recognize his or her problem and willingly participate in the treatment program.

(k) The person committed pursuant to this section shall be confined in a state hospital unless released as an outpatient as provided in Section 6325 1 The Director of Mental Health may, with the consent of the Director of Corrections, transfer the person to a treatment unit in the Department of Corrections for confinement and treatment if the person is not amenable for treatment in existing hospital programs or is in need of stricter security and custody measures than are available within the state hospitals. The treatment unit shall be designated by the Director of Corrections. A person transferred under this section shall be entitled to a hearing by the State Department of Mental Health to determine whether he may be confined and treated in a state hospital

The person shall be entitled to be present at the hearing, to ask and answer questions, to speak on his own behalf, and to offer relevant evidence The hearing shall be held before any transfer to the Department of Corrections unless the person is already in the custody of the Director of Corrections or the need for transfer becomes immediate making a hearing before transfer impractical

Any person transferred to the Department of Corrections pursuant to this section shall be entitled to treatment of a kind and quality similar to that which he would receive if confined by the State Department of Mental Health He shall be treated in a unit at a level of staffing that will enable him to receive the equivalent quality of care and therapy that would be received in a similar state hospital program

(*l*) The provisions of Section 6327 shall apply to a commitment ordered pursuant to this section

SEC. 3. It is the intent of the Legislature, if this bill and Assembly Bill 1332 are both chaptered and become effective on or before January 1, 1980, both bills amend Section 6316.2 of the Welfare and Institutions Code, and this bill is chaptered after Assembly Bill 1332, that Section 6316.2 of the Welfare and Institutions Code, as amended by Section 1 of this act, shall remain operative until the effective date of Assembly Bill 1332, and that on the effective date of Assembly Bill 1332 Section 6316.2 of the Welfare and Institutions 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 6316.2 proposed by Assembly Bill 1332. Therefore, if this bill and Assembly Bill 1332 are both chaptered and become effective on or before January 1, 1980, and Assembly Bill 1332 is chaptered before this bill and amends Section 6316.2, Section 2 of this act shall become operative on the effective date of Assembly Bill 1332.

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 that this act, which would provide a necessary clarification in the law regarding the grounds for the release from commitment or persons found to be mentally disordered sex offenders, may be effective at the earliest possible date, it is necessary that this act take effect immediately.

CHAPTER 993

An act to amend Section 11584 of the Insurance Code, and to amend Sections 5500 and 5503 of the Public Utilities Code, relating to aviation insurance

[Approved by Governor September 22, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1. Section 11584 of the Insurance Code is amended to read

11584. No policy of insurance issued or delivered in this state covering any loss, expense or liability arising out of the ownership, maintenance, or use of an aircraft shall exclude or deny coverage because the aircraft is operated in violation of federal or civil air regulations, or any state law or local ordinance, nor shall any policy exclude or deny coverage which the insured is obligated to provide according to law

This section does not prohibit the use of specific exclusions or conditions in any such policy which relates to any of the following.

(1) Certification of an aircraft in a stated category by the Federal

Aviation Administration.

(2) Certification of a pilot in a stated category by the Federal Aviation Administration

(3) Establishing requirements for pilot experience.

(4) Establishing limitations on the use of the aircraft.

(5) Any person licensed under Division 6 (commencing with Section 11401) of the Agricultural Code with respect to his operation of an aircraft for the purpose of applying pest control materials or substances by dusting, spraying or any other manner whereby such materials or substances are applied through the medium of aircraft.

SEC. 2. Section 5500 of the Public Utilities Code is amended to read·

5500. As used in this article, "commercial air operator" means any person owning, controlling, operating, renting, or managing aircraft for any commercial purpose for compensation.

SEC. 3 Section 5503 of the Public Utilities Code is amended to read:

5503. The Public Utilities Commission shall require every commercial air operator to procure, and continue in effect so long as the commercial air operator continues to offer his services for compensation, adequate protection against liability imposed by law upon a commercial air operator and also upon any person using, operating or renting an aircraft with the permission, expressed or implied, of a commercial air operator for the payment of damages for personal bodily injuries, including death resulting therefrom, and property damage as a result of an accident.

CHAPTER 994

An act to amend Sections 261, 263, 264, and 1127d of, and to add Section 262 to, the Penal Code, relating to rape.

[Approved by Governor September 22, 1979 Filed with Secretary of State September 22, 1979]

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

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

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

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

2 Where a person resists, but the person's resistance is overcome by force or violence;

3. Where a person is prevented from resisting by threats of great and immediate bodily harm, accompanied by apparent power of

execution, or by any intoxicating, narcotic, or anaesthetic substance, administered by or with the privity of the accused;

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

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

SEC 2 Section 262 is added to the Penal Code, to read.

262. (a) Rape of a person who is the spouse of a perpetrator is an act of sexual intercourse accomplished under either of the following circumstances:

(1) Where a spouse resists, but the spouse's resistance is overcome by force or violence.

(2) Where the spouse is prevented from resisting by threats of great and immediate bodily harm, accompanied by apparent power of execution.

(b) The provisions of Section 800 shall apply to this section, however, there shall be no arrest or prosecution under this section unless the violation of this section is reported to a peace officer having the power to arrest for a violation of this section or to the district attorney of the county in which the violation occurred, within 30 days after the day of the violation

SEC. 3 Section 263 of the Penal Code is amended to read.

263. The essential guilt of rape consists in the outrage to the person and feelings of the victim of the rape. Any sexual penetration, however slight, is sufficient to complete the crime.

SEC 4. Section 264 of the Penal Code is amended to read:

264 Rape, as defined in Section 261, is punishable by imprisonment in the state prison for three, six, or eight years Rape, as defined in Section 262, is punishable either by imprisonment in the county jail for not more than one year or in the state prison for three, six, or eight years. Unlawful sexual intercourse, as defined in Section 261.5, is punishable either by imprisonment in the county jail for not more than one year or in the state prison, and in such case the jury shall recommend by their verdict whether the punishment shall be by imprisonment in the county jail or in the state prison; provided, that when the defendant pleads guilty to an offense under Section 261 5 the punishment shall be in the discretion of the trial court, either by imprisonment in the county jail for not more than one year or in the state prison

SEC. 5. Section 1127d of the Penal Code is amended to read·

1127d (a) In any criminal prosecution for the crime of rape, or for violation of Section 261.5, or for an attempt to commit, or assault with intent to commit, any such crime, the jury shall not be instructed that it may be inferred that a person who has previously consented to sexual intercourse with persons other than the defendant would be therefore more likely to consent to sexual intercourse again

(b) A jury shall not be instructed that the prior sexual conduct in and of itself of the complaining witness may be considered in determining the credibility of the witness pursuant to Chapter 6 (commencing with Section 780) of Division 6 of the Evidence Code.

SEC. 6. Notwithstanding Section 2231 and 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 995

An act to amend Section 70059.7 of, to add Article 28 (commencing with Section 74640) to Chapter 10 of Title 8 of, and to repeal Article 15 (commencing with Section 73910), Article 28 (commencing with Section 74640), and Article 28.1 (commencing with Section 74655) of Chapter 10 of Title 8 of, the Government Code, relating to courts.

[Became law without Governor's signature September 25, 1979 Filed with Secretary of State September 25, 1979.]

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

SECTION 1. Section 70059.7 of the Government Code is amended to read:

70059 7 In Santa Barbara County, each regular official reporter shall be paid a biweekly salary which shall be eight hundred thirty-six dollars and eighty-nine cents ($836.89) which salary shall include payment for services in reporting all proceedings in the superior court, before the grand jury, and before coroners' inquests.

Reporters pro tempore shall be paid at the per diem rate of eighty-four dollars ($84) for the days they are actually on duty under order of the court, and shall receive from the county their necessary traveling and other expenses when necessarily called from other counties Rates of compensation of regular official reporters and official reporters pro tempore may be adjusted by joint action and approval of the board of supervisors and a majority of the judges of the court, provided, however, that any changes in compensation which are made pursuant to this section shall be on an interim basis and shall remain in effect only until January 1, 1981, unless ratified by statute by the Legislature prior to that date

In such a county, the fee required by Section 70053 shall be ten dollars ($10)

In addition to any fee otherwise required, in civil cases which are not completed within one judicial day, a fee per day equal to the per

diem rate for official reporters pro tempore shall be charged to the parties on a pro rata basis for each day, including the first day, that the services of an official reporter are required For the purposes of this paragraph a judicial day is defined as four or more hours in which the services of an official reporter are utilized.

All such fees collected shall be used by the court for the purpose of the payment of official or pro tempore reporters

SEC 2 Article 15 (commencing with Section 73910) of Chapter 10 of Title 8 of the Government Code is repealed

SEC 3 Article 28 (commencing with Section 74640) of Chapter 10 of Title 8 of the Government Code is repealed

SEC 4 Article 28 (commencing with Section 74640) is added to Chapter 10 of Title 8 of the Government Code, to read:

Article 28. Santa Barbara County

74640 This article applies to all municipal courts established in the judicial districts in the County of Santa Barbara as follows. Santa Barbara-Goleta Judicial District, Santa Maria Judicial District, and Lompoc Judicial District

74641 Each of the judicial districts in the County of Santa Barbara shall have the following number of judges·

Santa Barbara-Goleta	3
Santa Maria	2
Lompoc	1

74641 1 The judges of the Santa Barbara-Goleta Municipal Court District shall appoint a commissioner as the business of the court requires The commissioner shall possess the same qualifications as the law requires of a judge of the municipal court Such appointment shall be pursuant to Section 72190 and such commissioner shall receive a salary which equals 85 percent of the annual salary of a municipal court judge

74642 Within the Santa Barbara-Goleta Judicial District there shall be the following officers, attachés, and employees:

	Santa Barbara/Goleta Municipal Court	*Salary Range*
1	Account Clerk I	186
1	Account Clerk II	205
1	Account Clerk III	232
1	Assistant Clerk-Admin Officer-SB	332
1	Chief Deputy of the Municipal Court	276
1	Clerk I	176
1	Clerk-Admin Officer-SB	380
1	Clerk Typist I	176
6	Clerk Typist II	195
8	Clerk Typist III	222
2	Data Entry Operator II	199

8	Municipal Court Clerk	247
3	Official Court Reporter Muni Court	384

Marshal-Santa Barbara/Goleta Municipal Court		*Salary Range*
1	Account Clerk II	205
1	Assistant Marshal-SB	375
2	Clerk II	195
1	Clerk, Supervising	242
1	Clerk Typist II	195
7	Deputy Marshal	309
1	Deputy Marshal	309
1	Marshal-SB	403
1	Marshal's Sergeant	344

74643 Within the Santa Maria Judicial District there shall be the following officers, attachés, and employees:

Santa Maria Municipal Court		*Salary Range*
1	Account Clerk III	232
1	Assistant Clerk-Admin Officer-SM	321
1	Chief Deputy Clerk	276
1	Clerk-Admin Officer-SM	368
6	Clerk Typist II	195
2	Clerk Typist III	222
2	Municipal Court Clerk	247

Marshal - Santa Maria Municipal Court		*Salary Range*
1	Account Clerk II	205
1	Account Clerk III	232
1	Assistant Marshal-SM	368
1	Clerk Typist II	195
4	Deputy Marshal	309
1	Deputy Marshal II	319
1	Marshal-SM	393

74644 Within the Lompoc Judicial District there shall be the following officers, attachés, and employees·

Municipal Court - Lompoc		*Salary Range*
1	Assistant Clerk-Admin Officer-Lompoc	305
1	Clerk-Admin Officer-Lompoc	346
1	Clerk Typist II	195
1	Clerk Typist III	222
1	Municipal Court Clerk	247

		Salary Range
Marshal-Lompoc Municipal Court		
1	Clerk Typist III	222
1	Deputy Marshal	309
1	Marshal-Lompoc	380

74645. (a) It is the purpose of this section to provide compensation for municipal court employees and officers which is comparable to that paid to county employees holding equal or comparable positions in the Santa Barbara classified service as such comparability is determined by the Santa Barbara County Board of Supervisors

(b) Whenever reference to a numbered salary range is made in any section of this article, the schedule and the salary ordinance of the County of Santa Barbara in effect January 1, 1980, shall apply

(c) If the board of supervisors adopts a revised salary schedule for county employees, the new schedule shall apply equally to employees of municipal courts and marshals' offices and conversion to the new schedule shall be made for such employees in the same manner on the same date as for the classified service.

(d) Notwithstanding any of the provisions of this article, the salary and benefits of municipal court employees and officers shall be changed in the same manner and at the same rate as a salary and benefit change is effective for other permanent county classified positions Employees and officers of the municipal court shall be entitled to all employee benefits as they are provided and made applicable to positions within the classified service pursuant to Santa Barbara County ordinances or resolutions, to the extent that the benefits are not contrary to state law.

(e) All matters affecting the administration of salary and benefits, the selection, appointment, and reclassification of such municipal court officers and employees in those positions which they hold which are not specifically determined by the provision of state law shall be governed by the personnel ordinances and resolutions of the Board of Supervisors of the County of Santa Barbara

(f) Nothing in this article shall be construed to place marshals' or clerks' offices, their employees and attachés under the civil service system of Santa Barbara County but such employees and attachés may be placed under that civil service system by court rule adopted by the judges of their respective courts

(g) 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

74646 With the approval of the board of supervisors, a majority of municipal court judges of a 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 or redesignated positions are so established, the court may appoint and employ such additional or redesignated officers, attachés, and employees as are necessary for the performance of the duties and excercise of the powers conferred by law upon the court and its members

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

74647. (a) Full-time official reporters appointed by the majority of the judges of the municipal court pursuant to the provisions of Section 72194 and so designated, shall be attachés of the court and shall receive a biweekly salary in accordance with the provisions of Section 70059 7 Such salary shall be paid at the same times and according to the same procedures as salaries of employees of the County of Santa Barbara. During the hours when 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

(b) The judges of the court may appoint as many part-time additional reporters as the business of the court requires. The additional reporters shall be known as official reporters pro tempore, and they shall serve without salary but shall receive, for reporting, fees at the per diem rate fixed by Section 70059.7. Rates of compensation of regular official reporters and official reporters pro tempore may be adjusted by joint action and approval of the board of supervisors and a majority of the judges of the court, provided, however, that any changes in compensation which are made pursuant to this section shall be on an interim basis and shall remain in effect only until January 1, 1981, unless ratified by statute by the Legislature prior to that date In criminal cases such fees upon order of the court shall be a charge against the general fund of the county.

(c) An official reporter when not engaged in the performance of duties of the municipal court, may be appointed to serve as such reporter for the Santa Barbara County Grand Jury or in any other court in the County of Santa Barbara.

74648 All fees collected by court officers and attachés for official duties shall be deposited in the county treasury

74649 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, there shall be an additional charge of ten dollars ($10) in each court with designated full-time reporters

74650 Except as otherwise provided by this article, fees for transcribing of testimony and proceedings in the court shall be paid

by the litigants to official reporters and official reporters pro tempore and shall be retained by such reporters as their compensation for such services. In all cases where by law the court may direct the payment of transcription fees out of the county treasury and where such payment would not be in conflict with any provision in this article, such fees shall, upon order of the court, be paid from the general fund, including fees for transcribing of testimony and proceedings in criminal cases as provided in Sections 69948 to 69953, inclusive, which shall be paid from the county treasury.

SEC 5 Article 28 1 (commencing with Section 74655) of Chapter 10 of Title 8 of the Government Code is repealed.

SEC 6. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because this act is in accordance with the request of a local governmental entity or entities which desired legislative authority to carry out the program specified in this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 996

An act to amend Sections 2909 and 2910 of the Business and Professions Code, to amend Section 1277 of the Health and Safety Code, and to add Section 5600.2 to the Welfare and Institutions Code, relating to health

[Became law without Governor's signature September 25, 1979 Filed with Secretary of State September 25, 1979]

The people of the State of California do enact as follows

SECTION 1 Chapter 321 of the Statutes of 1978 established an unintentional two-year waiver of the licensure requirements for professional personnel, other than psychologists and clinical social workers, by its amendment of subdivision (b) of Section 1277 of the Health and Safety Code. It is the intent of the Legislature in enacting this act to restrict the exemption specified in such provisions to the minimum time required for personnel in the professions of psychology and clinical social work, to ensure the application of such provisions equally as to all facilities and services of the State Department of Mental Health and the State Department of Developmental Services

SEC. 2. Section 2909 of the Business and Professions Code is amended to read

2909. Nothing in this chapter shall be construed as restricting or preventing activities of a psychological nature or the use of the official title of the position for which they were employed on the part

of the following persons, provided such persons 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 or render psychological services as defined in Section 2903 to the public for a fee, monetary or otherwise, over and above the salary they receive for the performance of their official duties with the organization in which they are employed:

(a) Persons who hold a valid and current credential as a school psychologist issued by the California Department of Education.

(b) Persons who hold a valid and current credential as a psychometrist issued by the California Department of Education.

(c) Persons employed in positions as psychologists or psychological assistants, or in a student counseling service, by accredited or approved colleges, junior colleges or universities; federal, state, county or municipal governmental organizations which are not primarily involved in the provision of direct health or mental health services. However, such persons may, without obtaining a license under this act, consult or disseminate their research findings and scientific information to other such accredited or approved academic institutions or governmental agencies. They may also offer lectures to the public for a fee, monetary or otherwise, without being licensed under this chapter.

(d) Persons who meet the educational requirements of subdivision (d) of Section 2914 and who have one year or more of professional experience of a type which the committee determines will competently and safely permit the person to engage in the activities regulated by this chapter, if they are employed by nonprofit community agencies which receive a minimum of 25 percent of their financial support from any federal, state, county, or municipal governmental organizations for the purpose of training and providing services. Such persons shall be registered by the agency with the committee at the time of employment and shall be exempt from the provisions of this chapter for a maximum period of two years from the date of registration.

SEC. 3. Section 2910 of the Business and Professions Code is amended to read:

2910. Nothing in this chapter shall be construed to restrict or prevent activities of a psychological nature on the part of persons who are salaried employees of accredited or approved academic institutions, public schools or governmental agencies, provided:

(a) Such employees are performing such psychological activities as part of the duties for which they were hired;

(b) Such employees are performing those activities solely within the jurisdiction or confines of such organizations;

(c) Such persons do not hold themselves out to the public by any title or description of activities incorporating the words "psychology," "psychological," "psychologist," "psychometry," "psychometrics" or "psychometrist";

(d) Such persons do not offer their services to the public for a fee, monetary or otherwise;

(e) Such persons do not provide direct health or mental health services

SEC 4. Section 1277 of the Health and Safety Code is amended to read:

1277. (a) No license shall be issued by the state department unless it finds that the premises, the management, the bylaws, rules and regulations, the equipment, the staffing, both professional and nonprofessional, and the standards of care and services are adequate and appropriate, and that the health facility is operated in the manner required by this chapter and by the rules and regulations adopted hereunder.

(b) Notwithstanding any provision of Part 2 (commencing with Section 5600) of Division 5 of, or Division 7 (commencing with Section 7000) of, the Welfare and Institutions Code or any other law to the contrary, except Sections 2137.1 and 2137.2 of the Business and Professions Code, the licensure requirements for professional personnel, including, but not limited to, physicians and surgeons, dentists, podiatrists, psychologists, pharmacists, registered nurses, and clinical social workers in the state and other governmental health facilities licensed by the state department shall not be less than for such professional personnel in health facilities under private ownership. Persons employed as psychologists and clinical social workers, while continuing in their employment in the same class as of January 1, 1979, in the same state or other governmental health facility licensed by the state department, including those persons on authorized leave, but not including intermittent personnel, shall be exempt from the requirements of this subdivision. Additionally, the requirements of this subdivision may be waived by the state department solely for persons in the professions of psychology or clinical social work who are gaining qualifying experience for licensure in such profession in this state. A waiver granted pursuant to this subdivision shall not exceed two years from the date the employment commences in this state in the case of psychologists, or three years from commencement of the employment in this state in the case of clinical social workers, at which time licensure shall have been obtained or the employment shall be terminated. However, this durational limitation upon waivers shall not apply to active candidates for a doctoral degree in social work, social welfare, or social science, who are enrolled at an accredited university, college, or professional school, but such limitations shall apply following completion of such training. A waiver pursuant to this subdivision shall be granted only to the extent necessary to qualify for licensure, except that personnel recruited for employment from outside this state and whose experience is sufficient to gain admission to a licensing examination shall nevertheless have one year from the date of their employment in California to become licensed, at which time licensure shall have been obtained or the employment shall be

terminated; provided, that the employee shall take the licensure examination at the earliest possible date after the date of his or her employment, and if the employee does not pass the examination at that time, he or she shall have a second opportunity to pass the examination, subject to the one-year limit

(c) A special permit shall be issued by the state department when it finds that the staff, both professional and nonprofessional, and the standards of care and services are adequate and appropriate, and that the special services unit is operated in the manner required in this chapter and by the rules and regulations adopted hereunder.

(d) The state department shall apply the same standards to state and other governmental health facilities that it licenses as it applies to health facilities in private ownership The state department shall report to the Legislature by March 1 of each year any waivers of requirements imposed by its regulations granted during the prior calendar year to any health facility

SEC 5 Section 5600 2 is added to the Welfare and Institutions Code, to read

5600 2 (a) Except as provided in subdivision (b), persons employed or under contract to provide mental health services pursuant to this part shall be subject to all applicable requirements of law respecting professional licensure, and no person shall be employed in local mental health programs pursuant to this part to provide services for which such a license is required, unless such person possesses a currently valid license.

(b) Persons employed as psychologists and clinical social workers, while continuing in their employment in the same class as of Janaury 1, 1979, in the same program or facility, including those persons on authorized leave, but not including intermittent personnel, shall be exempt from the requirements of subdivision (a). Additionally, the requirements of subdivision (a) may be waived by the state department solely for persons in the professions of psychology or clinical social work who are gaining qualifying experience for licensure in such profession in this state A waiver granted pursuant to this subdivision shall not exceed two years from the date the employment commences in this state in the case of psychologists, or three years from commencement of the employment in this state in the case of clinical social workers, at which time licensure shall have been obtained or the employment shall be terminated However, this durational limitation upon waivers shall not apply to active candidates for a doctoral degree in social work, social welfare, or social science, who are enrolled at an accredited university, college, or professional school, but such limitations shall apply following completion of such training. A waiver pursuant to this subdivision shall be granted only to the extent necessary to qualify for licensure, except that personnel recruited for employment from outside this state and whose experience is sufficient to gain admission to a licensing examination shall, nevertheless, have one year from the date of their employment in California to become licensed, at which

time licensure shall have been obtained or the employment shall be terminated, provided that the employee shall take the licensure examination at the earliest possible date after the date of his or her employment, and if the employee does not pass the examination at that time, he or she shall have a second opportunity to pass the examination, subject to the one-year limit.

CHAPTER 997

An act to add Section 327 to the Unemployment Insurance Code, relating to unemployment.

[Became law without Governor's signature September 25, 1979 Filed with Secretary of State September 25, 1979]

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

SECTION 1. The Legislature hereby makes the following findings in enacting this act:

There is an urgent need for accurate, current, and precise information about the California labor market and the social and economic characteristics of California's working age population Reliable data for California is needed on the comparative unemployment rates among various age, sex, and ethnic groups and on the period and types of unemployment experienced by those groups.

State and local agencies must currently rely upon inadequate data to plan, administer, and evaluate vocational education and employment and training programs for which hundreds of millions of dollars are expended annually. The data currently available is provided as part of the United States Bureau of the Census's nationwide Current Population Survey and it is inadequate because it is based upon a severely limited California sample of 5,000 households which represent approximately two-tenths of 1 percent of California's population.

This California sample is part of a monthly nationwide sample of 50,000 households which provides adequate information for the development, operation, and evaluation of federal social programs. However, this data is completely inadequate for determining the effects of those programs on California.

Contracting with the Bureau of the Census to expand this survey of California's population represents the best means of providing sufficient data for sound program evaluation and analysis at a reasonable cost To develop such a contract may require the expenditure of substantial time and would coincide with other national demands placed on the Bureau of the Census, such as the upcoming decennial census.

California's vocational education and employment and training

programs would benefit greatly from the additional information and increased reliability that would be obtained by such an expanded survey Other departments and branches of state government would also benefit from such a survey.

The Legislative Analyst, for example, has determined that the major cause of the accumulated state surplus in recent years has been the inability of the state to forecast accurately its annual revenues. The Legislative Analyst has also determined that the single most important element to improve revenue estimates would be the expansion of the federally conducted Current Population Survey. Because this data is the basic building block of state revenue estimates, the Legislative Analyst estimates that a one percentage point error in the annual employment forecast for the state can cause an error of about one hundred million dollars ($100,000,000) in the forecast for personal income tax revenues alone. For this reason, the Legislative Analyst has recommended that the Legislature provide for an expanded Current Population Survey

The information resulting from an expanded survey would greatly improve the state's ability to more effectively target its resources. The passage of Proposition 13 at the June 6, 1978, statewide election makes essential improvement in the state's ability to forecast and allocate its resources. The Legislature, therefore, intends to provide for an expanded Current Population Survey to provide necessary data on California's social and economic characteristics and to improve California's revenue estimating capability.

SEC 2. Section 327 is added to the Unemployment Insurance Code, to read:

327 The department is authorized to enter into negotiations with the United States Bureau of the Census to expand the current population survey for a sample of up to 35,000 households in California. The department shall report its findings and the result of the negotiations to the Legislature. At such time as the Bureau of the Census is prepared to undertake the workload involved in expanding California's portion of the population survey, the department shall submit to the Legislature a budget request for funds not available from other sources to finance a contract with the Bureau of the Census When sufficient funds are made available through the budget process or from other sources, the department is authorized to contract with the Bureau of the Census for the purpose of expanding the current population survey to a sample of up to 35,000 households in California. Based on the results of the expanded survey, the department shall compile and publish monthly information pertaining to employment and unemployment and shall provide such information to state governmental entities, including the Legislature, which are responsible for preparing state economic projections and revenue estimates.

CHAPTER 998

An act making an appropriation to pay the settlement of claims, and declaring the urgency thereof, to take effect immediately.

[Became law without Governor's signature September 25, 1979 Filed with Secretary of State September 25, 1979]

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

SECTION 1. The sum of three hundred sixty-five thousand dollars ($365,000) is hereby appropriated from the Motor Vehicle Account in the State Transportation Fund to the State Department of Justice, with one hundred sixty-five thousand dollars ($165,000) allocated to pay the settlement of the claims of the plaintiff in the case entitled Mann v. State of California, brought in the Superior Court of the State of California for the County of Los Angeles, and with two hundred thousand dollars ($200,000) allocated to pay the settlement of the claims of the plaintiffs in the case entitled Driscoll v. State of California, brought in the Superior Court of the State of California for the County of Los Angeles.

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 pay the settlement arising out of an action brought by the plaintiff, and ending a hardship to such person as quickly as possible, it is necessary for this act to take effect immediately.

CHAPTER 999

An act to amend Sections 20983.5 and 20983.6 of the Government Code, relating to public retirement systems, and declaring the urgency thereof, to take effect immediately.

[Became law without Governor's signature September 26, 1979 Filed with Secretary of State September 26, 1979]

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

SECTION 1. Section 20983 5 of the Government Code is amended to read

20983.5 Every state member, other than a patrol or state safety member and every local miscellaneous member who is employed by a school district or by a county superintendent of schools, and who has attained age 70, and all such persons who are reinstated from retirement and who are over age 70 at the time of their reinstatement, or who are first employed after age 70, shall have the

right to delay retirement and to continue in employment upon certification of the member's eligibility to continue in employment by the department or agency head or other appropriate supervisor pursuant to rules and regulations adopted by the State Personnel Board, the respective county superintendent of schools, or their designees, the Regents of the University of California, or the Trustees of the State Universities or Colleges with respect to employees under their respective jurisdictions. Such rules and regulations shall also provide for an appeal in cases when eligibility is denied The appeal shall be directly to the entity or its designated representative Certificates of eligibility may be limited for a time period of one or more years, and may be renewed from time to time upon expiration

"Eligibility," for purposes of this section, shall mean job performance of standard or above.

The board shall identify all members who are approaching age 70 and shall notify the member and his employer of the member's option to continue in employment under this section. Upon receipt of the initial certificate of eligibility by the board from the employer, a member shall be continued in membership and shall be entitled to all of the rights and subject to all of the liabilities arising from such membership, including the obligation to pay contributions and the right to receive additional service credit.

The board shall not process subsequent certificates of eligibility, and notwithstanding any other provisions of law, a member who continues in membership pursuant to this section shall thereafter be retired for service only upon his voluntary application for retirement, and the effective date of such retirement shall be the date following the last date for which salary is payable or any subsequent date specified by the member.

A member who continues or has continued in employment under this section may thereafter retire with less than five years of service.

A member who attains age 67 prior to January 1, 1982, may retire with less than five years of service.

SEC 3 Section 20983.6 of the Government Code is amended to read

20983 6 Every local member who has attained age 70 and all such persons who are reinstated from retirement and who are over age 70 at the time of their reinstatement, or who are first employed after age 70, other than a local safety member, shall have the right to continue in employment upon certification of the member's competence in the member's position by the department or agency head or other appropriate supervisor pursuant to rules and regulations adopted by each respective governing body. In such case, the effective date of retirement shall be delayed until the day following the last day for which salary is payable The member shall be subject to the same rights and liabilities as all other members and employer and member contributions shall continue until retirement or until death before retirement

A member who continues or has continued in employment under

this section may thereafter retire with less than five years of service.

A member who attains age 67 prior to January 1, 1982, may retire with less than five years of service.

This section shall not apply to 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 or, in the case of contracts made after the effective date of this section, by express provision in such contract making the contracting agency subject to the provisions of this section.

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 for matters involving eligibility and entitlement to benefits under the Public Employees' Retirement System to be clarified as soon as possible, this act must take effect immediately.

CHAPTER 1000

An act to repeal and amend Section 7159 of the Business and Professions Code, and to repeal and amend Sections 1805.6 and 1810 10 of the Civil Code, relating to contracts.

[Approved by Governor September 26, 1979 Filed with Secretary of State September 26, 1979]

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

SECTION 1. Section 7159 of the Business and Professions Code, as amended by Section 2.5 of Chapter 868 of the Statutes of 1977, is repealed.

SEC. 2 Section 7159 of the Business and Professions Code, as amended by Section 1.5 of Chapter 868 of the Statutes of 1977, is amended to read:

7159. This section shall apply only to home improvement contracts, as defined in Section 7151.2, between a contractor, whether a general contractor or a specialty contractor, who is licensed or subject to be licensed pursuant to this chapter with regard to such transaction and who contracts with an owner or tenant for work upon a building or structure for proposed repairing, remodeling, altering, converting, or modernizing such building or structure and where the aggregate contract price specified in one or more improvement contracts, including all labor, services, and materials to be furnished by the contractor, exceeds five hundred dollars ($500)

Every home improvement contract and any changes in the contract subject to the provisions of this section shall be evidenced

by a writing and shall be signed by all the parties to the contract thereto. The writing shall contain the following:

(a) The name, address, and license number of the contractor, and the name and registration number of any salesman who solicited or negotiated the contract.

(b) The approximate dates when the work will begin and be substantially completed.

(c) A description of the work to be done and description of the materials to be used and the equipment to be used or installed and the agreed consideration for the work.

(d) A schedule of payments showing the amount of each payment as a sum in dollars and cents.

(e) What constitutes substantial commencement of work pursuant to the contract.

(f) A notice that failure by the contractor without lawful excuse to substantially commence work within twenty (20) days from the approximate date specified in the contract when work will begin is a violation of the Contractors License Law.

A failure by the contractor without lawful excuse to substantially commence work within twenty (20) days from the approximate date specified in the contract when work will begin is a violation of this section.

If the payment schedule contained in the contract provides for a downpayment to be paid to the contractor by the owner or the tenant before the commencement of work, such downpayment shall not exceed one hundred dollars ($100) or 1 percent of the contract price, whichever is the greater.

In no event shall the payment schedule provide for the contractor to receive payment in excess of 100 percent of the value of the work performed on the project at any time, excluding finance charges, except that the contractor may receive an initial downpayment authorized by this section. A failure by the contractor without lawful excuse to substantially commence work within twenty (20) days of the approximate date specified in the contract when work will begin shall postpone the next succeeding payment to the contractor for that period of time equivalent to the time between when substantial commencement was to have occurred and when it did occur.

The requirements pertaining to the payment schedule shall not apply when the contract provides for the contractor to furnish performance and payment bond, lien and completion bond, or a bond equivalent approved by the Registrar of Contractors covering 100 percent of the contract and such bonds are furnished by the contractor, or when the parties agree for full payment to be made upon satisfactory completion of the project.

This section shall not be construed to prohibit the parties to a home improvement contract from agreeing to a contract or account subject to Chapter 1 (commencing with Section 1801) of Title 2 of Part 4 of Division 3 of the Civil Code Under a home improvement contract to which this section applies, the payments received by the

contractor may exceed 100 percent of the value of the work performed on the project at any time only by that amount attributable to finance charges specified by the contract.

The writing may also contain other matters agreed to by the parties to the contract.

The writing shall be legible and shall be in such form as to clearly describe any other document which is to be incorporated into the contract, and before any work is done, the owner shall be furnished a copy of the written agreement, signed by the contractor

The provisions of this section are not exclusive and do not relieve the contractor or any contract subject to it from compliance with all other applicable provisions of law.

A violation of this section by a licensee, or a person subject to be licensed, under this chapter, his agent, or salesman is a misdemeanor punishable by a fine of not less than one hundred dollars ($100) nor more than five thousand dollars ($5,000) or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment

SEC 3 Section 1805.6 of the Civil Code, as amended by Section 4 of Chapter 868 of the Statutes of 1977, is repealed.

SEC. 4 Section 1805.6 of the Civil Code, as amended by Section 3 of Chapter 868 of the Statutes of 1977, is amended to read:

1805.6 (a) Notwithstanding the provision of any contract to the contrary, except as provided in subdivision (b) or (c), no retail seller shall assess any finance charge against the amount financed for goods purchased under a retail installment contract until the goods are in the buyer's possession

(b) A finance charge may be assessed against the amount financed for such undelivered goods, as follows:

(1) From the date when such goods are available for pickup by the buyer and the buyer is notified of their availability, or

(2) From the date of purchase, when such goods are delivered or available for pickup by the buyer within 10 days of the date of purchase

(c) In the case of a home improvement contract as defined in Section 7151 2 of the Business and Professions Code, a finance charge may be assessed against the amount financed from the approximate date of commencement of the work as set forth in the home improvement contract

SEC. 5. Section 1810 10 of the Civil Code, as amended by Section 6 of Chapter 868 of the Statutes of 1977, is repealed

SEC 6. Section 1810.10 of the Civil Code, as amended by Section 5 of Chapter 868 of the Statutes of 1977, is amended to read:

1810 10 (a) Notwithstanding the provision of any contract to the contrary, except as provided in subdivision (b) or (c), no retail seller shall assess any finance charge against the outstanding balance for goods purchased under a retail installment account until the goods are in the buyer's possession

(b) A finance charge may be assessed against the outstanding

balance for such undelivered goods, as follows:

(1) From the date when such goods are available for pickup by the buyer and the buyer is notified of their availability, or

(2) From the date of purchase, when such goods are delivered or available for pickup by the buyer within 10 days of the date of purchase

(c) In the case of a home improvement contract as defined in Section 7151 2 of the Business and Professions Code, a finance charge may be assessed against the amount financed from the approximate date of commencement of the work as set forth in the home improvement contract.

SEC. 7. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code

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CHAPTER 1001

An act to add Article 3 5 (commencing with Section 2870) to Chapter 2 of Division 3 of the Labor Code, relating to employees.

[Approved by Governor September 26, 1979 Filed with Secretary of State September 26, 1979]

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

SECTION 1 Article 3 5 (commencing with Section 2870) is added to Chapter 2 of Division 3 of the Labor Code, to read:

Article 3.5 Inventions Made by an Employee

2870 Any provision in an employment agreement which provides that an employee shall assign or offer to assign any of his or her rights in an invention to his or her employer shall not apply to an invention for which no equipment, supplies, facility, or trade secret information of the employer was used and which was developed entirely on the employee's own time, and (a) which does not relate (1) to the business of the employer or (2) to the employer's actual or demonstrably anticipated research or development, or (b) which does not result from any work performed by the employee for the employer. Any provision which purports to apply to such an invention is to that extent against the public policy of this state and is to that extent void and unenforceable

2871 No employer shall require a provision made void and

unenforceable by Section 2870 as a condition of employment or continued employment. Nothing in this article shall be construed to forbid or restrict the right of an employer to provide in contracts of employment for disclosure, provided that any such disclosures be received in confidence, of all of the employee's inventions made solely or jointly with others during the term of his or her employment, a review process by the employer to determine such issues as may arise, and for full title to certain patents and inventions to be in the United States, as required by contracts between the employer and the United States or any of its agencies.

2872. If an employment agreement entered into after January 1, 1980, contains a provision requiring the employee to assign or offer to assign any of his or her rights in any invention to his or her employer, the employer must also, at the time the agreement is made, provide a written notification to the employee that the agreement does not apply to an invention which qualifies fully under the provisions of Section 2870. In any suit or action arising thereunder, the burden of proof shall be on the employee claiming the benefits of its provisions.

CHAPTER 1002

An act to amend Section 14038 of the Government Code, to amend Sections 40180 5, 99243, 99243.5, 99244, 99246, 99247, 99260.7, 99268.1, 99268.2, 99268.3, 99268 4, 99268.5, 99268.6, 99275.5, 99276, 99315, 99317.5, 99400, and 99405 of, to add Sections 99205.7, 99209.1, 99268.8, 99268.9, 99270, 99270.1, 99282.5, and 99313.8 to, to amend and repeal Section 99267.5 of, and to add and repeal Section 99315.2 of, the Public Utilities Code, to amend Section 7204.4 of the Revenue and Taxation Code, and to amend Section 62 of Chapter 161 of the Statutes of 1979, relating to transportation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 26, 1979 Filed with Secretary of State September 26, 1979]

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

SECTION 1. Section 14038 of the Government Code, as added by Chapter 161 of the Statutes of 1979, is amended to read·

14038 The department may purchase and lease rail passenger cars and locomotives and other self-propelled rail vehicles and may acquire, lease, design, construct, and improve track lines and related facilities.

All purchases authorized by this section shall be made in accordance with Article 2 (commencing with Section 14790), Chapter 6, Part 5.5, Division 3 of Title 2, except that the department

shall perform the tasks set forth therein for the Department of General Services.

Any facility or equipment acquired or improved by any entity with funds made available to it pursuant to this section shall become the property of that entity at such time and under such conditions as are agreed upon by the department in the agreement that makes such funds available to the entity. Section 14780 shall not apply to any agreement entered into pursuant to this section.

SEC. 2 Section 40180 5 of the Public Utilities Code, as added by Chapter 161 of the Statutes of 1979, is amended to read·

40180.5. The district may make bulk purchases of passenger tickets for scheduled passenger rail services provided by the National Railroad Passenger Corporation during peak hours, as defined by subdivision (a) of Section 99260.2, on Monday through Friday, inclusive.

The district may resell to residents of the district the tickets at less than the cost to the district

SEC 3 Section 99205 7 is added to the Public Utilities Code, to read

99205.7. "Fare revenues" means the revenue object classes 401, 402, and 403 as specified in Section 630.12 of Title 49 of the Code of Federal Regulations, as now or as may hereafter be amended.

SEC. 3.5. Section 99209.1 is added to the Public Utilities Code, to read:

99209.1. "Municipal operator" also means any county which is located in part within a transit district and which operates a public transportation system in the unincorporated area of the county not within the area of the district.

SEC. 4. Section 99243 of the Public Utilities Code, as amended by Chapter 161 of the Statutes of 1979, is amended to read:

99243 (a) The State Controller, in cooperation with the department and the operators, shall design and adopt a uniform system of accounts and records, from which the operators shall prepare and submit annual reports of their operation to the transportation planning agencies having jurisdiction over them and to the State Controller within 120 days of the end of the fiscal year. Annual reports submitted for the 1979–80 and subsequent fiscal years shall be audited reports The report shall specify (1) the amount of revenue generated from each source and its application for the prior fiscal year and (2) the data necessary to determine which section, with respect to Sections 99268.1, 99268 2, 99268 3, 99268 4, 99268 5, and 99268 9, the operator is required to be in compliance with in order to be eligible for funds under this article.

(b) As a nonaudited supplement to the annual audited report prepared pursuant to subdivision (a), each operator shall include an estimate of the amount of revenues to be generated from each source and its proposed application for the next fiscal year

(c) The State Controller shall instruct the county auditor to withhold payments from the fund to any operator which has not

submitted its annual report to the State Controller within the time specified by subdivision (a).

(d) In establishing the uniform system of accounts and records, the State Controller shall include the data required by the United States Department of Transportation, the department, and the Business and Transportation Agency.

(e) The uniform system of accounts and records shall be implemented not later than July 1, 1978.

SEC. 5. Section 99243.5 of the Public Utilities Code, as added by Chapter 161 of the Statutes of 1979, is amended to read.

99243.5. On the basis of data in the annual audited reports submitted pursuant to Section 99243 and the information submitted pursuant to Section 99406 to the State Controller, the State Controller shall submit, within three months of receiving such data and information, an annual report to the Legislature on the revenues available and expenditures made under this chapter.

The State Controller shall take such steps as he deems necessary to insure that such data and information submitted are adequate and accurate.

SEC 6 Section 99244 of the Public Utilities Code is amended to read

99244 Each transportation planning agency shall annually identify, analyze, and recommend potential productivity improvements which could lower the operating costs of those operators who operate at least 50 percent of their vehicle service miles, as defined in subdivision (i) of Section 99247, within the area under its jurisdiction. However, where a transit development board created pursuant to Division 11 (commencing with Section 120000) or a county transportation commission exists, the board or commission, as the case may be, shall have the responsibility of the transportation planning agency with respect to potential productivity improvements. The recommendations for improvements and productivity shall include, but not be limited to, those recommendations related to productivity made in the performance audit conducted pursuant to Section 99246

A committee for the purpose of providing advice on productivity improvements shall be formed by the responsible entity. The membership of this committee shall consist of representatives from the management of the operators, organizations of employees of the operators, and users of the transportation services of the operators located within the area under the jurisdiction of the responsible entity

Prior to determining the allocation to an operator for the next fiscal year, the responsible entity shall review and evaluate the efforts made by the operator to implement such recommended improvements.

If the responsible entity determines that the operator has not made a reasonable effort to implement the recommended improvements, the responsible entity shall not approve the

allocation to the operator for the support of its public transportation system for the next fiscal year which exceeds the allocation to the operator for such purposes for the current fiscal year.

SEC. 7. Section 99246 of the Public Utilities Code, as amended by Chapter 161 of the Statutes of 1979, is amended to read:

99246. (a) The transportation planning agency shall designate entities other than itself, a county transportation commission, a transit development board, or an operator to make a performance audit of its activities, and those of county transportation commissions and transit development boards located in the area under its jurisdiction, with respect to this chapter and of each operator to whom it allocates funds. The transportation planning agency shall consult with the entity to be audited prior to designating the entity to make the performance audit.

Where a transit development board created pursuant to Division 11 (commencing with Section 120000) or a county transportation commission exists, the board or commission, as the case may be, shall designate entities other than itself, a transportation planning agency, or an operator to make a performance audit of its activities and those of operators located in the area under its jurisdiction to whom it directs the allocation of funds The board or commission shall consult with the entity to be audited prior to designating the entity to make the performance audit

(b) The performance audit shall evaluate the efficiency, effectiveness, and economy of the operation of the entity being audited and shall be conducted in accordance with the efficiency, economy, and program results portions of the Comptroller General's "Standards for Audit of Governmental Organizations, Programs, Activities, and Functions." A performance audit shall be submitted by July 1, 1980, and by July 1 triennially thereafter. A performance audit, however, shall not be required for any operator in operation for less than one year prior to the July 1 submittal date.

(c) With respect to an operator providing public transportation services, the performance audit shall include, but not be limited to, a verification of the operator's operating cost per passenger, operating cost per vehicle service hour, passengers per vehicle service hour, passengers per vehicle service mile, and vehicle service hours per employee, as defined in Section 99247. The performance audit shall include, but not be limited to, consideration of the needs and types of the passengers being served and the employment of part-time drivers and the contracting with common carriers of persons operating under a franchise or license to provide services during peak hours, as defined in subdivision (a) of Section 99260.2.

The performance audit may include performance evaluations both for the entire system and for the system excluding special, new, or expanded services instituted to test public transportation service growth potential

SEC 8 Section 99247 of the Public Utilities Code, as amended by Chapter 161 of the Statutes of 1979, is amended to read

99247 For purposes of Section 99246:

(a) "Operating cost" means all costs in the operating expense object classes exclusive of the costs in the depreciation and amortization expense object class of the uniform system of accounts and records adopted by the State Controller pursuant to Section 99243 and exclusive of all subsidies for commuter rail services operated under the jurisdiction of the Interstate Commerce Commission and of all direct costs for providing charter services.

(b) "Operating cost per passenger" means the operating cost divided by the total passengers.

(c) "Operating cost per vehicle service hour" means the operating cost divided by the vehicle service hours.

(d) "Passengers per vehicle service hour" means the total passengers divided by the vehicle service hours.

(e) "Passengers per vehicle service mile" means the total passengers divided by the vehicle service miles.

(f) "Total passengers" means the number of boarding passengers, whether revenue producing or not, carried by the public transportation system.

(g) "Transit vehicle" means a vehicle, including, but not limited to, one operated on rails or tracks, which is used for public transportation services funded, in whole or in part, under this chapter

(h) "Vehicle service hours" means the total number of hours that each transit vehicle is in revenue service, including layover time.

(i) "Vehicle service miles" means the total number of miles that each transit vehicle is in revenue service.

(j) "Vehicle service hours per employee" means the vehicle service hours divided by the number of employees employed in connection with the public transportation system, based on the assumption that 2,000 person-hours of work in one year constitute one employee. The count of employees shall also include those individuals employed by the operator which provide services to the agency of the operator responsible for the operation of the public transportation system even though not employed in that agency.

SEC 9 Section 99260.7 of the Public Utilities Code, as added by Chapter 161 of the Statutes of 1979, is amended to read:

99260 7. A city or a county, which is contributing funds it is eligible to receive under this article to a joint powers agency of which it is a member to operate a public transportation system, may also file a claim under this article to provide, or to contract to provide, transportation services using vehicles for the exclusive use of elderly and handicapped persons.

SEC. 10. Section 99267 5 of the Public Utilities Code, as amended by Chapter 161 of the Statutes of 1979, is amended to read:

99267 5 Notwithstanding Section 99268, if federal funds or assistance grants are made available on a matching basis for the operating expenditures of public transportation systems, any operator may budget and expend for operating purposes funds

received under this article in an amount sufficient to enable the operator to receive the maximum amount of federal funds or assistance grants available for such purposes.

This section shall remain in effect only until July 1, 1981, and as of such date is repealed, unless a later enacted statute, which is chaptered before July 1, 1981, deletes or extends such date

SEC. 11 Section 99268.1 of the Public Utilities Code, as added by Chapter 161 of the Statutes of 1979, is amended to read·

99268.1. Commencing with claims for the 1980–81 fiscal year, an operator that was in compliance with Section 99268 during the 1978–79 fiscal year in order to be eligible for funds under this article shall be eligible for such funds in any fiscal year, if it remains in compliance with that section during the fiscal year

For purposes of this section, an operator granted a waiver from the requirements of Section 99268 pursuant to Section 99268.8, as it read on January 1, 1979, shall not be deemed in compliance with that section.

SEC. 12. Section 99268.2 of the Public Utilities Code, as added by Chapter 161 of the Statutes of 1979, is amended to read

99268.2. (a) In the case of an operator required to be in compliance with Section 99268 under Section 99268 1, the operator may be allocated additional funds that could not be allocated to it because of such requirements, if it maintains, for the fiscal year, a ratio of fare revenues to operating cost, as defined by subdivision (a) of Section 99247, at least equal (1) to one-fifth if serving an urbanized area or to one-tenth if serving a nonurbanized area or (2) to the ratio it had during the 1978–79 fiscal year, whichever is greater

(b) In addition, such an operator having a ratio of the sum of fare revenues and local support to operating cost greater than one-fifth if serving an urbanized area, or one-tenth if serving a nonurbanized area, during the 1978–79 fiscal year shall, at least, maintain that ratio in order to be eligible for additional funds pursuant to this section

SEC 13. Section 99268.3 of the Public Utilities Code, as added by Chapter 161 of the Statutes of 1979, is amended to read

99268 3 (a) In the case of an operator which is serving an urbanized area, and which was eligible for funds under this article during the 1978–79 fiscal year even though not required to be in compliance with Section 99268 or which commenced operation after that fiscal year, the operator shall be eligible for such funds in any fiscal year, commencing with claims for the 1980–81 fiscal year, if it maintains, for the fiscal year, a ratio of fare revenues to operating cost, as defined by subdivision (a) of Section 99247, at least equal to one-fifth or to the ratio it had during the 1978–79 fiscal year, whichever is greater

(b) In addition, such an operator having a ratio of the sum of fare revenues and local support to operating cost greater than one-fifth during the 1978–79 fiscal year shall, at least, maintain that ratio in order to be eligible for funds under this article

SEC 14 Section 99268 4 of the Public Utilities Code, as added by

Chapter 161 of the Statutes of 1979, is amended to read:

99268.4. (a) In the case of an operator which is serving a nonurbanized area, and which was eligible for funds under this article during the 1978–79 fiscal year even though not required to be in compliance with Section 99268 or which commenced operation after that fiscal year, the operator shall be eligible for such funds in any fiscal year, commencing with claims for the 1980–81 fiscal year, if it maintains, for the fiscal year, a ratio of fare revenues to operating cost, as defined by subdivision (a) of Section 99247, at least equal to one-tenth or to the ratio it had during the 1978–79 fiscal year, whichever is greater

(b) In addition, such an operator having a ratio of the sum of fare revenues and local support to operating cost greater than one-tenth during the 1978–79 fiscal year shall, at least, maintain that ratio in order to be eligible for funds under this article.

SEC. 15. Section 99268.5 of the Public Utilities Code, as added by Chapter 161 of the Statutes of 1979, is amended to read:

99268.5. Commencing with claims for the 1980–81 fiscal year, no funds shall be allocated under this article in any fiscal year to an operator providing services using vehicles for the exclusive use of elderly and handicapped persons, unless the operator maintains, for the fiscal year, a ratio of fare revenues to operating cost, as defined by subdivision (a) of Section 99247, for such services at least equal to one-tenth or to the ratio it had for such services during the 1978–79 fiscal year, whichever is greater.

SEC. 16. Section 99268.6 of the Public Utilities Code, as amended by Chapter 161 of the Statutes of 1979, is amended to read·

99268.6. (a) If a joint powers entity providing public transportation services was funded at any time under this article and is subsequently dissolved, any succeeding entity providing such services shall not be eligible for funding, unless it conforms to Section 99268 1, 99268.2, 99268.3, 99268 4, 99268 5, or 99268.9, as the case may be, which applied to its predecessor

(b) Except a city or a county filing a claim pursuant to Section 99260.7, no public agency providing public transportation services, after withdrawing from, or while remaining in, a joint powers entity providing public transportation services, shall be eligible for funding under this article, unless it conforms to Section 99268 1, 99268.2, 99268 3, 99268.4, or 99268.9, as the case may be, that the joint powers entity is required to conform with in order to be eligible for such funding at the time the public agency commences its public transportation services The public agency is an operator and shall be subject to Section 99268 9

SEC 17 Section 99268 8 is added to the Public Utilities Code, to read

99268 8 Section 99268 3, 99268 4, 99268 5, or 99268 9, as the case may be, and Section 99268 1 shall not apply to an extension of public transportation services during its first year of implementation

Within 90 days after the end of the first year of implementation,

the operator shall submit to the transportation planning agency, the county transportation commission, or the San Diego Metropolitan Transit Development Board having jurisdiction over it a report on the extension of public transportation services, including, but not limited to, the area served, the revenues generated, and the cost to provide such services

SEC 18. Section 99268 9 is added to the Public Utilities Code, to read

99268 9. (a) Except as otherwise provided in subdivision (b), if an operator was allocated funds under this article during a fiscal year in which it did not maintain the required ratio of fare revenues to operating cost, as defined by subdivision (a) of Section 99247, or the required ratio of the sum of fare revenues and local support to operating cost, the operator shall increase its fare revenues the following fiscal year so that its ratio for the two fiscal years shall at least equal the required ratio.

Thereafter, the required ratio the operator shall maintain, in order to be eligible for funding under this article, shall be the ratio that was required during the fiscal year that it had to increase fare revenues as a result of not maintaining the prior required ratio during the prior fiscal year

(b) Subdivision (a) shall not apply to an operator which did not maintain the required ratio for the first time

SEC 19 Section 99270 is added to the Public Utilities Code, to read

99270 In determining whether there is compliance with Section 99268 1, 99268 2, 99268 3, 99268.4, 99268.5, or 99268.9, as the case may be, by operators serving the area of the San Francisco Bay Area Rapid Transit District, excluding the City and County of San Francisco, the Metropolitan Transportation Commission may make such a determination for all or some of the operators as a group if the Metropolitan Transportation Commission finds that the public transportation services of the operators grouped are coordinated

SEC 20 Section 99270 1 is added to the Public Utilities Code, to read

99270 1 If an operator serves urbanized and nonurbanized areas in the area of jurisdiction of a transportation planning agency, the transportation planning agency shall adopt rules and regulations to determine what portion of the public transportation services of the operator serves urbanized areas and what portion serves nonurbanized areas to determine its required ratio of fare revenues to operating cost, as defined by subdivision (a) of Section 99247, or its required ratio of the sum of fare revenues and local support to operating cost, or both

The transportation planning agency shall submit the rules and regulations to the secretary for approval

SEC 20 5 Section 99275 5 of the Public Utilities Code, as amended by Chapter 161 of the Statutes of 1979, is amended to read

99275 5 (a) Claims, for purposes of this article, shall be filed in

the same manner as claims are filed for purposes of Article 4 (commencing with Section 99260).

(b) The transportation planning agencies shall adopt criteria, rules, and regulations for the evaluation of claims filed under this article and the determination of the cost effectiveness of the proposed community transit services to be provided under the claims

(c) Prior to approving a claim filed under this article, the transportation planning agency shall make all of the following findings·

(1) That the proposed community transit service is responding to a transportation need currently not being met in the community of the claimant

(2) That the service shall be integrated with existing transit services, if appropriate.

(3) That the claimant has an adequate management information system to facilitate evaluation pursuant to Section 99279.

(4) That the claimant has prepared an estimate of revenues, operating costs, and patronage and a marketing program

(5) That the claimant is in compliance with Section 99268.3, 99268 4, 99268 5, or 99268.9, whichever is applicable to it.

SEC. 21. Section 99276 of the Public Utilities Code is amended to read

99276. Each claimant receiving funds allocated for purposes of this article shall submit an annual certified fiscal audit pursuant to Section 99245

SEC 22 Section 99282.5 is added to the Public Utilities Code, to read

99282 5 Where there are two or more operators within its area of jurisdiction, the transportation planning agency, the county transportation commission, and the San Diego Metropolitan Transit Development Board, as the case may be, shall adopt, not later than July 1, 1980, rules and regulations to provide for transfers between the public transportation services of the operators so that such services will be coordinated

SEC 23 Section 99313 8 is added to the Public Utilities Code, to read

99313 8 Not later than each January 10th, the secretary shall send to each transportation planning agency and county transportation commission, and the San Diego Metropolitan Transit Development Board, an estimate of the amount of funds to be allocated to it during the next fiscal year

Not later than each August 1st, on the basis of the amount appropriated in the Budget Act for purposes of Section 99313 5, the secretary shall send to each of the entities an estimate of the amount of funds to be allocated to it during the fiscal year

SEC 24 Section 99315 of the Public Utilities Code, as added by Chapter 161 of the Statutes of 1979, is amended to read

99315 (a) No funds allocated pursuant to Section 99313 5 shall be

allocated to an operator unless (1) it is eligible for allocations under Article 4 (commencing with Section 99260), without considering any funds to be allocated to it pursuant to Section 99314.5, and (2) it is receiving the maximum allowable thereunder or, if it is in a county in which funds may be allocated for purposes specified in Section 99400, is receiving not less than the amount it received during the prior fiscal year or during the 1979–80 fiscal year, whichever amount is greater.

(b) No funds allocated pursuant to Section 99313.5 shall be allocated to a city or county for purposes specified in subdivisions (b) and (c) of Section 99400 unless it is eligible for allocations under Article 8 (commencing with Section 99400) for such purposes, without considering any funds to be allocated to it pursuant to Section 99314 5, and is receiving not less than the amount it received during the prior fiscal year or during the 1979–80 fiscal year, whichever amount is greater, for such purposes

(c) The funds may be allocated to an operator for its operating cost only if the operator is not precluded, by any contract entered into on or after June 28, 1979, from employing part-time drivers or contracting with common carriers of persons operating under a franchise or license and the operator is in compliance with Section 99268 1, 99268 2, 99268.3, 99268.4, 99268.5, or 99268 9, whichever is applicable to it No person who was a full-time employee of an operator, on June 28, 1979, shall have his or her employment terminated or his or her regular hours of employment, excluding overtime, reduced by the operator as a result of it employing part-time drivers or contracting with such common carriers.

(d) It is the intent of the Legislature that, in allocating the funds, the transportation planning agencies and the county transportation commissions, and the San Diego Metropolitan Transit Development Board, give priority consideration to claims to offset the unanticipated increase in the cost of fuel, to enhance existing public transportation services, and to meet high-priority regional, countywide, or areawide public transportation needs

SEC 24 5. Section 99315.2 is added to the Public Utilities Code, to read·

99315 2 Notwithstanding subdivision (a) of Section 99315, an operator eligible for allocation under Article 4 (commencing with Section 99260), but which is not receiving the maximum allowable thereunder, may be allocated funds pursuant to Section 99314 5 for the 1979–80 fiscal year

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

SEC 25 Section 99317 5 of the Public Utilities Code, as added by Chapter 161 of the Statutes of 1979, is amended to read

99317 5 (a) After receiving the evaluation and recommendations of the department on the applications, the commission shall hold a public hearing thereon

(b) Only after the public hearing shall the commission determine the priorities of such guideway projects proposed in the applications.

(c) Funds appropriated for such guideway projects pursuant to Section 99316 shall be allocated by the commission on the basis of priorities as determined by the commission pursuant to subdivision (b).

SEC. 26. Section 99400 of the Public Utilities Code, as amended by Section 54 of Chapter 161 of the Statutes of 1979, is amended to read:

99400 Claims may be filed with the transportation planning agency by cities and counties under this article for the following purposes.

(a) Local streets and roads, including facilities provided for exclusive use by pedestrians and bicycles.

(b) Payments to the National Railroad Passenger Corporation for passenger rail service under Section 403(b) of the Federal Rail Passenger Service Act (45 U.S.C., Sec. 563(b)).

(c) Payment to any of the following entities which are under contract with a county or a city for public transportation or for transportation services for any group, as determined by the transportation planning agency, requiring special transportation assistance·

(1) A common carrier, as defined in Section 211, engaged in the transportation of persons, as defined in Section 208.

(2) A private entity operating under a franchise or license.

(3) A nonprofit corporation organized pursuant to Division 2 (commencing with Section 9000) of Title 1 of the Corporations Code.

(4) An operator.

If the county or the city is being served by an operator, the contract entered into by such a county or city with an entity specified in paragraph (1), (2), or (3) of subdivision (c) shall specify the level of service to be provided, the operating plan to implement that service, and how that service is to be coordinated with the public transportation service provided by the operator

This section shall remain in effect only until July 1, 1983, and as of that date is repealed, unless a later enacted statute, which is chaptered before July 1, 1983, deletes or extends such date

SEC 27 Section 99400 of the Public Utilities Code, as amended by Section 55 of Chapter 161 of the Statutes of 1979, is amended to read

99400. Claims may be filed with the transportation planning agency by cities and counties under this article for the following purposes

(a) Local streets and roads, including facilities provided for the exclusive use by pedestrians and bicycles

(b) Payments to the National Railroad Passenger Corporation for passenger rail service under Section 403(b) of the Federal Rail Passenger Service Act (45 U S C, Sec 563(b))

This section shall become operative on July 1, 1983

SEC 28 Section 99405 of the Public Utilities Code, as amended by Chapter 161 of the Statutes of 1979, is amended to read·

99405 (a) Except as otherwise provided in this section, the allocation for any purpose specified in Section 99400 may in no year exceed 50 percent of the amount required to meet the city's or county's total proposed expenditures for that purpose.

(b) With respect to budgeted capital requirements for major new facilities, the transportation planning agency, notwithstanding the 50-percent limitation, may allocate up to the amount so budgeted, if the construction of such facilities has been found to be not inconsistent with the transportation planning agency's regional transportation plan

(c) The 50-percent limitation shall not apply to the allocation to a city or county for services under contract pursuant to subdivision (c) of Section 99400 The city or county shall be subject to Section 99268 3, 99268 4, 99268 5, or 99268.9, as the case may be, and shall be deemed an operator for purposes of those sections.

(d) The 50-percent limitation shall not apply to funds allocated under this article to a city or county with a population of less than 5,000

SEC 29 Section 7204.4 of the Revenue and Taxation Code is amended to read

7204 4 The Secretary of the Business and Transportation Agency and the State Controller shall charge for the cost of their services in administering the responsibilities assigned to them in Chapter 4 (commencing with Section 99200) of Part 11 of Division 10 of the Public Utilities Code. Amounts to be charged shall be specified in the Budget Act Such amounts shall be deducted from the taxes collected by the board for the counties and the cities and counties

SEC 30 Section 62 of Chapter 161 of the Statutes of 1979 is amended to read·

Sec 62 From funds appropriated to it for such purposes from the Transportation Planning and Development Account in the State Transportation Fund, the California Transportation Commission shall allocate, on the recommendation of the Department of Transportation, to projects listed in the most recent report of the department prepared pursuant to Section 99319 of the Public Utilities Code for the purpose of matching available federal or local funds, provided the state's share of any project shall not exceed 25 percent of the project costs

The commission may augment the original project allocation by not more than 10 percent for contingency and administrative purposes, but the maximum allocation shall not exceed 25 percent of the project costs

SEC 31 Funds made available to the Department of Transportation, pursuant to subparagraph (C) of paragraph (2) of subdivision (c) of Section 71 of Chapter 161 of the Statutes of 1979, to expend for passenger cars and track lines pursuant to Section 14038 of the Government Code may also be expended for

locomotives and other self-propelled rail vehicles pursuant to Section 14038.

SEC. 32 The provisos of Item 161 of Chapter 259 of the Statutes of 1979 (Budget Act of 1979) shall not apply to funds made available for purposes of Section 14035 of the Government Code by subparagraph (A) of paragraph (2) of subdivision (c) of Section 71 of Chapter 161 of the Statutes of 1979

SEC. 33 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 Chapter 161 of the Statutes of 1979 (Senate Bill No. 620), which provides for the financing of urgently needed public transportation services, be clarified, it is necessary that this act take effect immediately

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CHAPTER 1003

An act to amend Sections 6004, 6005, 6702.2, 8800, 8801, and 11704 of the Financial Code, relating to savings and loan associations.

[Approved by Governor September 26, 1979 Filed with Secretary of State September 26, 1979]

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

SECTION 1. Section 6004 of the Financial Code is amended to read

6004 Upon receipt of an application for a branch license, the commissioner, unless he finds that such application must be denied pursuant to this chapter, shall give written notice of the filing of the application to each association existing in this state The notice shall state the name of the association and the name of the city or area in which such branch is proposed to be located. If a hearing is to be held, the hearing shall not be held less than 10 days after the mailing of a notice of hearing to each association existing in this state

SEC 2 Section 6005 of the Financial Code is amended to read·

6005 (a) Before issuing a branch license, the commissioner may hold a hearing at the time and place specified in the notice of hearing required by Section 6004 Any person may appear at such hearing in person or by agent or attorney, and pursuant to regulations issued by the commissioner show cause why the branch license should not be issued

(b) This section does not apply to a branch license issued for an existing facility acquired pursuant to a merger, consolidation, conversion or transfer of assets

(c) The commissioner may approve an office or offices for an association as its executive or administrative headquarters even

though the association may not transact a savings business at such office. A filing fee of three hundred seventy-five dollars ($375) shall accompany each application for an executive or administrative headquarters office.

SEC. 3 Section 6702.2 of the Financial Code is amended to read:

6702 2. An association may, subject to regulations of the commissioner, in addition to the 1 percent investment permitted under Section 6702.1, invest in, hold, buy, and sell capital stock obligations or other securities of: (a) any service corporation organized under the provisions of Section 6702.1, or; (b) any corporation or corporations organized under the laws of this state, by an association either individually or jointly with one or more domestic or federal savings and loan associations having their home offices in this state, which corporation shall be known as and be deemed to be a business development credit corporation as such term is used in subdivision (c) of Section 5 of the Home Owners' Loan Act of 1933, as amended. The additional investment of 2 percent authorized by this section in such corporations shall only be permitted on the condition that the investment be used or utilized in the following activities:

(a) Acquisition, construction, repair, and rehabilitation of properties designed for occupancy by the low- and moderate-income families in this state.

(b) Making loans upon the security of the real property, which is designed for occupancy by such low- and moderate-income families.

(c) Development of projects designed to improve housing conditions, secure proper maintenance of the occupied properties, and provide counseling services and employment opportunities for members of low- and moderate-income families.

(d) Investing in securities backed by first mortgages or first deeds of trust on California residential improved real property and guaranteed by the Government National Mortgage Association. Such investment shall not exceed 50 percent of the amount authorized by this section in securities not backed by first mortgages or first deeds of trust that meet the qualifications specified in subdivisions (a), (b), and (c)

"Low- and moderate-income families," under the provisions of this section, are families who lack income that would enable them, without financial assistance, to live in decent, safe, and sanitary dwellings without overcrowding Income eligibility limits for such families shall be set forth in the commissioner's regulations.

No association shall make any investment pursuant to this section if its aggregate outstanding investment under this section would thereupon exceed 2 percent of the then total assets of the association, but such investment permitted by this section shall be in addition to that permitted in a service corporation pursuant to Section 6702.1. An association may invest in the same corporation pursuant to this section and Section 6702 1, if such corporation qualifies pursuant to regulations of the commissioner

SEC 4 Section 8800 of the Financial Code is amended to read

8800. The commissioner at least once every two years, shall examine into the affairs of every domestic association and of every foreign association doing business in this state

SEC 5 Section 8801 of the Financial Code is amended to read

8801 During an examination the commissioner and his deputies or examiners shall have full access to all the books, records, securities, and papers of the association The examiner shall perform those examination procedures which the commissioner deems to be reasonably necessary for the commissioner to be able to carry out his responsibilities under this division

SEC 6 Section 11704 of the Financial Code is amended to read

11704 "Control"

(a) In the case of a savings and loan association or a savings and loan holding company

(1) The stock of which is held by fewer than 500 persons, or

(2) Where such control is by a regulated investment company as defined in Section 851 of the Internal Revenue Code of 1954, as amended, by an officer of such savings and loan association or savings and loan holding company or by an employee benefit plan trust, control means directly or indirectly or acting in concert with one or more other persons or companies, or through one or more subsidiaries, owning, controlling, or holding with the power to vote 25 percent or more of the outstanding stock of a savings and loan association or savings and loan holding company or holding or controlling proxies representing 25 percent or more of the shares of a mutual savings and loan association, or

(b) In the case of a savings and loan association or a savings and loan holding company the stock of which is held by at least 500 persons, unless control is by a regulated investment company as defined in Section 851 of the Internal Revenue Code of 1954, as amended, by an officer of such savings and loan association or savings and loan holding company, by an employee benefit plan trust, or by a person described in subdivision (c), control means directly or indirectly, owning, controlling or holding with power to vote, or holding proxies, together representing 10 percent or more of the outstanding stock of the savings and loan association or savings and loan holding company, or acting in concert with one or more other persons, or through one or more subsidiaries, to own, control, or hold with power to vote, or hold proxies, together representing 10 percent or more of the outstanding stock of the savings and loan association or savings and loan holding company

(c) In the case of any person (except a regulated investment company as defined in Section 851 of the Internal Revenue Code of 1954, as amended, or an officer of such a savings and loan association or savings and loan holding company or an employee benefit plan trust), who as of the effective date of the amendments made to this section during the 1977–78 Regular Legislative Session, directly or indirectly or acting in concert with one or more other persons, or

through one or more subsidiaries, owned, controlled, or held with power to vote, or held proxies together representing 10 percent or more but less than 25 percent of the stock of such a savings and loan association or savings and loan holding company, the stock of which is held by at least 500 persons, control means as to such person directly or indirectly or acting in concert with one or more persons, or through one or more subsidiaries, to increase such percentage of stock over that owned, controlled or held with power to vote as of the effective date of the amendments made to this section during the 1977–1978 Regular Legislative Session.

CHAPTER 1004

An act to amend Section 39876 of, and to repeal Section 39877 of, the Education Code, and to amend Section 3 of Chapter 1003 of the Statutes of 1977, relating to schools.

[Approved by Governor September 26, 1979 Filed with Secretary of State September 26, 1979]

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

SECTION 1 Section 39876 of the Education Code is amended to read:

39876 A minimum of 50 percent of the items, other than foods reimbursed under Chapters 13 (commencing with Section 1751) and 13A (commencing with Section 1771) of Title 42 of the United States Code, offered for sale each schoolday at any school site by any entity or organization during regular school hours shall be selected from the following list:

(a) Milk and dairy products, including cheese, yogurt, frozen yogurt, and ice cream.

(b) Full-strength fruit and vegetable juices and fruit drinks containing 50 percent or more full-strength fruit juice, and fruit nectars containing 35 percent or more full-strength fruit juice.

(c) Fresh, frozen, canned, and dried fruits and vegetables.

(d) Nuts, seeds, and nut butters

(e) Nonconfection grain products, as defined by regulation of the United States Food and Drug Administration, including crackers, bread sticks, tortillas, pizza, pretzels, bagels, muffins, and popcorn

(f) Meat, poultry, and fish, and their products, including beef jerky, tacos, meat turnovers, pizza, chili and sandwiches

(g) Legumes and legume products, including bean burritos, chili beans, bean dip, roasted soy beans, and soups

(h) Any foods which would qualify as one of the required food components of the Type A lunch which is defined in and reimbursable under the National School Lunch Act (Ch 13 (commencing with Section 1751), Title 42, U S C)

For the purposes of this section, "item" shall be defined as each separate kind of food offered for sale as a separate unit.

SEC. 2 Section 39877 of the Education Code is repealed.

SEC 3. Section 3 of Chapter 1003 of the Statutes of 1977 is amended to read·

Sec. 3 The Department of Education shall submit its report to the Legislature by August 1, 1980. The Department of Education shall submit its report to the State Board of Education for review and approval prior to submission to the Legislature.

CHAPTER 1005

An act relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 26, 1979 Filed with Secretary of State September 26, 1979]

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

SECTION 1. Sections 2 to 5, inclusive, of Chapter 1388 of the Statutes of 1978, shall apply to taxable years beginning after December 31, 1976

SEC 2. The Legislature finds and declares that the amendments to Section 13402 of the Revenue and Taxation Code enacted by Chapter 1079, Statutes of 1977, were 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, and, thus, the Legislature enacted Chapter 1388 of the Statutes of 1978. To further effectuate the intent of the Legislature that such amendments to Section 13402 apply only to gifts made after December 31, 1976, and during the lifetime of decedents dying after the effective date of Chapter 1079, so as to avoid hardship on persons who have relied on prior law, it is necessary that the inheritance and gift tax provisions of Chapter 1388 of the Statutes of 1978 apply retroactively to taxable years beginning after December 31, 1976.

SEC 3 This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 1006

An act to amend Section 326.5 of the Penal Code, relating to bingo.

[Approved by Governor September 26, 1979 Filed with Secretary of State September 26, 1979]

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

SECTION 1. Section 326.5 of the Penal Code is amended to read:

326 5 (a) Neither this chapter nor Chapter 10 (commencing with Section 330) applies to any bingo game which is conducted in a city, county, or city and county pursuant to an ordinance enacted under Section 19 of Article IV of the State Constitution, provided that such ordinance allows games to be conducted only by organizations exempted from the payment of the bank and corporation tax by Sections 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, and 23701 (*l*) of the Revenue and Taxation Code and by mobilehome park associations and senior citizens organizations; and provided that the proceeds of such games are used only for charitable purposes.

(b) It is a misdemeanor for any person to receive or pay a profit, wage, or salary from any bingo game authorized by Section 19 of Article IV of the State Constitution.

(c) A violation of subdivision (b) of this section shall be punishable by a fine not to exceed ten thousand dollars ($10,000), which fine shall be deposited in the general fund of the city, county, or city and county which enacted the ordinance authorizing the bingo game. A violation of any provision of this section, other than subdivision (b), is a misdemeanor.

(d) The city, county, or city and county which enacted the ordinance authorizing the bingo game may bring an action to enjoin a violation of this section.

(e) No minors shall be allowed to participate in any bingo game.

(f) An organization authorized to conduct bingo games pursuant to subdivision (a) shall conduct a bingo game only on property owned or leased by it, and which property is used by such organization for an office or for performance of the purposes for which the organization is organized. Nothing in this subdivision shall be construed to require that the property owned or leased by the organization be used or leased exclusively by such organization

(g) All bingo games shall be open to the public, not just to the members of the authorized organization.

(h) A bingo game shall be operated and staffed only by members of the authorized organization which organized it. Such members shall not receive a profit, wage, or salary from any bingo game. Only the organization authorized to conduct a bingo game shall operate such game, or participate in the promotion, supervision, or any other phase of such game

(i) No individual corporation, partnership, or other legal entity

except the organization authorized to conduct a bingo game shall hold a financial interest in the conduct of such bingo game.

(j) With respect to organizations exempt from payment of the bank and corporation tax by Section 23701d of the Revenue and Taxation Code, all profits derived from a bingo game shall be kept in a special fund or account and shall not be commingled with any other fund or account Such profits shall be used only for charitable purposes. With respect to other organizations authorized to conduct bingo games pursuant to this section, all proceeds derived from a bingo game shall be kept in a special fund or account and shall not be commingled with any other fund or account. Such proceeds shall be used only for charitable purposes, except as follows:

(1) Such proceeds may be used for prizes

(2) A portion of such proceeds, not to exceed 10 percent of the proceeds before the deduction for prizes, or five hundred dollars ($500) per month, whichever is less, may be used for rental of property, overhead, including the purchase of bingo equipment, and administrative expenses

(3) Such proceeds may be used to pay license fees

(k) (1) A city, county, or city and county may impose a license fee on each organization which it authorizes to conduct bingo games The fee, whether for the initial license or renewal, shall not exceed fifty dollars ($50) annually, except as provided in paragraph (2). If an application for a license is denied, one-half of any license fee paid shall be refunded to the organization

(2) In lieu of the license fee permitted under paragraph (1), a city, county, or city and county may impose a license fee of fifty dollars ($50) paid upon application If an application for a license is denied, one-half of the application fee shall be refunded to the organization An additional fee of 1 percent of the monthly gross receipts over five thousand dollars ($5,000) derived from bingo games shall be collected monthly by the city, county, or city and county issuing the license

(*l*) No person shall be allowed to participate in a bingo game, unless the person is physically present at the time and place in which the bingo game is being conducted

(m) The total value of prizes awarded during the conduct of any bingo games shall not exceed two hundred fifty dollars ($250) in cash or kind, or both, for each separate game which is held

(n) As used in this section "bingo" means a game of chance in which prizes are awarded on the basis of designated numbers or symbols on a card which conform to numbers or symbols selected at random Notwithstanding Section 330c, as used in this section, the game of bingo shall include cards having numbers or symbols which are concealed and preprinted in a manner providing for distribution of prizes The winning cards shall not be known prior to the game by any person participating in the playing or operation of the bingo game All such preprinted cards shall bear the legend, "for sale or use only in a bingo game authorized under California law and pursuant

to local ordinance " It is the intention of the Legislature that bingo as defined in this subdivision applies exclusively to this section and shall not be applied in the construction or enforcement of any other provision of law

SEC. 2. Section 326.5 of the Penal Code is amended to read:

326 5. (a) Neither this chapter nor Chapter 10 (commencing with Section 330) applies to any bingo game which is conducted in a city, county, or city and county pursuant to an ordinance enacted under Section 19 of Article IV of the State Constitution, provided that such ordinance allows games to be conducted only by organizations exempted from the payment of the bank and corporation tax by Sections 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, and 23701*l* of the Revenue and Taxation Code and by mobilehome park associations and senior citizens organizations, and provided that the proceeds of such games are used only for charitable purposes.

(b) It is a misdemeanor for any person to receive or pay a profit, wage, or salary from any bingo game authorized by Section 19 of Article IV of the State Constitution

(c) A violation of subdivision (b) of this section shall be punishable by a fine not to exceed ten thousand dollars ($10,000), which fine shall be deposited in the general fund of the city, county, or city and county which enacted the ordinance authorizing the bingo game A violation of any provision of this section, other than subdivision (b), is a misdemeanor

(d) The city, county, or city and county which enacted the ordinance authorizing the bingo game may bring an action to enjoin a violation of this section

(e) No minors shall be allowed to participate in any bingo game.

(f) An organization authorized to conduct bingo games pursuant to subdivision (a) shall conduct a bingo game only on property owned or leased by it, and which property is used by such organization for an office or for performance of the purposes for which the organization is organized Nothing in this subdivision shall be construed to require that the property owned or leased by the organization be used or leased exclusively by such organization.

(g) All bingo games shall be open to the public, not just to the members of the authorized organization

(h) A bingo game shall be operated and staffed only by members of the authorized organization which organized it Such members shall not receive a profit, wage, or salary from any bingo game. Only the organization authorized to conduct a bingo game shall operate such game, or participate in the promotion, supervision, or any other phase of such game

(i) No individual corporation, partnership, or other legal entity except the organization authorized to conduct a bingo game shall hold a financial interest in the conduct of such bingo game

(j) With respect to organizations exempt from payment of the bank and corporation tax by Section 23701d of the Revenue and Taxation Code, all profits derived from a bingo game shall be kept

in a special fund or account and shall not be commingled with any other fund or account. Such profits shall be used for charitable purposes. With respect to other organizations authorized to conduct bingo games pursuant to this section, all proceeds derived from a bingo game shall be kept in a special fund or account and shall not be commingled with any other fund or account. Such proceeds shall be used only for charitable purposes, except as follows:

(1) Such proceeds may be used for prizes.

(2) A portion of such proceeds, not to exceed 10 percent of the proceeds before the deduction for prizes, or five hundred dollars ($500) per month, whichever is less, may be used for rental of property, overhead, including the purchase of bingo equipment, and administrative expenses.

(3) Such proceeds may be used to pay license fees.

A city, county, or city and county which enacts an ordinance permitting bingo games may specify in such ordinance that a minimum percentage of the profits or proceeds shall be used only for charitable purposes not relating to the conducting of bingo games and that the balance shall be used for prizes, rental of property, overhead, administrative expenses, and payment of license fees

(k) (1) A city, county, or city and county may impose a license fee on each organization which it authorizes to conduct bingo games. The fee, whether for the initial license or renewal, shall not exceed fifty dollars ($50) annually, except as provided in paragraph (2). If an application for a license is denied, one-half of any license fee paid shall be refunded to the organization

(2) In lieu of the license fee permitted under paragraph (1), a city, county, or city and county may impose a license fee of fifty dollars ($50) paid upon application. If an application for a license is denied, one-half of the application fee shall be refunded to the organization. An additional fee of 1 percent of the monthly gross receipts over five thousand dollars ($5,000) derived from bingo games shall be collected monthly by the city, county, or city and county issuing the license.

(*l*) No person shall be allowed to participate in a bingo game, unless the person is physically present at the time and place in which the bingo game is being conducted.

(m) The total value of prizes awarded during the conduct of any bingo games shall not exceed two hundred fifty dollars ($250) in cash or kind, or both, for each separate game which is held

(n) As used in this section "bingo" means a game of chance in which prizes are awarded on the basis of designated numbers or symbols on a card which conform to numbers or symbols selected at random. Notwithstanding Section 330c, as used in this section, the game of bingo shall include cards having numbers or symbols which are concealed and preprinted in a manner providing for distribution of prizes The winning cards shall not be known prior to the game by any person participating in the playing or operation of the bingo game. All such preprinted cards shall bear the legend, "for sale or use

only in a bingo game authorized under California law and pursuant to local ordinance." It is the intention of the Legislature that bingo as defined in this subdivision applies exclusively to this section and shall not be applied in the construction or enforcement of any other provision of law.

SEC. 3. It is the intent of the Legislature, if this bill and Senate Bill 1123 are both chaptered and become effective January 1, 1980, both bills amend Section 326.5 of the Penal Code, and this bill is chaptered after Senate Bill 1123, that the amendments to Section 326 5 proposed by both bills be given effect and incorporated in Section 326.5 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 Senate Bill 1123 are both chaptered and become effective January 1, 1980, both amend Section 326.5, and this bill is chaptered after Senate Bill 1123, in which case Section 1 of this act shall not become operative.

CHAPTER 1007

An act to amend Sections 1628.5, 1670, 1679, and 1680 of, to add Sections 1671 and 1681 to, and to repeal Section 1765 of, the Business and Professions Code, relating to dentistry.

[Approved by Governor September 26, 1979 Filed with Secretary of State September 26, 1979]

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

SECTION 1. 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 which would be grounds for the suspension or revocation of a license issued pursuant to this code.

(b) Committed any act or been convicted of a crime constituting grounds for denial of licensure or registration under Section 480.

(c) While unlicensed, committed, or aided and abetted the commission of, any act for which a license is required by this chapter.

(d) Suspension or revocation of a license issued by a sister state or territory on grounds which would constitute a basis for suspension or revocation of licensure in this state.

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 2. Section 1670 of the Business and Professions Code is amended to read:

1670 Any licentiate may have his license revoked or suspended or be reprimanded or be placed on probation by the board for unprofessional conduct, or incompetence, or gross negligence, or repeated acts of negligence in his or her profession, or for the issuance of a license by mistake, or for any other cause applicable to the licentiate provided in this chapter. The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.

SEC. 3. Section 1671 is added to the Business and Professions Code, to read:

1671 The board may discipline a licentiate by placing him or her on probation under various terms and conditions, which may include, but are not limited to, the following:

(a) Requiring the licentiate to obtain additional training or pass an examination upon completion of training, or both. The examination may be written, oral, or both, and may be a practical or clinical examination or both, at the option of the board.

(b) Requiring the licentiate to submit to a complete diagnostic examination by one or more physicians appointed by the board, if warranted by the physical or mental condition of the licentiate. If the board requires the licentiate 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 licentiate's choice.

(c) Restricting or limiting the extent, scope or type of practice of the licentiate

(d) Requiring restitution of fees to the licentiate's patients or payers of services unless such restitution has already been made

(e) Providing the option of alternative community service in lieu of all or part of a period of suspension in cases other than violations relating to quality of care

SEC 4 Section 1679 of the Business and Professions Code is amended to read:

1679 Any licentiate under this chapter may have his or her 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, or 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 of a felony or of any misdemeanor substantially related to the qualifications, functions, or 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 any provision of the Penal Code, including, but not limited to, 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 5. Section 1680 of the Business and Professions Code is amended to read·

1680 Unprofessional conduct by a person licensed under this chapter is defined as, but is not limited to, the violation of any one of the following:

(a) The obtaining of any fee by fraud or misrepresentation.

(b) The employment directly or indirectly of any student or suspended or unlicensed dentist to practice dentistry as defined in this chapter.

(c) The aiding or abetting of any unlicensed person to practice dentistry

(d) The aiding or abetting of a licensed person to practice dentistry unlawfully.

(e) The committing of any act or acts of gross immorality substantially related to the practice of dentistry

(f) 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.

(g) 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

(h) The making use by the licentiate or any agent of the licentiate of any advertising statements of a character tending to deceive or mislead the public

(i) The advertising of professional superiority or the advertising of performance of the professional services in a superior manner.

(j) The advertising of definite or fixed prices for professional services defined as nonroutine by the board

(k) The advertising of any free dental work, or free examination

(*l*) The advertising to guarantee any dental service, or to perform any dental operation painlessly

(m) The violation of any of the provisions of law regulating the procurement, dispensing, or administration of dangerous drugs, as defined in Article 8 (commencing with Section 4211) of Chapter 9, or controlled substances, as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code

(n) The violation of any of the provisions of this division

(o) 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.

(p) The clearly excessive prescribing or administering of drugs or treatment, or the clearly excessive use of diagnostic procedures, or the clearly excessive use of diagnostic or treatment facilities, as determined by the customary practice and standards of the dental profession.

Any person who violates this subdivision is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars ($100) nor more than six hundred dollars ($600) or by imprisonment for a term of not less than 60 days nor more than 180 days or by both such fine and imprisonment

(q) The use of threats or harassment against any patient or licentiate for providing evidence in any possible or actual disciplinary action, or other legal action; or the discharge of an employee primarily based on the employee's attempt to comply with the provisions of this chapter or to aid in such compliance.

(r) Suspension or revocation of a license issued by a sister state or territory on grounds which would be the basis of discipline in the State of California.

(s) The alteration of a patient's record with intent to deceive.

(t) Unsanitary or unsafe office conditions, as determined by the customary practice and standards of the dental profession.

(u) The abandonment of the patient by the licentiate before the completion of a phase of treatment, as such phase of treatment is defined by the customary practice and standards of the dental profession.

(v) The willful misrepresentation of facts relating to a disciplinary action to the patients of a disciplined licentiate.

(w) Use of fraud in the procurement of any license issued pursuant to this chapter.

(x) Any action or conduct which would have warranted the denial of the license.

(y) The employing or making use of solicitors.

SEC 5.5. Section 1680 of the Business and Professions Code is amended to read:

1680. Unprofessional conduct by a person licensed under this chapter is defined as, but is not limited to, the violation of any one of the following.

(a) The obtaining of any fee by fraud or misrepresentation

(b) The employment directly or indirectly of any student or suspended or unlicensed dentist to practice dentistry as defined in this chapter

(c) The aiding or abetting of any unlicensed person to practice dentistry.

(d) The aiding or abetting of a licensed person to practice dentistry unlawfully.

(e) The committing of any act or acts of gross immorality substantially related to the practice of dentistry.

(f) 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.

(g) The practice of accepting or receiving any commission or the rebating in any form or manner of fees for professional services, radiograms, prescriptions or other services or articles supplied to patients

(h) The making use by the licentiate or any agent of the licentiate of any advertising statements of a character tending to deceive or mislead the public

(i) The advertising of either professional superiority or the advertising of performance of professional services in a superior manner. This subdivision shall not prohibit advertising permitted by subdivision (h) of Section 651.

(j) The employing or the making use of solicitors.

(k) The advertising of any free dental work, or free examination.

(*l*) The advertising to guarantee any dental service, or to perform any dental operation painlessly. This subdivision shall not prohibit advertising permitted by Section 651

(m) The violation of any of the provisions of law regulating the procurement, dispensing, or administration of dangerous drugs, as defined in Article 8 (commencing with Section 4211) of Chapter 9, or controlled substances, as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code.

(n) The violation of any of the provisions of this subdivision.

(o) The failure to certify, or the false certification, to the board on or after January 1, 1972, that he or she 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.

(p) The clearly excessive prescribing or administering of drugs or treatment, or the clearly excessive use of diagnostic procedures, or the clearly excessive use of diagnostic or treatment facilities, as determined by the customary practice and standards of the dental profession

Any person who violates this subdivision is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars ($100) nor more than six hundred dollars ($600) or by imprisonment for a term of not less than 60 days nor more than 180 days or by both such fine and imprisonment.

(q) The use of threats or harassment against any patient or licentiate for providing evidence in any possible or actual disciplinary action, or other legal action; or the discharge of an employee primarily based on the employee's attempt to comply with the provisions of this chapter or to aid in such compliance.

(r) Suspension or revocation of a license issued by a sister state or territory on grounds which would be the basis of discipline in the State of California.

(s) The alteration of a patient's record with intent to deceive.

(t) Unsanitary or unsafe office conditions, as determined by the customary practice and standards of the dental profession.

(u) The abandonment of the patient by the licentiate before the completion of a phase of treatment, as such phase of treatment is defined by the customary practice and standards of the dental profession

(v) The willful misrepresentation of facts relating to a disciplinary action to the patients of a disciplined licentiate

(w) Use of fraud in the procurement of any license issued pursuant to this chapter.

(x) Any action or conduct which would have warranted the denial of the license.

SEC. 6. Section 1681 is added to the Business and Professions Code, to read

1681 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 except as directed by a licensed physician and surgeon, dentist, or podiatrist, administer to himself, any controlled substance, 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 4211) of Chapter 9.

(b) Use any controlled substance, 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 4211) of Chapter 9, or alcoholic beverages or other intoxicating substances, to an extent or in a manner dangerous or injurious to himself, to any person, or the public to the extent that such use impairs his ability to conduct with safety to the public the practice authorized by his license.

(c) The conviction of a charge of violating any federal statute or rules, or any statute or rule of this state, regulating controlled substances, 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 4211) of Chapter 9, or the conviction of more than one misdemeanor, or any felony, involving the use or consumption of alcohol or drugs, if the conviction is substantially related to the practice authorized by his license The record of conviction or 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 of a violation of this section; 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 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 any provision of the Penal Code, including, but not limited to, 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 7 Section 1765 of the Business and Professions Code is repealed

SEC 7 5 Section 5 5 of this act shall become operative only if this bill and Assembly Bill 210 are both chaptered and become effective January 1, 1980, both amend Section 1680 of the Business and Professions Code, and this bill is chaptered after Assembly Bill 210, in which case Section 5 of this act shall not become operative.

SEC 8 Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code

SEC 9 All administrative or other legal proceedings which are pending under prior laws which are superseded by this act shall be continued and brought to a final determination in a court in accordance with the laws and rules in effect prior to the effective date of this act Notwithstanding the amendments of Section 1670 of the Business and Professions Code made by this act, any acts or omissions which would constitute gross ignorance or inefficiency occurring prior to the effective date of this act shall continue to constitute cause for action under the provisions of the Dental Practice Act as written and interpreted at the time the acts or omissions occurred

CHAPTER 1008

An act to amend Sections 1156, 3513, 3517.6, and 3518.5 of, and to add Section 3522.65 to, the Government Code, relating to state employer-employee relations.

[Approved by Governor September 26, 1979 Filed with Secretary of State September 26, 1979]

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

SECTION 1. Section 1156 of the Government Code is amended to read·

1156. State officers and employees may authorize deductions to be made from their salaries or wages for the payment of.

(a) Premiums on any health benefits plan provided for under Part 5 (commencing with Section 22751) of Division 5 of Title 2 of this code.

(b) Premiums on National Service Life Insurance or United States Government Converted Insurance

(c) Dues in any bona fide association. Bona fide association means an organization which is comprised of employees and former employees of agencies of the State of California and the California State University and Colleges, and which does not have as one of its purposes representing such employees in their employer-employee relations with the state.

(d) Shares or obligations to any regularly chartered credit union.

(e) Recurrent fees or charges payable to a state agency under a collection plan approved by the Director of General Services and the State Controller.

(f) Premiums on any insurance policy or payments for any other membership benefit program sponsored by an employee organization as defined in subdivision (a) of Section 3513, subject to the provisions of Section 3515.6.

(g) Payments for insurance or other employee benefit programs sponsored by a state agency under appropriate statutory authority.

(h) Membership dues, initiation fees, and general assessments of any employee organization as defined in subdivision (a) of Section 3513, subject to the provisions of Section 3515.6

(i) Passes, tickets, or tokens issued for a period of one month, or more, by a public transportation system.

SEC 2. Section 3513 of the Government Code is amended to read:

3513. As used in this chapter:

(a) "Employee organization" means any organization which includes employees of the state and which has as one of its primary purposes representing such employees in their relations with the state.

(b) "Recognized employee organization" means an employee

organization which has been recognized by the state as the exclusive representative of the employees in an appropriate unit

(c) "State employee" means any civil service employee of the state, and the teaching staff of schools under the jurisdiction of the Department of Education or the Superintendent of Public Instruction, except managerial employees, confidential employees, employees of the Legislative Counsel Bureau, employees of the board, nonclerical employees of the State Personnel Board engaged in technical or analytical personnel functions, and conciliators employed by the State Conciliation Service within the Department of Industrial Relations.

(d) "Mediation" means effort by an impartial third party to assist in reconciling a dispute regarding wages, hours and other terms and conditions of employment between representatives of the public agency and the recognized employee organization or recognized employee organizations through interpretation, suggestion and advice.

(e) "Managerial employee" means any employee having significant responsibilities for formulating or administering agency or departmental policies and programs or administering an agency or department.

(f) "Confidential employee" means any employee who is required to develop or present management positions with respect to employer-employee relations or whose duties normally require access to confidential information contributing significantly to the development of management positions.

(g) "Board" means the Public Employment Relations Board. The Educational Employment Relations Board established pursuant to Section 3541 shall be renamed the Public Employment Relations Board as provided in Section 3540. The powers and duties of the board described in Section 3541.3 shall also apply, as appropriate, to this chapter.

(h) "Maintenance of membership" means that all employees who voluntarily are, or who voluntarily become, members of a recognized employee organization shall remain members of such employee organization in good standing for a period as agreed to by the parties pursuant to a memorandum of understanding, commencing with the effective date of the memorandum of understanding. A maintenance of membership provision shall not apply to any employee who within 30 days prior to the expiration of the memorandum of understanding withdraws from the employee organization by sending a signed withdrawal letter to the employee organization and a copy to the State Controller's office.

(i) "State employer," or "employer," for the purposes of bargaining or meeting and conferring in good faith, means the Governor or his designated representatives

SEC 3 Section 3517.6 of the Government Code is amended to read

3517.6 In any case where the provisions of subdivision (h) of

Section 3513, or Section 13920, 13924, 14876, 18001, 18005, 18005.5, 18006, 18007, 18020, 18021, 18021.5, 18021 6, 18021.7, 18022, 18023, 18024, 18025, 18025.1, 18026, 18050, 18050.1, 18051, 18051 5, 18100, 18100 1, 18100 5, 18101, 18101.5, 18102, 18102.5, 18103, 18105, 18120, 18121, 18122, 18122.1, 18123, 18124, 18125, 18126, 18127, 18128, 18129, 18135, 18135 5, 18136, 18137, 18137.5, 18138, 18139, 18140, 18141, 18142, 18300, 18301, 18302, 18310, 18705, 18714, 18730, 18731, 18732, 18850, 18850 1, 18851, 18852, 18853, 18853 5, 18854, 18855, 18856, 18857, 18859, 18860, 18861, 19080 5, 19100, 19120, 19143, 19251, 19252, 19261, 19300, 19301, 19302, 19303, 19304, 19330, 19330.5, 19331, 19332, 19333, 19334, 19335, 19360, 19360 5, 19361, 19362, 19450, 19451, 19452, 19455, 19460, 19461, 19462, 19463, 19464, 19465, 19502, 19503, 19555, 19556, 20750 11, 21400, 21402, 21404, 21405, 22825, or 22825 1 are in conflict with the provisions of a memorandum of understanding, the memorandum of understanding shall be controlling without further legislative action. In any case where the provisions of Section 19532, 19533, 19535, 19536, 19536 5, 19537, 19538, 19540, or 19541 are in conflict with the provisions of a memorandum of understanding, the terms of the memorandum of understanding shall be controlling unless the State Personnel Board finds those terms to be inconsistent with merit employment principles as provided for by Article VII of the California Constitution. Where such finding is made, the provisions of the Government Code shall prevail until those affected sections of the memorandum of understanding are renegotiated to resolve the inconsistency If any provision of the memorandum of understanding requires the expenditure of funds, those provisions of the memorandum of understanding shall not become effective unless approved by the Legislature in the annual Budget Act If any provision of the memorandum of understanding requires legislative action to permit its implementation by amendment of any section not cited above, those provisions of the memorandum of understanding shall not become effective unless approved by the Legislature

SEC. 4. Section 3518.5 of the Government Code is amended to read·

3518 5. A reasonable number of employee representatives of recognized employee organizations shall be granted reasonable time off without loss of compensation or other benefits when formally meeting and conferring with representatives of the state on matters within the scope of representation.

This section shall apply only to state employees, as defined by subdivision (c) of Section 3513, and only for periods when a memorandum of understanding is not in effect

SEC 5 Section 3522 65 is added to the Government Code, to read

3522 65 "State employer," or "employer," for purposes of meeting and conferring on matters relating to supervisory employer-employee relations, means the Governor or his designated representatives

CHAPTER 1009

An act to add Section 14040 to the Government Code, and to amend Section 183 of the Streets and Highways Code, relating to transportation, and declaring the urgency thereof, to take effect immediately

[Approved by Governor September 26, 1979 Filed with Secretary of State September 26, 1979]

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

SECTION 1. Section 14040 is added to the Government Code, to read·

14040. On or before January 10, 1980, and each January 10th thereafter, the department shall submit to the commission a list of new facilities projects which may be scheduled for construction during the five-year period subsequent to the period covered by the latest proposed state transportation improvement program.

The list shall include, but not be limited to, projects needed to accomplish any of the following:

(a) Completion of projects scheduled in the proposed state transportation improvement program.

(b) Completion of segments of the state highway system by closing gaps.

(c) Elimination of safety hazards.

(d) Elimination of congestion.

The commission shall review the list and may make any changes, including additions or deletions to the list. The commission shall adopt the list on or before July 1st of each year.

SEC. 2. Section 183 of the Streets and Highways Code is amended to read·

183 All money in the State Highway Account in the State Transportation Fund derived from federal sources or from appropriations to other state agencies, or deposited in the account by local agencies or by others, is continuously appropriated to, and shall be available for expenditure by, the department for the purposes for which such money was made available.

Unless otherwise expressly provided for by law, none of the balance of the money in the State Highway Account shall be expended until it has been specifically appropriated by the Legislature or made available pursuant to Section 13322 of the Government Code

The Budget Act appropriations shall be made on a program basis only and shall not identify the specific capital outlay projects to be funded The commission shall be responsible for allocating such funds to specific projects within the budget program categories, except that all funds described in Chapter 5 (commencing with Section 2200) of Division 3 shall be allocated on a program basis to

the department for allocation pursuant to that chapter.

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 the California Transportation Commission be informed as to the new facilities projects under consideration by the Department of Transportation beyond the five-year period of the latest proposed state transportation improvement program and to remove any question as to what entity is responsible for allocating the federal funds for projects on the federal-aid secondary system, it is necessary that this act take effect immediately.

CHAPTER 1010

An act to amend Section 831.4 of the Government Code, relating to public liability.

[Approved by Governor September 26, 1979 Filed with Secretary of State September 26, 1979]

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

SECTION 1. Section 831.4 of the Government Code is amended to read:

831.4. A public entity, public employee, or a grantor of a public easement to a public entity for any of the following purposes, is not liable for an injury caused by a condition of:

(a) Any unpaved road which provides access to fishing, hunting, camping, hiking, riding, including animal and all types of vehicular riding, water sports, recreational or scenic areas and which is not a (1) city street or highway or (2) county, state or federal highway or (3) public street or highway of a joint highway district, boulevard district, bridge and highway district or similar district formed for the improvement or building of public streets or highways.

(b) Any trail used for the above purposes

(c) Any paved trail, walkway, path, or sidewalk on an easement of way which has been granted to a public entity, which easement provides access to any unimproved property, so long as such public entity shall reasonably attempt to provide adequate warnings of the existence of any condition of the paved trail, walkway, path, or sidewalk which constitutes a hazard to health or safety. Warnings required by this subdivision shall only be required where pathways are paved, and such requirement shall not be construed to be a standard of care for any unpaved pathways or roads.

CHAPTER 1011

An act to add and repeal Chapter 2 8 (commencing with Section 9850) to Part 1 of Division 3 of the Unemployment Insurance Code, relating to employment.

[Approved by Governor September 26, 1979 Filed with Secretary of State September 26, 1979]

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

SECTION 1. The Legislature hereby makes the following findings and statements of intent in enacting this legislation:

(1) Implementation of the State Youth Employment and Development Act of 1977 has complemented and built upon federally funded efforts to attack youth unemployment, linking existing agencies and moneys.

(2) Limited state funds support projects involving apprenticeship, training opportunities at actual workplaces, and involvement of the private business sector.

(3) Initial evidence reveals that programs including actual worksite experience or combinations of worksite and classroom instruction are more effective than programs involving exclusively conventional classroom vocational training.

(4) After 15 years of state and federal experience with a variety of demonstration programs, and as needed expansion of youth programs occurs, more thoughtful comparison of existing employment and training programs is necessary in determining the most effective employment and vocational program models receiving state funding

(5) Neither the Employment Development Department nor state education agencies have evaluated the relative effectiveness of employment and vocational education programs to enable more effective allocation of funds

(6) Funds for employment and vocational education programs are limited, making an evaluation of such programs imperative so that existing funds may be reallocated to the most effective programs

SEC. 2 Chapter 2 8 (commencing with Section 9850) is added to Part 1 of Division 3 of the Unemployment Insurance Code, to read

CHAPTER 2 8 YOUTH EMPLOYMENT AND VOCATIONAL EDUCATION PLAN

9850. The Director of Employment Development shall convene a task group to determine how existing youth employment and vocational education funds can be better allocated to the most effective programs

(a) Program effectiveness shall be defined to include, but not be

limited to, the following outcomes· placement in unsubsidized jobs with longevity and possible upward mobility; skill instruction related to actual labor market demand; cost effectiveness; and instruction in basic literacy skills and competencies necessary for personal development.

(b) The task group shall submit to the Legislature, by December 1, 1980, recommendations on how existing state and locally controlled federal employment and training funds, and state vocational education moneys, should be allocated to the most effective programs. The plan shall.

(1) Summarize a review of available state and national evaluations of on-the-job, apprenticeship, and classroom vocational programs, and projects involving classroom worksite based instruction.

(2) Examine job placement rates and quality of placements in existing employment and classroom vocational programs; provide that the quality of placements minimally include wage level, career ladder potential, and training relatedness

(3) Determine whether the length of classroom vocational programs is justifiable in terms of required skill levels in actual jobs.

(4) Determine how available jobs and skill needs of private employers can more effectively be communicated to employment and vocational program administrators and funding agencies.

(5) Examine within which occupations vocational classroom instruction is more feasible than worksite-based instruction.

(6) Examine relative cost effectiveness of alternative employment and vocational program models.

(c) The task group shall concentrate, to the extent possible, on collecting available evaluation research and program information rather than conducting new evaluations

(d) The task group shall be chaired by the Director of Employment Development and include. a representative of the Department of Education; the Chancellor of the Community Colleges or a representative, a representative of a local Comprehensive Employment and Training Act prime sponsor; a community-based employment program administrator; and five representatives of private business, including small and large employers and employers who have employed participants in existing employment or vocational programs. The Comprehensive Employment and Training Act prime sponsor representative, community-based employment program administrator, and representatives of private business shall be appointed by the Director of Employment Development

9850 1 It is the intent of the Legislature that the task group shall utilize seventy-five thousand dollars ($75,000) in existing state or federal vocational education funds, allocated by the State Director of Vocational Education, to assess the employment and wage gains of a random sample of vocational education graduates The data collection specified in this section shall be conducted by an independent research organization The information collected shall

assist the Department of Education to respond to the program evaluation mandates contained in paragraph (1) of subdivision (b) of Section 8007.5 of the Education Code and Section 112(b) (1) (B) of Public Law 94-482.

The task group shall submit a study plan to the Joint Legislative Budget Committee and the Joint Legislative Audit Committee by March 1, 1980.

9850.2. This chapter shall remain in effect only until March 1, 1981, and as of such date is repealed, unless a later enacted statute, which is chaptered before March 1, 1981, deletes or extends such date.

CHAPTER 1012

An act to amend Sections 7045, 7110, 7151, 7151.2, 7152, and 7153 of the Business and Professions Code, and to amend Section 1804.3 of, and to add Section 1689.8 to, the Civil Code, relating to home improvement and liens.

[Approved by Governor September 26, 1979 Filed with Secretary of State September 26, 1979]

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

SECTION 1. Section 7045 of the Business and Professions Code is amended to read:

7045 (a) Except as provided in subdivision (b) this chapter does not apply to the sale or installation of any finished products, materials or articles of merchandise, which do not become a fixed part of the structure, nor shall it apply to a materialman or manufacturer furnishing finished products, materials, or articles of merchandise who does not install or contract for the installation of such items. The term "finished products" shall not include installed carpets.

(b) This chapter shall apply to:

(1) The construction, installation, alteration, repair, or preparation for moving of a mobilehome when such work is performed upon a site for the purpose of occupancy as a dwelling.

(2) The construction, installation, erection, repair, or preparation for moving of mobilehome accessory buildings or structures when such work is performed upon a site for the purpose of occupancy as a dwelling.

(3) The sale or installation of home improvement goods, as defined in Section 7151.

SEC. 1 5. Section 7110 of the Business and Professions Code is amended to read

7110 Willful or deliberate disregard and violation of the building laws of the state, or of any political subdivision thereof, or of the minimum painting standards adopted pursuant to Section 37040 of

the Health and Safety Code, or of Section 8505 or 8556 of this code, or of Sections 1689.5 to 1689.8, inclusive, Sections 1689.10 to 1689.13, inclusive, and Sections 1725 to 1736, inclusive, of the Civil Code, or of the safety laws or labor laws or compensation insurance laws or Unemployment Insurance Code of the state, or violation by any licensee of any provision of the Health and Safety Code or Water Code, relating to the digging, boring, or drilling of water wells constitutes a cause for disciplinary action.

SEC. 1.7. Section 7110 of the Business and Professions Code is amended to read:

7110. Willful or deliberate disregard and violation of the building laws of the state, or of any political subdivision thereof, or of the minimum painting standards adopted pursuant to Section 37040 of the Health and Safety Code, or of Section 8505 or 8556 of this code, or of Sections 1689.5 to 1689 8, inclusive, and Sections 1689.10 to 1689.13, inclusive, of the Civil Code, or of the safety laws or labor laws or compensation insurance laws or Unemployment Insurance Code of the state, or violation by any licensee of any provision of the Health and Safety Code or Water Code, relating to the digging, boring, or drilling of water wells constitutes a cause for disciplinary action.

SEC. 2 Section 7151 of the Business and Professions Code is amended to read

7151. "Home improvement" means the repairing, remodeling, altering, converting, or modernizing of, or adding to, residential property and shall include, but not be limited to, the construction, erection, replacement, or improvement of driveways, swimming pools, terraces, patios, landscaping, fences, porches, garages, fallout shelters, basements, and other improvements of the structures or land which is adjacent to a dwelling house "Home improvement" shall also mean the installation of home improvement goods or the furnishing of home improvement services.

For purposes of this chapter, "home improvement goods or services" means goods and services, as defined in Section 1689.5 of the Civil Code, which are bought in connection with the improvement of real property. Such home improvement goods and services include, but are not limited to, burglar alarms, carpeting, texture coating, fencing, air conditioning or heating equipment, and termite extermination. Home improvement goods include goods which, at the time of sale or subsequently, are to be so affixed to real property as to become a part of real property whether or not severable therefrom.

SEC. 3. Section 7151 2 of the Business and Professions Code is amended to read·

7151 2 "Home improvement contract" means an agreement, whether oral or written, or contained in one or more documents, between a contractor and an owner or between a contractor and a tenant, regardless of the number of residence or dwelling units contained in the building in which the tenant resides, if the work is to be performed in, to, or upon the residence or dwelling unit of such

tenant, for the performance of a home improvement and includes all labor, services, and materials to be furnished and performed thereunder "Home improvement contract" also means an agreement, whether oral or written, or contained in one or more documents, between a salesman, whether or not he is a home improvement salesman, and (a) an owner or (b) a tenant, regardless of the number of residence or dwelling units contained in the building in which the tenant resides, which provides for the sale, installation, or furnishing of home improvement goods or services

SEC 4. Section 7152 of the Business and Professions Code is amended to read

7152 "Home improvement salesman" is a person employed by a contractor licensed under this chapter, to solicit, sell, negotiate or execute home improvement contracts under which home improvements may be performed by the contractor "Home improvement salesman" is also a person who solicits, sells, negotiates or executes contracts for the sale, installation, or furnishing of home improvement goods or services. Officers of corporations licensed pursuant to this chapter, persons who qualify under Section 7068.1, sales persons whose sales are all made pursuant to prior negotiations between the parties at a business establishment at a fixed location where goods or services are offered or exhibited for sale, and sales persons whose sales are all made pursuant to negotiations between the parties initiated by the prospective buyer at or to such business establishment shall not be considered home improvement salesmen

"Home improvement salesman" shall not include a seller of home improvement goods or services who does not utilize a contract which provides for a lien on real property

SEC 5 Section 7153 of the Business and Professions Code is amended to read

7153 It is a misdemeanor for any person to engage in the occupation of salesman for one or more home improvement contractors within this state without having a registration issued by the registrar for each of the home improvement contractors by whom he is employed as a home improvement salesman

It is a misdemeanor for any person to engage in the occupation of salesman of home improvement goods or services within this state without having a registration issued by the registrar

SEC 6. Section 1689 8 is added to the Civil Code, to read

1689 8 (a) Every home solicitation contract or offer for home improvement goods or services which provides for a lien on real property is subject to the provisions of Chapter 1 (commencing with Section 1801) of Title 2 of Part 4 of Division 3

(b) For purposes of this section, "home improvement goods or services" means goods and services, as defined in Section 1689 5, which are bought in connection with the improvement of real property Such home improvement goods and services include, but are not limited to, burglar alarms, carpeting, texture coating, fencing, air conditioning or heating equipment, and termite

extermination. Home improvement goods include goods which, at the time of sale or subsequently, are to be so affixed to real property as to become a part of real property whether or not severable therefrom

SEC. 7. Section 1804.3 of the Civil Code is amended to read:

1804 3 (a) No contract other than one for services shall provide for a lien on any goods theretofore fully paid for or which have not been sold by the seller

(b) Any contract for goods which provides for a lien on real property where the goods sold are not to be attached to the real property shall be a violation of this chapter and subject to the penalties set forth in Article 12 2 (commencing with Section 1812.6) of Chapter 1 of Title 2 of Part 4 of Division 3.

(c) Any contract for goods or services, entered into on or after April 1, 1980, which provides for a lien on real property shall also provide the following notices, written in the same language, e.g., Spanish, as used in the contract

(1) "WARNING TO BUYER

IF YOU SIGN THIS CONTRACT, YOU WILL BE PUTTING UP YOUR HOME AS SECURITY. THIS MEANS THAT YOUR HOME COULD BE SOLD WITHOUT YOUR PERMISSION AND WITHOUT ANY COURT ACTION IF YOU MISS ANY PAYMENT AS REQUIRED BY THIS CONTRACT"

This notice shall be printed in at least 14-point boldface type, shall be set apart from the rest of the contract by a border, and shall appear directly above the title of the contract.

(2) "STOP—BEFORE YOU SIGN, READ THE WARNING AT THE TOP OF THIS CONTRACT!"

This notice shall be printed in at least 14-point boldface type and shall appear directly above the space reserved for the signature of the buyer

(d) A lien in any contract described in subdivision (c) which does not provide the notices as required by this section shall be void and unenforceable

SEC. 8. Nothing in this act shall be construed to affect the liability imposed under existing law for injuries caused by defective home improvement goods.

SEC 8 5 It is the intent of the Legislature, if this bill and Assembly Bill 1309 are both chaptered and become effective January 1, 1980, both bills amend Section 7110 of the Business and Professions Code, and this bill is chaptered after Assembly Bill 1309, that the amendments to Section 7110 of the Business and Professions Code proposed by both bills be given effect and incorporated in Section 7110 of the Business and Professions Code in the form set forth in Section 1 7 of this act. Therefore, Section 1 7 of this act shall become operative only if this bill and Assembly Bill 1309 are both chaptered and become effective January 1, 1980, both amend Section 7110 of the Business and Professions Code, and this bill is chaptered after

Assembly Bill 1309, in which case Section 1.5 of this act shall not become operative

SEC 9 Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 1013

An act to amend Sections 7034, 7065, 7067 5, 7068, 7068 1, 7071 5, 7071 6, 7071 9, 7071 10, 7071 11, 7100, 7135, and 7159 of, to amend and repeal Sections 7018 and 7019 of, to add Sections 7018 5, 7065 05, 7068 7, 7077, 7099, 7099 1, 7099 2, 7099 3, 7099 4, 7099 5, 7099 6, 7099 7, 7099.8, 7099.9 to, to add Article 6.2 (commencing with Section 7085) to Chapter 9 of Division 3 of, and to repeal Section 7159 the Business and Professions Code, to amend Sections 12095, 12096, and 12097 of the Insurance Code, and to add Section 23 to the Penal Code, relating to business and professions, and making an appropriation therefor

[Approved by Governor September 26, 1979 Filed with Secretary of State September 26, 1979]

The people of the State of California do enact as follows

SECTION 1 Section 7018 of the Business and Professions Code is amended to read.

7018 The board shall prescribe a form entitled "Notice" which shall describe, in nontechnical language and in a clear and coherent manner using words with common and everyday meaning, the pertinent provisions of this state's lien laws and the rights and responsibilities of an owner of property thereunder Each contractor licensed under this chapter, prior to beginning any work or receiving from the owner of property or his agent any payment for work for which a contractor's license is required, shall give a copy of this "Notice" to the owner, his agent, or the payer

This section shall remain in effect only until June 30, 1980, and as of such date is repealed

SEC 1 5 Section 7018 5 is added to the Business and Professions Code, to read

7018 5 The board shall prescribe a form entitled "Notice to Owner" which shall describe, in nontechnical language and in a clear and coherent manner using words with common and everyday meaning, the pertinent provisions of this state's mechanics' lien laws and the rights and responsibilities of an owner of property and a

contractor thereunder, including the provisions relating to the filing of a contract concerning a work of improvement with the county recorder and the recording in such office of a contractor's payment bond for private work. Each contractor licensed under this chapter, prior to entering into a contract with an owner for work for which a contractor's license is required, shall give a copy of this "Notice to Owner" to the owner, his agent, or the payor.

The notice contained in the contract form prescribed by Section 7159 shall be deemed to meet the requirements of this section.

This section shall become operative on June 30, 1980

SEC. 2 Section 7019 of the Business and Professions Code is amended to read:

7019 The board shall prescribe a form entitled "Notice to Owner" which shall describe, in nontechnical language and in a clear and coherent manner using words with common and everyday meaning, provisions of the state's mechanics' lien laws relating to the filing of a contract concerning a work of improvement with the county recorder and the recording in such office of a contractor's payment bond for private work and the rights and responsibilities of an owner of property thereunder. Each contractor licensed under this chapter, prior to entering into a contract in excess of five hundred dollars ($500) with the owner of a single-family dwelling, a duplex, or a triplex for work to be performed for the construction or the improvement of property, shall give a copy of this "Notice to Owner" to the owner. A contractor shall not, however, be required to provide a copy of such form to the owner of property who is acting in a capacity of a licensed general building contractor for such improvement

The notice given pursuant to this section shall be deemed to meet the requirements of Section 7018. If the notice requirements of this section are contained in a contract required by Section 7159, such notice shall be deemed to meet the requirements of this section and Section 7018

This section shall remain in effect only until June 30, 1980, and as of such date is repealed

SEC 3 Section 7034 of the Business and Professions Code is amended to read·

7034 (a) No contractor who is required to be licensed under this chapter shall insert in any contract, or be a party, with a subcontractor who is licensed under this chapter to any contract which contains, a provision, clause, covenant, or agreement which is void or unenforceable under Section 2782 of the Civil Code.

(b) No contractor who is required to be licensed under this chapter shall require a waiver of lien rights from any subcontractor, employee, or supplier in violation of Section 3262 of the Civil Code

SEC 4 Section 7065 of the Business and Professions Code is amended to read

7065 Under rules and regulations adopted by the board and approved by the director, the registrar shall investigate, classify and

qualify applicants for contractors' licenses by written examination. Neither the board nor the registrar may waive an examination for a contractor's license unless the applicant is a licensee who is applying for an additional license in the same classification.

SEC. 5 Section 7065 05 is added to the Business and Professions Code, to read:

7065 05. The board shall periodically review and, if needed, revise the contents of qualifying examinations to insure that the examination questions are timely and relevant to the business of contracting. The board shall, in addition, construct and conduct examinations in such a manner as to preclude the possibility of any applicant having prior knowledge of any specific examination question

SEC 6. Section 7067 5 of the Business and Professions Code is amended to read:

7067 5 Every applicant for an original license, or for the reactivation of an inactive license, or for the reissuance or reinstatement of a revoked license shall possess and every such applicant, other than one applying under Section 7029 unless required by the registrar, shall evidence financial solvency. The registrar shall deny the application of any applicant who fails to comply with this section. For purposes of this section financial solvency shall mean that the applicant's operating capital shall exceed two thousand five hundred dollars ($2500).

The applicant shall provide answers to questions contained in a standard form of questionnaire as required by the registrar relative to his financial ability and condition and signed by the applicant under penalty of perjury.

In any case in which further financial information would assist the registrar in an investigation, the registrar may obtain such information or may require any licensee or applicant under investigation pursuant to this chapter to provide such additional financial information as the registrar may deem necessary

The financial information required by the registrar shall be confidential and not a public record, but, where relevant, shall be admissible as evidence in any administrative hearing or judicial action or proceeding

The registrar may destroy any financial information which has been on file for a period of at least three years

SEC 7 Section 7068 of the Business and Professions Code is amended to read

7068. The board shall require an applicant to show such degree of knowledge and experience in the classification applied for, and such general knowledge of the building, safety, health and lien laws of the state and of the administrative principles of the contracting business as the board deems necessary for the safety and protection of the public An applicant shall qualify in regard to his experience and knowledge in one of the following ways

(a) If an individual, he shall qualify by personal appearance or by

the appearance of his responsible managing employee who is a licensed contractor with the same license classification as the classification being applied for.

(b) If a copartnership or a limited partnership, it shall qualify by the appearance of a general partner or by the appearance of a responsible managing employee who is a licensed contractor with the same license classification as the classification being applied for.

(c) If a corporation, or any other combination or organization, it shall qualify by the appearance of a responsible managing officer or responsible managing employee who is a licensed contractor with the same license classification as the classification being applied for.

A responsible managing employee for the purpose of this chapter shall mean an individual who is a bona fide employee of the applicant and is actively engaged in the classification of work for which such responsible managing employee is the qualifying person in behalf of the applicant.

The board shall, in addition, require an applicant who qualifies by means of a responsible managing employee under either subdivision (a) or (b) to show his general knowledge of the building, safety, health and lien laws of the state and of the administrative principles of the contracting business as the board deems necessary for the safety and protection of the public.

Except in accordance with Section 7068.1, no person qualifying on behalf of an individual or firm under subdivision (a), (b), or (c) shall hold any other active contractor's license while acting in the capacity of a qualifying individual pursuant to this section.

At the time of application for renewal of a license, the responsible managing individual shall file a statement with the registrar, on a form prescribed by the registrar, verifying his capacity as a responsible managing individual to the licensee.

Statements made by or on behalf of an applicant as to the applicant's experience in the classification applied for shall be verified by a qualified and responsible person. In addition, the registrar shall, as specified by board regulation, randomly review a percentage of such statements for their veracity

Any licensee who has qualified for a license prior to January 1, 1980, by means of a responsible managing employee or officer, shall be permitted to continue as a licensee until January 1, 1982, during which time such licensee shall convert his or her qualifying status to conform with the requirements of this section as amended at the 1979–80 Regular Session of the Legislature.

SEC 8 Section 7068.1 of the Business and Professions Code is amended to read

7068 1 The person qualifying on behalf of an individual or firm under subdivision (a), (b), or (c) of Section 7068 shall be responsible for exercising such direct supervision and control of his employer's or principal's construction operations as is necessary to secure full compliance with the provisions of this chapter and the rules and regulations of the board relating to such construction operations and

such person shall not act in the capacity of the qualifying person for an additional individual or firm unless one of the following conditions exists

(a) There is a common ownership of at least 20 percent of the equity of each individual or firm for which the person acts in a qualifying capacity

(b) The additional firm is a subsidiary of or a joint venture with the first "Subsidiary," as used in this subdivision, means any firm at least 20 percent of the equity of which is owned by the other firm

(c) With respect to a firm under subdivision (b) or (c) of Section 7068, the majority of the partners or officers are the same.

"Firm," as used in this section, means a copartnership, a limited partnership, a corporation, or any other combination or organization described in Section 7068

"Person," as used in this section, is limited to persons natural, notwithstanding the definition of "person" in Section 7025 of this chapter

The board shall require every applicant or licensee qualifying by the appearance of a qualifying individual to submit detailed information on the qualifying individual's duties and responsibilities for supervision and control of the applicant's construction operations

SEC 9 Section 7068 7 is added to the Business and Professions Code, to read

7068 7 Any person who obtains and provides for another the qualifying examination, or any part thereof, when not authorized to do so, is guilty of a misdemeanor

SEC 10 Section 7071.5 of the Business and Professions Code is amended to read

7071 5 The contractor's bond or cash deposit required by this article shall be a bond issued by an admitted surety in favor of the State of California, in a form acceptable to the registrar and filed with the registrar by the licensee or applicant, or in lieu thereof a cash deposit posted with the registrar Such contractor's bond or cash deposit shall be for the benefit of (a) any person damaged as a result of a violation of this chapter by the licensee, (b) any person damaged by fraud of the licensee in the execution or performance of a contract, (c) any employee of the licensee damaged by the licensee's failure to pay wages, and (d) the trustees of any express trust fund, established pursuant to a collective-bargaining agreement and to which the licensee is obligated to make payments on account of fringe benefits, damaged as the result of the licensee's failure to pay fringe benefits for eligible employees represented by the union which is signatory to the collective-bargaining agreement Damage to an express trust fund, as defined herein, is limited to actual loss sustained by a licensee's failure to pay the subject fringe benefits after all other sources of recovery have been realized by the express trust fund

Any employee of the licensee who is damaged by the licensee's

failure to pay wages or fringe benefits, but who is not represented by a union, may bring an action at law on his own behalf to recover fringe benefits.

For the purposes of subdivision (d) of this section, "eligible" means entitled to benefits pursuant to the terms and provisions of an express trust fund

SEC. 10.5. Section 7071.5 of the Business and Professions Code is amended to read:

7071 5 The contractor's bond or cash deposit required by this article shall be a bond issued by an admitted surety in favor of the State of California, in a form acceptable to the registrar and filed with the registrar by the licensee or applicant, or in lieu thereof a cash deposit posted with the registrar. Such contractor's bond or cash deposit shall be for the benefit of the following.

(a) Any homeowner contracting for home improvement upon his personal family residence damaged as a result of a violation of this chapter by the licensee

(b) Any person damaged as a result of a willful and deliberate violation of this chapter by the licensee, or by the fraud of the licensee in the execution or performance of a construction contract.

(c) Any employee of the licensee damaged by the licensee's failure to pay wages

(d) The trustees of any express trust fund, established pursuant to a collective-bargaining agreement and to which the licensee is obligated to make payments on account of fringe benefits, damaged as the result of the licensee's failure to pay fringe benefits for eligible employees represented by the union which is signatory to the collective-bargaining agreement. Damage to an express trust fund, as defined herein, is limited to actual loss sustained by a licensee's failure to pay the subject fringe benefits and after all other sources of recovery have been realized by the express trust fund If such employee is not represented by a union, the damaged employee may bring an action at law on his own behalf to recover fringe benefits

The word "eligible" as used in subdivision (d), shall mean entitlement to fringe benefits pursuant to the terms and provisions of the express trust fund

SEC 11 Section 7071 6 of the Business and Professions Code is amended to read

7071 6 Except as provided in Section 7071.8, the board shall require, as a condition precedent to the issuance, reinstatement, reactivation, or renewal of a license, that the applicant file or have on file a contractor's bond in the sum of five thousand dollars ($5,000), or in lieu thereof, a cash deposit in the sum of five thousand dollars ($5,000) No bond or cash deposit shall be required of a holder of an inactive license during the period his license is inactive

SEC 11 5 Section 7071 6 of the Business and Professions Code is amended to read

7071 6 (a) Except as provided in Section 7071 8 and subdivision (b), the board shall require, as a condition precedent to the issuance,

reinstatement, reactivation, or renewal of a license, that the applicant file or have on file a contractor's bond in the sum of five thousand dollars ($5,000), or in lieu thereof, a cash deposit in the sum of five thousand dollars ($5,000). No bond or cash deposit shall be required of a holder of an inactive license during the period his license is inactive.

(b) Notwithstanding subdivision (a), the board shall require, as a condition precedent to the issuance, reinstatement, reactivation, or renewal of a license for the license classification of swimming pool contractor, that the applicant file or have on file a contractor's bond in the sum of ten thousand dollars ($10,000), or in lieu thereof, a cash deposit in the sum of ten thousand dollars ($10,000). No bond or cash deposit shall be required of a holder of an inactive license during the period the license is inactive.

SEC 12. Section 7071.9 of the Business and Professions Code is amended to read:

7071.9. In addition to the contractor's bond or cash deposit required pursuant to Sections 7071.5 to 7071 8, inclusive, the board shall require, as a condition precedent to the issuance, reinstatement, reactivation or reissuance of a license and, as a condition precedent to the renewal of a license, that the qualifying individual as referred to in Sections 7068 and 7068.1, when he is not himself either the proprietor, a general partner, or joint licensee, shall file or have on file a qualifying individual's bond as provided in Section 7071.10 in the sum of five thousand dollars ($5,000), or in lieu thereof, a cash deposit in the sum of five thousand dollars ($5,000). No bond or cash deposit shall be required of the holder of an inactive license during the period his license is inactive.

SEC. 13 Section 7071.10 of the Business and Professions Code is amended to read

7071.10. The qualifying individual's bond or cash deposit required by this article shall be a bond issued by an admitted surety in favor of the State of California, in a form acceptable to the registrar and filed with the registrar by the qualifying individual, or in lieu thereof a cash deposit posted with the registrar Such qualifying individual's bond or cash deposit shall be for the benefit of:

(a) Any person damaged as a result of a violation of this chapter by the licensee, (b) any person damaged by fraud of the licensee in the execution or performance of a contract, (c) any employee of the licensee damaged by the licensee's failure to pay wages, and (d) the trustees of any express trust fund, established pursuant to a collective-bargaining agreement and to which the licensee is obligated to make payments on account of fringe benefits, damaged as a result of the licensee's failure to pay fringe benefits for eligible employees represented by the union which is signatory to the collective-bargaining agreement. Damage to an express trust fund, as defined herein, is limited to actual loss sustained by the licensee's failure to pay the subject fringe benefits after all other sources of recovery have been realized by the express trust fund.

Any employee of the licensee who is damaged by the licensee's failure to pay wages or fringe benefits, but who is not represented by a union, may bring an action at law on his own behalf to recover fringe benefits

For the purposes of subdivision (d) of this section, "eligible" means entitled to benefits pursuant to the terms and provisions of an express trust fund

The qualifying individual's bond shall not be required in addition to the contractor's bond when the qualifying individual is himself the proprietor under subdivision (a) or a general partner under subdivision (b) of Section 7068

SEC 13 5 Section 7071 10 of the Business and Professions Code is amended to read

7071 10 The qualifying individual's bond or cash deposit required by this article shall be a bond issued by an admitted surety in favor of the State of California, in a form acceptable to the registrar and filed with the registrar by the qualifying individual, or in lieu thereof a cash deposit posted with the registrar Such qualifying individual's bond or cash deposit shall be for the benefit of the following

(a) Any homeowner contracting for home improvement upon his personal family residence damaged as a result of a violation of this chapter by the licensee

(b) Any person damaged as a result of a willful and deliberate violation of this chapter by the licensee, or by the fraud of the licensee in the execution or performance of a construction contract

(c) Any employee of the licensee damaged by the licensee's failure to pay wages

(d) The trustees of any express trust fund, established pursuant to a collective-bargaining agreement and to which the licensee is obligated to make payments on account of fringe benefits, damaged as the result of the licensee's failure to pay fringe benefits for eligible employees represented by the union which is signatory to the collective-bargaining agreement Damage to an express trust fund, as defined herein, is limited to actual loss sustained by a licensee's failure to pay the subject fringe benefits and after all other sources of recovery have been realized by the express trust fund If such employee is not represented by a union, the damaged employee may bring an action at law on his own behalf to recover fringe benefits

The word "eligible" as used in subdivision (d), shall mean entitlement to fringe benefits pursuant to the terms and provisions of the express trust fund

The qualifying individual's bond shall not be required in addition to the contractor's bond when the qualifying individual is himself the proprietor under subdivision (a) or a general partner under subdivision (b) of Section 7068

SEC 14 Section 7071 11 of the Business and Professions Code is amended to read

7071 11 Any person claiming against any bond or cash deposit

required by this article may maintain an action at law against the licensee and the surety or the cash depository. A copy of the complaint shall be served by registered or certified mail upon the registrar by the clerk of the court at the time the action is commenced and the registrar shall maintain a record, available for public inspection, of all actions so commenced. The claim of any employee of the contractor for wages and fringe benefits shall be a preferred claim against any bond or cash deposit The aggregate liability of a surety on a claim for wages and fringe benefits brought against any bond required by this article, other than a bond required by Section 7071.8, shall not exceed the sum of three thousand dollars ($3,000). If any bond or cash deposit which may be required is insufficient to pay all claims in full, the sum of the bond or cash deposit shall be distributed to all claimants in proportion to the amount of their respective claims with priority to claims for wages and fringe benefits. Any action, other than an action to recover fringe benefits, against a bond or cash deposit filed by an active licensee shall be brought within two years after the expiration of the license period or periods for which a bond or cash deposit has been provided, or within two years of the date the license of such active licensee was inactivated by the board, whichever first occurs. A claim to recover fringe benefits shall be brought within six months after the date the fringe benefit contributions were due, and any subsequent civil action shall be filed within one year after the date of the filing of such claim

If the surety desires to make payment without awaiting court action, the amount of any bond filed in compliance with this chapter shall be reduced to the extent of any payment or payments made by the surety in good faith thereafter. The partial payment of any claims shall not be considered satisfaction of such claims and the claimants may institute appropriate legal action for payment of any unpaid balance in any other manner provided by law, and the registrar may continue suspension or revocation of any license involved until such time as said claims and any other claims arising out of an action against such bond or cash deposit are satisfied in full

The aggregate liability of the surety for all claims of said persons shall, in no event, exceed the penal sum of said bond.

Upon the cancellation by a licensee of any bond required by this article, the surety thereon shall notify the registrar immediately of such cancellation. Upon failure of a licensee to maintain in full force and effect any bond or cash deposit required by this article the registrar shall issue an order suspending or revoking such license, which shall not be reinstated until a new bond or cash deposit has been filed

When the surety makes payment on any claim against a bond required by this article, whether or not payment is made through a court action or otherwise, the surety shall, within 30 days of the payment, notify the registrar. The notice shall contain, on a form prescribed by the registrar, the name and license number of the

contractor, the surety bond number, the amount of payment, the statutory basis upon which the claim was made, and the names of the person or persons to whom payments are made.

Any judgment or admitted claim against any bond or cash deposit required by this article shall constitute grounds for disciplinary action against such licensee Such license may not be reissued or reinstated while any judgment or admitted claim in excess of the amount of the bond or cash deposit remains unsatisfied Further, such license may not be reissued or reinstated while any surety remains unreimbursed for loss and expense sustained on any bond issued for such licensee or for any entity of which any officer, director, member, partner, or qualifying person was an officer, director, member, partner, or qualifying person of such licensee while such licensee was subject to disciplinary action under this section The board shall require the licensee to file a new bond in an amount as required pursuant to Section 7071.8 or to increase his cash deposit to such an amount.

Legal fees may not be charged against the bond or cash deposit by the board

In any case in which a claim is filed against a cash deposit held by the registrar by any employee or by an employee organization on behalf of an employee, concerning wages or fringe benefits based upon the employee's employment, claims for the nonpayment thereof shall be filed with the Labor Commissioner The Labor Commissioner shall, pursuant to the authority vested in him by Section 96 5 of the Labor Code, conduct hearings to determine whether or not such wages or fringe benefits should be made to the complainant. Upon a finding by the commissioner that such wages or fringe benefits should be paid to the complainant, he shall notify the registrar of such findings. The registrar shall not make payment from the cash deposit on the basis of findings by the commissioner for a period of 10 days following determination of the findings. If, within such period, the complainant or the contractor files written notice with the registrar and the commissioner of an intention to seek judicial review of the findings pursuant to Section 11523 of the Government Code, the registrar shall not make payment, if an action is actually filed, except as determined by the court. If, thereafter, no action is filed within 60 days following determination of findings by the commissioner, the registrar shall make payment from the cash deposit to the complainant.

SEC 14 5 Section 7071.11 of the Business and Professions Code is amended to read

7071 11 Any person claiming against any bond or cash deposit required by this article may maintain an action at law against the licensee and the surety or the cash depository A copy of the complaint shall be served by registered or certified mail upon the registrar by the clerk of the court at the time the action is commenced and the registrar shall maintain a record, available for public inspection, of all actions so commenced The claim of any

employee of the contractor for wages and fringe benefits shall be a preferred claim against any bond or cash deposit. The aggregate liability of a surety on a claim for wages and fringe benefits brought against any bond required by this article, other than a bond required by Section 7071.8, shall not exceed the sum of three thousand dollars ($3,000). If any bond or cash deposit which may be required is insufficient to pay all claims in full, the sum of the bond or cash deposit shall be distributed to all claimants in proportion to the amount of their respective claims with priority to claims for wages and fringe benefits Any action, other than an action to recover fringe benefits, against a bond or cash deposit filed by an active licensee shall be brought within two years after the expiration of the license period or periods for which a bond or cash deposit has been provided, or within two years of the date the license of such active licensee was inactivated by the board, whichever first occurs. A claim to recover fringe benefits shall be brought within six months after the date the fringe benefit contributions were due, and any subsequent civil action shall be filed within one year after the date of the filing of such claim

If the surety desires to make payment without awaiting court action, the amount of any bond filed in compliance with this chapter shall be reduced to the extent of any payment or payments made by the surety in good faith thereafter. The partial payment of any claims shall not be considered satisfaction of such claims and the claimants may institute appropriate legal action for payment of any unpaid balance in any other manner provided by law, and the registrar may continue suspension or revocation of any license involved until such time as said claims and any other claims arising out of an action against such bond or cash deposit are satisfied in full.

The aggregate liability of the surety for all claims of said persons shall, in no event, exceed the penal sum of said bond.

Upon the cancellation by a licensee of any bond required by this article, the surety thereon shall notify the registrar immediately of such cancellation.

Upon failure of a licensee to maintain in full force and effect any bond or cash deposit required by this article the registrar shall issue an order suspending or revoking such license, which shall not be reinstated until a new bond or cash deposit has been filed.

When the surety makes payment on any claim against a bond required by this article, whether or not payment is made through a court action or otherwise, the surety shall, within 30 days of the payment, notify the registrar. The notice shall contain, on a form prescribed by the registrar, the name and license number of the contractor, the surety bond number, the amount of payment, the statutory basis upon which the claim is made, and the names of the person or persons to whom payments are made

Any judgment or admitted claim against any bond or cash deposit required by this article shall constitute grounds for disciplinary action against such licensee Such license may not be reissued or

reinstated while any judgment or admitted claim in excess of the amount of the bond or cash deposit remains unsatisfied Further, such license may not be reissued or reinstated while any surety remains unreimbursed for loss and expense sustained on any bond issued for such licensee or for any entity of which any officer, director, member, partner, or qualifying person was an officer, director, member, partner, or qualifying person of such licensee while such licensee was subject to disciplinary action under this section The board shall require the licensee to file a new bond in an amount as required pursuant to Section 7071.8 or to increase his cash deposit to such an amount

Legal fees may not be charged against the bond or cash deposit by the board

In any case in which a claim is filed against a cash deposit held by the registrar by any employee or by an employee organization on behalf of an employee, concerning wages or fringe benefits based upon the employee's employment, claims for the nonpayment thereof shall be filed with the Labor Commissioner. The Labor Commissioner shall, pursuant to the authority vested in him by Section 96 5 of the Labor Code, conduct hearings to determine whether or not such wages or fringe benefits should be made to the complainant. Upon a finding by the commissioner that such wages or fringe benefits should be paid to the complainant, he shall notify the registrar of such findings The registrar shall not make payment from the cash deposit on the basis of findings by the commissioner for a period of 10 days following determination of the findings. If, within such period, the complainant or the contractor files written notice with the registrar and the commissioner of an intention to seek judicial review of the findings pursuant to Section 11523 of the Government Code, the registrar shall not make payment, if an action is actually filed, except as determined by the court If, thereafter, no action is filed within 60 days following determination of findings by the commissioner, the registrar shall make payment from the cash deposit to the complainant.

SEC 15. Section 7077 is added to the Business and Professions Code, to read

7077 Every original license, except an additional classification issued pursuant to Section 7059, shall be a probationary license until such time as the license is renewed If information is brought to the attention of the registrar, during such probationary period, regarding any act or omission of the licensee constituting grounds for denial, revocation, or suspension of an application or license, such that, in the registrar's discretion, it would be proper to revoke the probationary license, the registrar shall forthwith notify the applicant to show cause within not more than 30 days, why the probationary license should not be revoked 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. A probationary license shall not be renewed during the pendency of any proceedings brought pursuant to this section

SEC 16. Article 6 2 (commencing with Section 7085) is added to Chapter 9 of Division 3 of the Business and Professions Code, to read.

Article 6 2 Arbitration

7085 After investigating any verified complaint alleging a violation of Section 7107, 7109, 7119, or 7159, and finding a probable violation, the registrar may, with the concurrence of both the licensee and the complainant, refer the alleged violation, and any dispute between the licensee and the complainant arising thereunder, to arbitration pursuant to this article, provided the registrar finds that·

(a) There is evidence that the complainant has suffered or is likely to suffer material damages as a result of a violation of Section 7107, 7109, 7119, or 7159

(b) There are reasonable grounds for the registrar to believe that the public interest would be better served by arbitration than by disciplinary action.

(c) The licensee does not have a history of repeated or similar violations

(d) The licensee is in good standing and has the financial capacity to perform

(e) The licensee does not have any outstanding disciplinary actions filed against him.

(f) The licensee has not requested nor have the parties agreed to private arbitration of the dispute pursuant to contract or otherwise

For the purposes of subdivision (a), "material damages" shall be not less than five hundred dollars ($500) nor more than fifteen thousand dollars ($15,000).

7085.3. Once the registrar determines that arbitration would be a suitable means of resolving the dispute, the registrar shall notify the complainant and the licensee of this decision The registrar shall also notify the complainant of the consequences of selecting administrative arbitration over judicial remedies The registrar shall provide forms to be filled out by the complainant and the licensee and returned to the registrar within 15 days authorizing the registrar to proceed with administrative arbitration Failure of the complainant to timely request administrative arbitration shall be cause for the dismissal of the complaint by the registrar unless the complainant can show good cause for such failure Upon a failure or refusal of the licensee to consent to administrative arbitration, the registrar shall take disciplinary action against the licensee pursuant to Article 7 (commencing with Section 7090)

7085.4 Once the complainant and the licensee authorize the registrar to proceed with administrative arbitration, the registrar shall refer the matter to the Office of Administrative Hearings which shall adopt and enforce such rules and regulations as are reasonably

necessary to administer such arbitration in accordance with the provisions of this article The rules for the practice and procedure of an arbitration under this article shall be in accordance with the rules provided by the Judicial Council pursuant to Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of Civil Procedure

7085.6. The failure of a licensee to comply with an arbitration award rendered under this article shall constitute grounds for the suspension or revocation of the license by the registrar.

7085 7 On or before October 1, 1982, the board shall submit to the Legislature an evaluation of the arbitration procedures enacted pursuant to this chapter. The evaluation shall include, but not be limited to, the cost effectiveness of arbitration in remedying consumer complaints and damages, the administrative costs of arbitration relative to other forms of disciplinary proceedings, and the amount of time necessary to process consumer complaints through arbitration relative to other forms of relief proceedings.

7085.8 This article shall become operative on July 1, 1980, provided that funds are appropriated to the department to carry out the provisions of this article.

SEC 17. Section 7099 is added to the Business and Professions Code, to read:

7099. If, upon investigation, the registrar has probable cause to believe that a licensee has violated provisions of this chapter which are grounds for revocation or suspension, he may, in lieu of proceeding pursuant to this article, issue a citation to such licensee. Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the provision of this chapter alleged to have been violated. In addition, each citation may contain an order of correction fixing a reasonable time for correction of the violation and may contain an assessment of a civil penalty.

SEC. 18 Section 7099 1 is added to the Business and Professions Code, to read:

7099.1. The board shall promulgate regulations covering the formulation of an order of correction which gives due consideration to the time required to correct and the practical feasibility of correction.

SEC 19. Section 7099 2 is added to the Business and Professions Code, to read:

7099.2 (a) The board shall promulgate regulations covering the assessment of civil penalties under this article which give due consideration to the appropriateness of the penalty with respect to the following factors:

(1) The gravity of the violation

(2) The good faith of the licensee being charged

(3) The history of previous violations.

(b) In no event shall the civil penalty be assessed in an amount greater than two thousand dollars ($2,000)

SEC 20. Section 7099.3 is added to the Business and Professions Code, to read:

7099.3. Any licensee served with a citation pursuant to Section 7099, may appeal to the registrar within 15 working days from the receipt of such citation with respect to violations alleged by the registrar, correction periods, amount of penalties, and the reasonableness of the change required by the registrar to correct the condition.

SEC. 21. Section 7099.4 is added to the Business and Professions Code, to read:

7099 4. If within 15 working days from receipt of the citation issued by the registrar, the licensee fails to notify the registrar that he intends to contest the citation, the citation shall be deemed a final order of the registrar and not be subject to review by any court or agency. The 15-day period may be extended by the registrar for cause.

SEC. 22. Section 7099.5 is added to the Business and Professions Code, to read:

7099.5. If a licensee notifies the registrar that he intends to contest a citation issued under Section 7099, the registrar shall afford an opportunity for a hearing. The registrar shall thereafter issue a decision, based on findings of fact, affirming, modifying, or vacating the citation or penalty, or directing other appropriate relief. The proceedings under this section shall be conducted in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the registrar shall have all the powers granted therein.

SEC. 23. Sections 7099.6 is added to the Business and Professions Code, to read:

7099.6. The failure of a licensee to comply with an order of correction or to pay any civil penalty assessed after the order or assessment is final is a ground for suspension or revocation of license.

SEC. 24 Section 7099.7 is added to the Business and Professions Code, to read:

7099.7. No order for payment of a civil penalty shall be made against any bond required pursuant to Sections 7071.5 to 7071.8.

SEC 25. Section 7099.8 is added to the Business and Professions Code, to read:

7099.8. The provisions of Sections 7099 to 7099.7, inclusive, shall also be applicable to an unlicensed individual acting in the capacity of a contractor who is not otherwise exempted from the provisions of this chapter

SEC 26. Section 7099 9 is added to the Business and Professions Code, to read:

7099.9. The provisions of Sections 7099 to 7099.7, inclusive, shall become operative on July 1, 1980, provided that funds are appropriated to the department to carry out the provisions of this article.

SEC. 27. Section 7100 of the Business and Professions Code is

amended to read:

7100. In any proceeding for review by a court, the court may in its discretion, upon the filing of a proper bond by the licensee in an amount to be fixed by the court, but not less than one thousand dollars ($1,000) or an amount the court finds is sufficient to protect the public, whichever is greater, guaranteeing the compliance by the licensee with specific conditions imposed upon him by the registrar's decision, if any, permit the licensee to continue to do business as a contractor pending entry of judgment by the court in the case. There shall be no stay of the registrar's decision pending an appeal or review of any such proceeding unless the appellant or applicant for review shall file a bond in all respects conditioned as, and similar to, the bond required to stay the effect of the registrar's decision in the first instance.

SEC 28. Section 7135 of the Business and Professions Code is amended to read·

7135 The fees and civil penalties received under this chapter shall be deposited in the contractors' license fund. All moneys in the fund are hereby appropriated for the purposes of this chapter.

SEC. 29. Section 7159 of the Business and Professions Code, as amended by Section 2 5 of Chapter 868 of the Statutes of 1977, is repealed.

SEC 29 2 Section 7159 of the Business and Professions Code, as amended by Section 1 5 of Chapter 868 of the Statutes of 1977, is amended to read:

7159 This section shall apply only to home improvement contracts, as defined in Section 7151 2, between a contractor, whether a general contractor or a specialty contractor, who is licensed or subject to be licensed pursuant to this chapter with regard to such transaction and who contracts with an owner or tenant for work upon a building or structure for proposed repairing, remodeling, altering, converting, or modernizing such building or structure and where the aggregate contract price specified in one or more improvement contracts, including all labor, services, and materials to be furnished by the contractor, exceeds five hundred dollars ($500).

Every home improvement contract and any changes in the contract subject to the provisions of this section shall be evidenced by a writing and shall be signed by all the parties to the contract thereto The writing shall contain the following.

(a) The name, address, and license number of the contractor, and the name and registration number of any salesman who solicited or negotiated the contract

(b) The approximate dates when the work will begin and be substantially completed.

(c) A description of the work to be done and description of the materials to be used and the agreed consideration for the work.

(d) A schedule of payments showing the amount of each payment as a sum in dollars and cents The schedule of payments shall be

referenced to the amount of work or services to be performed or to any materials or equipment to be supplied.

(e) If the payment schedule contained in the contract provides for a downpayment to be paid to the contractor by the owner or the tenant before the commencement of work, such downpayment shall not exceed one thousand dollars ($1,000) or 10 percent of the contract price, excluding finance charges, whichever is the lesser.

(f) In no event shall the payment schedule provide for the contractor to receive, or shall the contractor actually receive, payment in excess of 100 percent of the value of the work performed on the project at any time, excluding finance charges, except that the contractor may receive an initial downpayment authorized by subdivision (e)

(g) The requirements of subdivisions (d), (e), and (f) pertaining to the payment schedule shall not apply when the contract provides for the contractor to furnish performance and payment bond, lien and completion bond, a bond equivalent, or a funding control approved by the Registrar of Contractors covering full performance and completion of the contract and such bonds are furnished by the contractor, or when the parties agree for full payment to be made upon satisfactory completion of the project The contract shall contain in close proximity to the signatures of the owner and contractor in at least 10-point type a notice to the owner or tenant stating that such owner or tenant has the right to require the contractor to have a performance and payment bond or funding control.

(h) If the contract provides for a payment of a salesman's commission out of the contract price, such payment shall be made on a pro rata basis in proportion to the schedule of payments made in accordance with subdivision (d).

(i) The language of the notice required pursuant to Section 7018 5.

This section shall not be construed to prohibit the parties to a home improvement contract from agreeing to a contract or account subject to Chapter 1 (commencing with Section 1801) of Title 2 of Part 4 of Division 3 of the Civil Code.

The writing may also contain other matters agreed to by the parties to the contract.

The writing shall be legible and shall be in such form as to clearly describe any other document which is to be incorporated into the contract, and before any work is done, the owner shall be furnished a copy of the written agreement, signed by the contractor.

The provisions of this section are not exclusive and do not relieve the contractor or any contract subject to it from compliance with all other applicable provisions of law

A violation of this section by a licensee, or a person subject to be licensed, under this chapter, his agent, or salesman is a misdemeanor punishable by a fine of not less than one hundred dollars ($100) nor more than five thousand dollars ($5,000) or by imprisonment in the county jail not exceeding one year, or by both such fine and

imprisonment.

SEC. 29.4. Section 7159 of the Business and Professions Code, as amended by Section 1.5 of Chapter 868 of the Statutes of 1977, is amended to read:

7159. This section shall apply only to home improvement contracts, as defined in Section 7151.2, between a contractor, whether a general contractor or a specialty contractor, who is licensed or subject to be licensed pursuant to this chapter with regard to such transaction and who contracts with an owner or tenant for work upon a building or structure for proposed repairing, remodeling, altering, converting, or modernizing such building or structure and where the aggregate contract price specified in one or more improvement contracts, including all labor, services, and materials to be furnished by the contractor, exceeds five hundred dollars ($500).

Every home improvement contract and any changes in the contract subject to the provisions of this section shall be evidenced by a writing and shall be signed by all the parties to the contract thereto. The writing shall contain the following:

(a) The name, address, and license number of the contractor, and the name and registration number of any salesman who solicited or negotiated the contract.

(b) The approximate dates when the work will begin and be substantially completed.

(c) A description of the work to be done and description of the materials to be used and the equipment to be used or installed and the agreed consideration for the work.

(d) A schedule of payments showing the amount of each payment as a sum in dollars and cents. The schedule of payments shall be referenced to the amount of work or services to be performed or to any materials or equipment to be supplied.

(e) If the payment schedule contained in the contract provides for a downpayment to be paid to the contractor by the owner or the tenant before the commencement of work, such downpayment shall not exceed one thousand dollars ($1,000) or 10 percent of the contract price, excluding finance charges, whichever is the lesser.

(f) In no event shall the payment schedule provide for the contractor to receive, or shall the contractor actually receive, payment in excess of 100 percent of the value of the work performed on the project at any time, excluding finance charges, except that the contractor may receive an initial downpayment authorized by subdivision (e). A failure by the contractor without lawful excuse to substantially commence work within twenty (20) days of the approximate date specified in the contract when work will begin shall postpone the next succeeding payment to the contractor for that period of time equivalent to the time between when substantial commencement was to have occurred and when it did occur.

(g) The requirements of subdivisions (d), (e), and (f) pertaining to the payment schedule shall not apply when the contract provides

for the contractor to furnish performance and payment bond, lien and completion bond, a bond equivalent, or a funding control approved by the Registrar of Contractors covering full performance and completion of the contract and such bonds are furnished by the contractor, or when the parties agree for full payment to be made upon satisfactory completion of the project. The contract shall contain in close proximity to the signatures of the owner and contractor in at least 10-point type a notice to the owner or tenant stating that such owner or tenant has the right to require the contractor to have a performance and payment bond or funding control.

(h) If the contract provides for a payment of a salesman's commission out of the contract price, such payment shall be made on a pro rata basis in proportion to the schedule of payments made in accordance with subdivision (d)

(i) The language of the notice required pursuant to Section 7018.5.

(j) What constitutes substantial commencement of work pursuant to the contract.

(k) A notice that failure by the contractor without lawful excuse to substantially commence work within twenty (20) days from the approximate date specified in the contract when work will begin is a violation of the Contractors License Law.

A failure by the contractor without lawful excuse to substantially commence work within twenty (20) days from the approximate date specified in the contract when work will begin is a violation of this section.

This section shall not be construed to prohibit the parties to a home improvement contract from agreeing to a contract or account subject to Chapter 1 (commencing with Section 1801) of Title 2 of Part 4 of Division 3 of the Civil Code.

The writing may also contain other matters agreed to by the parties to the contract.

The writing shall be legible and shall be in such form as to clearly describe any other document which is to be incorporated into the contract, and before any work is done, the owner shall be furnished a copy of the written agreement, signed by the contractor.

For purposes of this section, the board shall, by regulation, determine what constitutes "without lawful excuse."

The provisions of this section are not exclusive and do not relieve the contractor or any contract subject to it from compliance with all other applicable provisions of law

A violation of this section by a licensee, or a person subject to be licensed, under this chapter, his agent, or salesman is a misdemeanor punishable by a fine of not less than one hundred dollars ($100) nor more than five thousand dollars ($5,000) or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment

SEC 30 Section 12095 of the Insurance Code is amended to read:

12095 No insurer admitted in this state to issue surety insurance

shall fail or refuse to accept an application for a contractor's license or performance bond, or to issue such a bond to an applicant therefor, or refuse or cancel such a bond, under conditions less favorable to the obligor than in other comparable cases, except for reasons applicable alike to persons of every race, color, religion, national origin, ancestry, or geographical area; nor shall, race, color, religion, national origin, ancestry, or location within a county, of itself, constitute a condition or risk for which a greater rate, premium, charge, guaranty, or collateral may be required of the applicant for such a bond.

SEC 31. Section 12096 of the Insurance Code is amended to read:

12096. (a) Any applicant for a contractor's license or performance bond who believes that the admitted surety insurer, regularly issuing such bonds, to whom he has applied did not comply with Section 12095, may file a complaint in writing with the commissioner. If the commissioner finds that there is reasonable ground to believe that the alleged discrimination has occurred, he may set the complaint for hearing, after notice, at which hearing each of the parties to the complaint shall have an opportunity to be heard in person or through their witnesses.

(b) Any determination of the commissioner upon such complaint and hearing shall be judicially reviewable.

SEC 32. Section 12097 of the Insurance Code is amended to read:

12097. Whoever denies a contractor's license or performance bond solely on the grounds specified in this article is liable for each and every such offense for the actual damages, and two hundred fifty dollars ($250) in addition thereto, suffered by the licensee or applicant for a license

SEC 34 Section 23 is added to the Penal Code, to read.

23. In any criminal proceeding against a person who has been issued a license to engage in a business or profession by a state agency pursuant to provisions of the Business and Professions Code, the state agency which issued the license may voluntarily appear to furnish pertinent information, make recommendations regarding specific conditions of probation, or provide any other assistance necessary to promote the interests of justice and protect the interests of the public, or may be ordered by the court to do so, if the crime charged is substantially related to the qualifications, functions, or duties of a licensee.

For purposes of this section, the term "license" shall include a permit or a certificate issued by a state agency.

For purposes of this section, the term "state agency" shall include any state board, commission, bureau, or division created pursuant to the provisions of the Business and Professions Code to license and regulate individuals who engage in certain businesses and professions

SEC. 34 5 It is the intent of the Legislature and the purpose of this act to promote and protect the interests of consumers as well as law-abiding competitive licensed contractors It is the intent of the

Legislature to protect consumers from grievous injury as a result of the acts of contractors and to protect law-abiding competitive licensed contractors from unfair competition as a result of the acts of unlicensed or non-law-abiding licensed contractors The Legislature declares that it intends to achieve these goals through (a) requiring higher standards to be met to obtain and retain a contractor's license, (b) improved enforcement of the Contractors License Law, particularly effective and efficient resolution of consumer complaints against contractors, by means of arbitration and citation and civil penalty; and (c) regulation of unlicensed contractors in some instances.

SEC 35 The Department of Consumer Affairs shall include, in its proposed budget for the 1980–81 fiscal year, an estimate of the costs which will be incurred by the department in carrying out the provisions of Article 6.2 (commencing with Section 7085) of Chapter 9 of Division 3 of, and Sections 7099 7 to 7099 9, inclusive, of, the Business and Professions Code, as added by this act Sections 16 to 26, inclusive, of this act shall become operative only if funds are appropriated to the department for carrying out such provisions

SEC 35 2 It is the intent of the Legislature, if this bill and Assembly Bill 233 are both chaptered and become effective January 1, 1980, both bills amend Section 7159 of the Business and Professions Code, and this bill is chaptered after Assembly Bill 233, that the amendments to Section 7159 of the Business and Professions Code proposed by both bills be given effect and incorporated in Section 7159 of the Business and Professions Code in the form set forth in Section 29 4 of this act Therefore, Section 29.4 of this act shall become operative only if this bill and Assembly Bill 233 are both chaptered and become effective January 1, 1980, both amend Section 7159 of the Business and Professions Code, and this bill is chaptered after Assembly Bill 233, in which case Section 29.2 of this act shall not become operative

SEC 35 4 It is the intent of the Legislature, if this bill and Assembly Bill 673 are both chaptered and become effective January 1, 1980, both bills amend Sections 7071 5, 7071 10, and 7071 11 of the Business and Professions Code, and this bill is chaptered after Assembly Bill 673, that the amendments to Sections 7071 5, 7071 10, and 7071 11 of the Business and Professions Code proposed by both bills be given effect and incorporated in Sections 7071 5, 7071.10, and 7071 11 of the Business and Professions Code in the form set forth in Sections 10 5, 13 5, and 14 5, respectively, of this act Therefore, Sections 10 5, 13 5, and 14 5 of this act shall become operative only if this bill and Assembly Bill 673 are both chaptered and become effective January 1, 1980, both amend Sections 7071 5, 7071.10, and 7071 11 of the Business and Professions Code, and this bill is chaptered after Assembly Bill 673, in which case Sections 10, 13, and 14 of this act shall not become operative

SEC 35 6 It is the intent of the Legislature, if this bill and Assembly Bill 1309 are both chaptered and become effective January

1, 1980, both bills amend Section 7071.6 of the Business and Professions Code, and this bill is chaptered after Assembly Bill 1309, that the amendments to Section 7071.6 of the Business and Professions Code proposed by both bills be given effect and incorporated in Section 7071.6 of the Business and Professions Code 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 Assembly Bill 1309 are both chaptered and become effective January 1, 1980, both amend Section 7071 6 of the Business and Professions Code, and this bill is chaptered after Assembly Bill 1309, in which case Section 11 of this act shall not become operative.

SEC. 36. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction.

CHAPTER 1014

An act to amend Sections 46300 and 48907.5 of, and to add Article 5.5 (commencing with Section 51745) to Chapter 5 of Part 28 of, the Education Code, relating to school programs.

[Approved by Governor September 26, 1979 Filed with Secretary of State September 26, 1979]

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

SECTION 1 Section 46300 of the Education Code is amended to read:

46300. (a) In computing average daily attendance of a school district, there shall be included 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.

(b) For the purposes 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 a work experience program shall not be

credited with more than one day of attendance per 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 which require immediate supervision, "immediate supervision" means that 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.

A pupil enrolled in a rehabilitative school, class, or program shall not be credited with more than one day of attendance per 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.

(e) In computing the average daily attendance of a school district, there shall also be included the attendance of pupils participating in an independent study program conducted pursuant to Article 5.5 (commencing with Section 51745) of Chapter 5 of Part 28.

A pupil enrolled in an independent study program shall not be credited with more than one day of attendance per calendar day.

SEC. 2 Section 48907 5 of the Education Code is amended to read·

48907 5. A governing board that has voted to expel a pupil may suspend the enforcement of such expulsion for a period of not more than one full semester in addition to the balance of the semester in which the board votes to expel and may, as a condition of such suspended action, assign the pupil to a school, class, or program which is deemed appropriate for rehabilitation of the pupil and which has been certified by the county superintendent of schools. The program may be an independent study program as authorized

by Article 5.5 (commencing with Section 51745) of Chapter 5 of Part 28 The governing board shall consider prescribing an independent study program during any deliberation undertaken pursuant to this section In lieu of other authorized educational programs to which the pupil may be assigned, such school, class, or program may be offered as a community-centered classroom and may include experiences for the pupil as an observer or aide in governmental functions, as an on-the-job trainee, and as a participant in specialized tutorial experiences or individually prescribed educational and counseling programs Such programs shall include an individualized learning program to enable the pupil to continue academic work for credit toward graduation and shall qualify for state apportionment based on average daily attendance for only those hours in courses which earn credit for graduation and which conform to the provisions of Section 46300

At the conclusion of the designated period during which an expulsion action is suspended, the governing board shall (1) reinstate a pupil who has satisfactorily participated in a school, class, or program to which such pupil has been assigned as a condition of the suspended action and permit the pupil to return to the school of former attendance or voluntarily to attend other programs offered by the district, or (2) if a pupil's conduct has been unsatisfactory, enforce the expulsion action previously voted by the board

If the pupil is reinstated, the board may also take action to expunge the record of the expulsion action.

SEC 3 Article 5.5 (commencing with Section 51745) is added to Chapter 5 of Part 28 of the Education Code, to read:

Article 5 5. Independent Study Programs

51745 The governing board of a school district or county board of education, either of which maintains an elementary or secondary school, or an opportunity school or program, or a continuation high school, may adopt rules and regulations which authorize any pupil enrolled in the elementary school, secondary school, opportunity school or program, or continuation high school, to enroll in an independent study program of the district or board

Not more than 10 percent of the pupils enrolled in an opportunity school or program, or a continuation high school, shall participate in an independent study program pursuant to this article.

An independent study program shall be coordinated, evaluated, and under the general, but not necessarily immediate, supervision of an employee of the district or county board who possesses a valid certification document

51746 The nature, manner of conducting, and location of any independent study program shall be determined by the school district or county board pursuant to rules and regulations adopted by the State Board of Education The school district or county board shall ensure that the components of each individual study program

for each pupil shall be set out in writing.

CHAPTER 1015

An act to amend Sections 2924b, 2924c, 2924f, 2924g, 2924h, and 2934a of the Civil Code, relating to mortgages.

[Approved by Governor September 26, 1979 Filed with Secretary of State September 26, 1979]

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

SECTION 1. Section 2924b of the Civil Code is amended to read:

2924b (1) Any person desiring a copy of any notice of default and of any notice of sale under any deed of trust or mortgage with power of sale upon real property, as to which deed of trust or mortgage the power of sale cannot be exercised until such notices are given for the time and in the manner provided in Section 2924 may, at any time subsequent to recordation of such deed of trust or mortgage and prior to recordation of notice of default thereunder, cause to be filed for record in the office of the recorder of any county in which any part or parcel of the real property is situated, a duly acknowledged request for a copy of any such notice of default and of sale. This request shall be signed and acknowledged by the person making the request, specifying the name and address of the person to whom the notice is to be mailed, shall identify the deed of trust or mortgage by stating the names of the parties thereto, the date of recordation thereof and the book and page where the same is recorded or the recorder's number and shall be in substantially the following form.

"In accordance with Section 2924b, Civil Code, request is hereby made that a copy of any notice of default and a copy of any notice of sale under the deed of trust (or mortgage) recorded _____, 19__, in Book _____ page _____ records of _____ County (or filed for record with recorder's serial number _____, _____ County), California, executed by _____ as trustor (or mortgagor) in which _____, is named as beneficiary (or mortgagee) and _____ as trustee be mailed to _____ at _____.
Name Address
Signature _____"

Upon the filing for record of such request, the recorder shall index in the general index of grantors the names of the trustors (or mortgagor) recited therein and the names of persons requesting copies

(2) The mortgagee, trustee, or other person authorized to record the notice of default shall do each of the following

(a) Within 10 days following recordation of such notice of default, deposit or cause to be deposited in the United States mail an envelope, registered or certified with postage prepaid, containing a copy of such notice with the recording date shown thereon, addressed to each person whose name and address are set forth in a duly recorded request therefor, directed to the address designated in such request and to each trustor or mortgagor at his last known address if different than the address specified in the deed of trust or mortgage with power of sale

(b) At least 20 days before the date of sale, deposit or cause to be deposited in the United States mail an envelope, registered or certified with postage prepaid, containing a copy of the notice of the time and place of sale, addressed to each person whose name and address are set forth in a duly recorded request therefor, directed to the address designated in such request and to each trustor or mortgagor at his last known address if different than the address specified in the deed of trust or mortgage with power of sale.

(c) As used in subdivisions (a) and (b), the "last known address" of each trustor or mortgagor means the last business or residence address actually known by the mortgagee, beneficiary, trustee, or other person authorized to record the notice of default. The beneficiary shall inform the trustee of the trustor's last address actually known by the beneficiary; however, the trustee shall incur no liability for failing to send any notice to such last address unless the trustee has actual knowledge of it.

(3) The mortgagee, trustee, or other person authorized to record the notice of default shall do each of the following:

(a) Within one month following recordation of such notice of default, deposit or cause to be deposited in the United States mail an envelope, registered or certified with postage prepaid, containing a copy of such notice with the recording date shown thereon, addressed to each person set forth in paragraph (b) of subdivision (3), provided that the estate or interest of any person entitled to receive notice under this subdivision is acquired by an instrument sufficient to impart constructive notice of such estate or interest in the land or portion thereof which is subject to the deed of trust or mortgage being foreclosed, and provided such instrument is recorded in the office of the county recorder so as to impart such constructive notice prior to the recording date of the notice of default and provided such instrument as so recorded sets forth a mailing address which the county recorder shall use, as instructed within the instrument, for the return of such instrument after recording, and which address shall be the address used for the purposes of mailing notices herein

(b) The persons to whom notice shall be mailed under this subdivision are:

(A) The successor in interest, as of the recording date of the notice of default, of the estate or interest or any portion thereof of the trustor or mortgagor of the deed of trust or mortgage being

foreclosed

(B) The beneficiary or mortgagee of any deed of trust or mortgage recorded subsequent to the deed of trust or mortgage being foreclosed, or recorded prior to or concurrently with such deed of trust or mortgage being foreclosed but subject to a recorded agreement or a recorded statement of subordination to such deed of trust or mortgage being foreclosed.

(C) The assignee of any interest of the beneficiary or mortgagee described in subparagraph (B) above, as of the recording date of the notice of default

(D) The vendee of any contract of sale, or the lessee of any lease, of the estate or interest being foreclosed which is recorded subsequent to the deed of trust or mortgage being foreclosed, or recorded prior to or concurrently with such deed of trust or mortgage being foreclosed but subject to a recorded agreement or statement of subordination to such deed of trust or mortgage being foreclosed.

(E) The successor in interest to such vendee or lessee described in subparagraph (D) above, as of the recording date of the notice of default

(F) The Office of the State Controller, Sacramento, California, where, as of the recording date of the notice of default, a lien for postponed property taxes has been recorded against the real property to which the notice of default applies.

(c) At least 20 days before the date of sale, deposit or cause to be deposited in the United States mail, an envelope, registered or certified with postage prepaid, containing a copy of the notice of the time and place of sale addressed to each person to whom a copy of the notice of default is to be mailed as provided in subdivisions (a) and (b).

(d) The mailing of notices in the manner set forth in subdivision (a) shall not impose upon any licensed attorney, agent, or employee of any person entitled to receive notices as herein set forth any duty to communicate such notice to such entitled person from the fact that the mailing address used by the county recorder is the address of such attorney, agent, or employee.

(4) Any deed of trust or mortgage with power of sale hereafter executed upon real property may contain a request that a copy of any notice of default and a copy of any notice of sale thereunder shall be mailed to any person or party thereto at the address of such person given therein, and a copy of any notice of default and of any notice of sale shall be mailed to each such person at the same time and in the same manner required as though a separate request therefor had been filed by each of such persons as herein authorized If any deed of trust or mortgage with power of sale executed after September 19, 1939, except a deed of trust or mortgage of any of the classes excepted from the provisions of Section 2924 does not contain a request of the trustor or mortgagor for special notice at the address of such person given therein or does contain such request but no address of such

person is given therein and if no request for special notice by such trustor or mortgagor in substantially the form set forth in this section has subsequently been recorded, a copy of the notice of default shall be published once a week for at least four weeks in a newspaper of general circulation in the county in which the property is situated, such publication to commence within 10 days after the filing of the notice of default. In lieu of such publication a copy of the notice of default may be delivered personally to the trustor or mortgagor within such 10 days or at any time before publication is completed.

(5) No request for copy of any notice filed for record pursuant to this section nor any statement or allegation in any such request nor any record thereof shall affect the title to real property or be deemed notice to any person that any person requesting copies of notice has or claims any right, title or interest in, or lien or charge upon the property described in the deed of trust or mortgage referred to therein

SEC. 2 Section 2924c of the Civil Code is amended to read

2924c (a) Whenever all or a portion of the principal sum of any obligation secured by deed of trust or mortgage on real property hereafter executed has, prior to the maturity date fixed in such obligation, become due or been declared due by reason of default in payment of interest or of any installment of principal, or by reason of failure of trustor or mortgagor to pay, in accordance with the terms of such obligation or of such deed of trust or mortgage, taxes, assessments, premiums for insurance or advances made by beneficiary or mortgagee in accordance with the terms of such obligation or of such deed of trust or mortgage, the trustor or mortgagor or his successor in interest in the mortgaged or trust property or any part thereof, or any beneficiary under a subordinate deed of trust or any other person having a subordinate lien or encumbrance of record thereon, at any time within three months of the recording of the notice of default under such deed of trust or mortgage, if the power of sale therein is to be exercised, or, otherwise at any time prior to entry of the decree of foreclosure, may pay to the beneficiary or the mortgagee or their successors in interest, respectively, the entire amount then due under the terms of such deed of trust or mortgage and the obligation secured thereby (including costs and expenses actually incurred in enforcing the terms of such obligation, deed of trust or mortgage, and trustee's or attorney's fees actually incurred not exceeding one hundred dollars ($100) in case of a mortgage and fifty dollars ($50) in case of a deed of trust or one-half of 1 percent of the entire unpaid principal sum secured, whichever is greater) other than such portion of principal as would not then be due had no default occurred, and thereby cure the default theretofore existing, and thereupon, all proceedings theretofore had or instituted shall be dismissed or discontinued and the obligation and deed of trust or mortgage shall be reinstated and shall be and remain in force and effect, the same as if no such acceleration had occurred The provisions of this section shall not

apply to bonds or other evidences of indebtedness authorized or permitted to be issued by the Commissioner of Corporations or made by a public utility subject to the provisions of the Public Utilities Code.

(b) (1) The notice, of any default described in this section, recorded pursuant to Section 2924, and mailed to any person pursuant to Section 2924b, shall begin with the following statement, printed or typed thereon:

"IMPORTANT NOTICE [14-point boldface type]

IF YOUR PROPERTY IS IN FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR PAYMENTS, IT MAY BE SOLD WITHOUT ANY COURT ACTION, [14-point boldface type] and you have the legal right to bring your account in good standing by paying all of your past due payments plus permitted costs and expenses within three months from _____ .

(Date notice of default is recorded)

This amount is _____ as of _____ ,

(Date)

and will increase daily until your account becomes current. You do not have to pay the entire unpaid portion of your account, even though full payment was demanded, but you must pay the amount stated above.

After _____ ,

(Three months after the date notice of default is recorded)

you have the legal right to stop the foreclosure only by paying the entire amount demanded by your creditor.

To find out the amount you must pay, or to arrange for payment to stop the foreclosure, or if your property is in foreclosure for any other reason, contact:

_____

(Name of beneficiary or mortgagee)

_____

(Street address)

_____

(Telephone)

If you have any questions, you should contact a lawyer or the government agency which may have insured your loan

Remember, YOU MAY LOSE LEGAL RIGHTS IF YOU DO NOT TAKE PROMPT ACTION. [14-point boldface type]"

Unless otherwise specified, the notice shall appear in at least 12-point boldface type

If the obligation secured by the deed of trust or mortgage is a contract or agreement described in paragraph (1) or paragraph (4) of subdivision (a) of Section 1632, the notice required herein shall be in Spanish if the trustor requested a Spanish language translation of the contract or agreement pursuant to Section 1632 If the obligation secured by the deed of trust or mortgage is contained in a home improvement contract, as defined in Sections 7151 2 and 7159 of the Business and Professions Code, which is subject to the provisions of Title 2 (commencing with Section 1801), the seller shall specify on the contract whether or not the contract was principally negotiated in Spanish and if the contract was principally negotiated in Spanish, the notice required herein shall be in Spanish. No assignee of such contract or person authorized to record the notice of default shall incur any obligation or liability for failing to mail a notice in Spanish unless Spanish is specified in the contract or such assignee or person has actual knowledge that the secured obligation was principally negotiated in Spanish. Unless specified in writing to the contrary, a copy of the notice required by subdivision (3) of Section 2924b shall be in English

(2) Any failure to comply with the provisions of this subdivision shall not affect the validity of a sale in favor of a bona fide purchaser or the rights of an encumbrancer for value and without notice.

SEC. 3 Section 2924f of the Civil Code is amended to read:

2924f As used in this section and Sections 2924g and 2924h "property" means real property or a leasehold estate therein.

Before any sale of property can be made under the power of sale contained in any deed of trust or mortgage notice of the sale thereof must be given by posting a written notice of the time of sale and of the street address and the specific place at such street address where the sale will be conducted, and describing the property to be sold, at least 20 days before the date of sale in one public place in the city where the property is to be sold, if the property is to be sold in a city, or, if not, then in one public place in the judicial district in which the property is to be sold, and publishing a copy thereof once a week for the same period, in some newspaper of general circulation published in the city in which the property or some part thereof is situated, if any part thereof is situated in a city, if not, then in some newspaper of general circulation published in the judicial district in which the property or some part thereof is situated, or in case no newspaper of general circulation is published in the city or judicial district, as the case may be, in some newspaper of general circulation published in the county in which the property or some part thereof is situated. A copy of such notice of sale shall also be posted in some conspicuous place on the property to be sold at least 20 days before date of sale, and shall be recorded with the county recorder of the county in which the property or some part thereof is situated at least 14 days prior to the date of sale The notice of sale shall contain the name, street address, and telephone number of the trustee or other person conducting the sale In addition to any other description of the

property, the notice shall describe the property by giving its street address, if any, or other common designation, if any; but if the property has no street address or other common designation, the notice shall contain the name and address of the beneficiary at whose request the sale is to be conducted and a statement that directions may be obtained pursuant to a written request submitted to the beneficiary within 10 days from the first publication of such notice Directions shall be deemed reasonably sufficient to locate the property if information as to the location of the property is given by reference to the direction and approximate distance from the nearest crossroads, frontage road, or access road. If a legal description of the property is given, the validity of the notice and the validity of the sale shall not be affected by the fact that the street address, other common designation, name and address of the beneficiary, or the directions obtained therefrom are erroneous or that the street address, other common designation, name and address of the beneficiary or directions obtained therefrom are omitted The term newspaper of general circulation as used herein is as defined in Article 1 (commencing with Section 6000) of Chapter 1, Division 7, Title 1 of the Government Code

The notice of sale shall contain a statement of the total amount of the unpaid balance of the obligation secured by the property to be sold and reasonably estimated costs, expenses, and advances at the time of the initial publication of the notice of sale, provided that the trustee shall incur no liability for any good faith error in stating the proper amount. An inaccurate statement of said amount shall not affect the validity of any sale to a bona fide purchaser for value

SEC 3 5 Section 2924f of the Civil Code is amended to read·

2924f (a) As used in this section and Sections 2924g and 2924h "property" means real property or a leasehold estate therein

(b) Except as provided in subdivision (c), before any sale of property can be made under the power of sale contained in any deed of trust or mortgage notice of the sale thereof must be given by posting a written notice of the time of sale and of the street address and the specific place at such street address where the sale will be held, and describing the property to be sold, at least 20 days before the date of sale in one public place in the city where the property is to be sold, if the property is to be sold in a city, or, if not, then in one public place in the judicial district in which the property is to be sold, and publishing a copy thereof once a week for the same period, in some newspaper of general circulation published in the city in which the property or some part thereof is situated, if any part thereof is situated in a city, if not, then in some newspaper of general circulation published in the judicial district in which the property or some part thereof is situated, or in case no newspaper of general circulation is published in the city or judicial district, as the case may be, in some newspaper of general circulation published in the county in which the property or some part thereof is situated A copy of such notice of sale shall also be posted in some conspicuous place on the

property to be sold at least 20 days before date of sale and shall be recorded with the county recorder of the county in which the property or some part thereof is situated at least 14 days prior to the date of sale. The notice of sale shall contain the name, street address, and telephone number of the trustee or other person conducting the sale. In addition to any other description of the property, the notice shall describe the property by giving its street address, if any, or other common designation, if any; but if the property has no street address or other common designation, the notice shall contain the name and address of the beneficiary at whose request the sale is to be conducted and a statement that directions may be obtained pursuant to a written request submitted to the beneficiary within 10 days from the first publication of such notice. Directions shall be deemed reasonably sufficient to locate the property if information as to the location of the property is given by reference to the direction and approximate distance from the nearest crossroads, frontage road, or access road If a legal description of the property is given, the validity of the notice and the validity of the sale shall not be affected by the fact that the street address, other common designation, name and address of the beneficiary, or the directions obtained therefrom are erroneous or that the street address, other common designation, name and address of the beneficiary or directions obtained therefrom are omitted. The term newspaper of general circulation as used herein is as defined in Article 1 (commencing with Section 6000) of Chapter 1, Division 7, Title 1 of the Government Code

The notice of sale shall contain a statement of the total amount of the unpaid balance of the obligation secured by the property to be sold and reasonably estimated costs, expenses, and advances at the time of the initial publication of the notice of sale; provided, that the trustee shall incur no liability for any good faith error in stating the proper amount An inaccurate statement of such amount shall not affect the validity of any sale to a bona fide purchaser for value.

(c) (1) The provisions of this subdivision shall only apply to deeds of trust or mortgages which contain a power of sale and which are secured by real property containing a single-family, owner-occupied residence wherein the obligation secured by the deed of trust or mortgage arose as a result of a contract for goods or services subject to the provisions of the Unruh Act (Chapter 1 (commencing with Section 1801) of Title 2 of Part 4 of Division 3).

(2) Except as otherwise expressly set forth in this subdivision, all other provisions of law relating to the exercise of a power of sale shall govern the exercise of such a power contained in a deed of trust or mortgage described in paragraph (1) of this subdivision

(3) Any conveyance of title to the real property which is subject to a deed of trust or mortgage described in paragraph (1) of this subdivision which occurs within 45 days after the recordation of the notice of default is voidable by the trustor or mortgagor

(4) If any default of the obligation secured by a deed of trust or mortgage described in paragraph (1) of this subdivision has not been

cured within 30 days after the recordation of the notice of default, the trustee or mortgagee shall mail to the trustor or mortgagor, at his or her last known address, a copy of the following statement:

YOU ARE IN DEFAULT UNDER A

_____ ,

(Deed of Trust or Mortgage)

DATED _____. UNLESS YOU TAKE ACTION TO PROTECT YOUR HOME, IT MAY BE SOLD AT A PUBLIC SALE. IF YOU NEED AN EXPLANATION OF THE NATURE OF THE PROCEEDING AGAINST YOU, YOU SHOULD CONTACT A LAWYER

(5) In lieu of the publication required by subdivision (b), before any sale can be made under a power of sale contained in a deed of trust or mortgage described in paragraph (1) of this subdivision, notice of the sale thereof must be published at least once a week for three weeks in the real estate advertising section of at least two newspapers of general circulation published in the county where the residence is located beginning not less than 35 days before the date of the sale At least one of the newspapers shall be a newspaper of general circulation which has the largest paid circulation The second newspaper shall be of general circulation in the city where the property is located and shall have substantial distribution in the area where the property is located If there is no newspaper of general circulation in the city, with substantial distribution in the area where the property is located or if the property is not located in the city, then one notice must be published in a newspaper of general circulation in the judicial district with substantial circulation in the area where the property is located If there is no newspaper of general circulation in the judicial district with substantial circulation in the area where the property is located, then the notice must be published in a newspaper of general circulation in the county with substantial circulation in the area where the property is located If no more than one newspaper of general circulation is published in the county where the residence is located, then notice need be published in only that one newspaper A copy of such notice of sale shall also be posted in some conspicuous place on the property to be sold at least 35 days before the date of sale and shall be recorded with the county recorder of the county in which the property or some part thereof is situated at least 14 days prior to the date of sale The notice may contain a legal description of the property, however, it shall contain the name and address of the beneficiary at whose request the sale is to be conducted and a statement that a detailed description of the property can be obtained from that person In addition, the notice shall describe the property by giving its street address, if any, or other common designation, if any, but if the property has no street address or other common designation, the notice shall contain a statement that directions may be obtained from the person named in the notice Directions shall be deemed reasonably sufficient to locate the property if information as to the location of the property

is given by reference to the direction and approximate distance from the nearest crossroads, frontage road, or access road. The notice must also state a place where offers may be received pursuant to paragraph (b) of this subdivision, the date on and after which such offers will be received, and the minimum acceptable offer. The term "newspaper of general circulation" as used herein is as defined in Article 1 (commencing with Section 6000) of Chapter 1 of Division 7 of Title 1 of the Government Code If a legal description of the property is given, the validity of the notice and the validity of the sale shall not be affected by the fact that the street address, other common designation, name and address of the beneficiary, or the directions obtained therefrom are erroneous or that the street address, other common designation, name and address of the beneficiary or directions obtained therefrom are omitted

(6) All sales of real property pursuant to a power of sale contained in any deed of trust or mortgage described in paragraph (1) of this subdivision shall be held in the county where the residence is located and shall be made to the person making the highest offer. The trustee may receive offers during the 10-day period immediately prior to the date of sale and if any such offer is accepted in writing by both the trustor or mortgagor and the beneficiary or mortgagee prior to the time set for sale, the sale shall be postponed to a date certain and the property conveyed to the person making such offer according to its terms Any such offer is revocable until accepted

(7) In addition to the trustee fee pursuant to Section 2924c, the trustee or mortgagee pursuant to a deed of trust or mortgage subject to this subdivision shall be entitled to charge an additional fee of fifty dollars ($50).

(d) Subdivision (c) of this section shall apply only to property on which notices of default were filed on or after the effective date of subdivision (c) Amendments made to subdivisions (a) and (b) of this section during the 1979 portion of the 1979–80 Regular Legislative Session shall apply to notices of sale recorded on or after January 1, 1980

SEC 4. Section 2924g of the Civil Code is amended to read:

2924g (a) All sales of property under the power of sale contained in any deed of trust or mortgage shall be held in the county where such property or some part thereof is situated, and shall be made at auction, to the highest bidder, between the hours of 9 a m. and 5 p m on any business day, Monday through Friday

The sale shall be conducted by a person having no interest whatever in the property or in the outcome of the sale, other than legal title under the deed of trust A sale conducted by a subsidiary, employee, or agent of a bank or savings and loan association organized under the laws of this state or of the United States, the employee of any entity conducting the business of title insurance as defined in Section 12340 3 of the Insurance Code, the United States Department of Housing and Urban Development, the Veterans Administration, the Federal Housing Administration, the Federal

National Mortgage Association, the Government National Mortgage Association, or the Federal Home Loan Mortgage Corporation shall not be construed to be a sale conducted by a person having an interest in the property or in the outcome of the sale Nothing herein shall affect any duty owed to any trustor, beneficiary, mortgagor, or mortgagee by any person conducting the sale.

The sale shall commence at the time and location specified in the notice of sale Any postponement shall be announced at the time and location specified in the notice of sale for commencement of such sale or pursuant to subdivision (c) (1) herein

If the sale of more than one parcel of real property has been scheduled for the same time and location by the same trustee, (1) any postponement of any of the sales shall be announced at the time published in the notice of sale; (2) the first sale shall commence at the time published in the notice of sale or immediately after the announcement of any postponement; and (3) each subsequent sale shall take place as soon as possible after the preceding sale has been completed

(b) When the property consists of several known lots or parcels they shall be sold separately unless the deed of trust or mortgage provides otherwise; or when a portion of such property is claimed by a third person, and he requires it to be sold separately, such portion may be thus sold The trustor, if present at the sale, may also, unless the deed of trust or mortgage otherwise provides, direct the order in which property shall be sold, when such property consists of such several known lots or parcels which may be sold to advantage separately, and the trustee shall follow such direction After sufficient property has been sold to satisfy the indebtedness no more can be sold

If the property under power of sale is in two or more judicial districts the public auction sale of all of the property under the power of sale may take place in any one of the judicial districts where the property or a portion thereof is located

(c) (1) There may be a postponement of the sale proceedings at any time prior to the completion of the sale thereof at the discretion of the trustee, upon instruction by the beneficiary to the trustee that the sale proceedings be postponed, or upon the written request of the trustor provided the reason for such request is to permit the trustor to obtain cash sufficient to satisfy the obligation or bid at the sale Any such postponement, at the request of the trustor shall be for a period not to exceed one business day

There may be a maximum of three postponements of the sale proceedings pursuant to this subdivision In the event that the sale proceedings are postponed three times, the scheduling of any further sale proceedings shall be preceded by the giving of a new notice of sale in the manner prescribed by Section 2924f A postponement made upon the request of the trustor shall not be deemed a postponement for purposes of this paragraph

(2) The trustee shall in addition postpone the sale upon the order

of any court of competent jurisdiction; operation of law; and the mutual agreement, whether oral or in writing, of any trustor and any beneficiary or any mortgagor and any mortgagee.

(d) The notice of each postponement and the reason therefor shall be given by public declaration by the trustee at the time and place last appointed for sale. Such public declaration of the postponement shall also set forth the new date, time, and place of sale, which place of sale shall be the same place as originally fixed by the trustee for the sale. No other notice of postponement need be given The trustee shall maintain records of each postponement and the reason therefor

SEC. 5. Section 2924h of the Civil Code is amended to read:

2924h. (a) Each and every bid made by a bidder at a trustee's sale under a power of sale contained in a deed of trust or mortgage shall be deemed to be an irrevocable offer by that bidder to purchase the property being sold by the trustee under such power of sale for the amount of the bid. Any second or subsequent bid by the same bidder or any other bidder for a higher amount shall be a cancellation of the prior bid

(b) At the trustee's sale the trustee shall have the right (1) to require every bidder to show evidence of his ability to deposit with the trustee the full amount of his final bid in cash, or the equivalent of cash, which may be advertised in the notice of sale, in a form reasonably satisfactory to the trustee to protect the interests of both the beneficiary and trustor prior to and as a condition to the recognizing of such bid, and to conditionally accept and hold these amounts for the duration of the sale, and (2) to require the last and highest bidder to deposit, if not deposited previously, the full amount of his final bid in cash, or the equivalent of cash in a form satisfactory to the trustee, immediately prior to the completion of the sale, the completion of the sale being so announced by the fall of the hammer or in other customary manner The present beneficiary of the deed of trust under foreclosure shall have the right to offset his bid(s) only to the extent of the total amount due him including the trustee's fees and expenses.

(c) If the trustee has not required the last and highest bidder to deposit the cash or equivalent in the manner set forth in paragraph 2 of subdivision (b), the trustee shall complete the sale If the last and highest bidder then fails to deliver to the trustee, when demanded, the amount of his final bid in cash, or the equivalent of cash in a form satisfactory to the trustee, such bidder shall be liable to the trustee for all damages which the trustee may sustain by the refusal to deliver to the trustee the amount of the final bid, including any court costs and reasonable attorneys' fees

If the last and highest bidder willfully fails to deliver to the trustee the amount of his final bid in cash, or the equivalent of cash, in a form satisfactory to the trustee, such bidder shall be guilty of a misdemeanor punishable by a fine of not more than two thousand five hundred dollars ($2,500)

(d) Any postponement or discontinuance of the sale proceedings shall be a cancellation of the last bid

(e) In the event that this section conflicts with any other statutory provision of the law, then this section shall prevail

(f) It shall be unlawful for any person, acting alone or in concert with others, to offer to or accept from another any consideration of any type not to bid or to fix or restrain bidding in any manner at a sale of property conducted pursuant to a power of sale in a deed of trust or mortgage In addition to any other remedies, any person committing any act declared unlawful by this subdivision or any act which would operate as a fraud or deceit upon any beneficiary, trustor, or junior lienor shall, upon conviction, be fined not more than ten thousand dollars ($10,000) or imprisoned in the county jail for not more than one year, or be punished by both such fine and imprisonment

SEC. 6. Section 2934a of the Civil Code is amended to read

2934a The trustee under a trust deed upon real property given to secure an obligation to pay money and conferring no other duties upon the trustee than those which are incidental to the exercise of the power of sale therein conferred, may be substituted by the recording in the county in which the property is located of a substitution executed and acknowledged by all of the beneficiaries under such trust deed, or their successors in interest, and such substitution shall be effective notwithstanding any contrary provision in any trust deed executed on or after January 1, 1968

The beneficiary or beneficiaries who elect to substitute trustees hereunder shall cause a copy of such substitution to be mailed, prior to the recording thereof, in the manner provided in Section 2924b of this code, to all persons to whom a copy of the notice of default would be required to be mailed by the provisions of Section 2924b of this code The substitution must contain the date of execution of the trust deed, the name of the trustor, the book and page where the trust deed is recorded and the name of the new trustee, and an affidavit attached to said substitution to the effect that notice has been given to the persons and in the manner above required The substitution shall also contain an acknowledgment signed and acknowledged by the trustee then of record of a receipt of a copy thereof, or an affidavit of personal service of a copy thereof, or of publication of notice thereof in accordance with Section 6061 of the Government Code, and where service is by publication the affidavit shall also show that a copy of such substitution had been mailed to said trustee at his last known address From the time the substitution is filed for record, the new trustee shall succeed to all the powers, duties, authority and title granted and delegated to the trustee named in the deed of trust

Notwithstanding any provision of this section or any provision in any deed of trust, unless a new notice of sale containing the name, street address, and telephone number of the substituted trustee is given pursuant to Section 2924f, any sale conducted by the substituted trustee shall be void

SEC. 7. The amendments made to Sections 2924b, 2924c, 2942f, 2924g, 2924h and 2934a of the Civil Code by this act shall apply to all contracts executed on or after January 1, 1980, to any notice of sale given on or after January 1, 1980, to any sale conducted after January 1, 1980, to any substitution recorded on or after January 1, 1980, and to any notice of default recorded on or after January 1, 1980.

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 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. 9. It is the intent of the Legislature, if this bill and Assembly Bill 510 are both chaptered and become effective on or before January 1, 1980, both bills amend Section 2924f of the Civil Code, and this bill is chaptered after Assembly Bill 510, that Section 2924f of the Civil Code, as amended by Section 5 of Assembly Bill 510, be further amended on the effective date of this act in the form set forth in Section 3.5 of this act to incorporate the changes in Section 2924f proposed by this bill. Therefore, if this bill and Assembly Bill 510 are both chaptered and become effective on or before January 1, 1980, and Assembly Bill 510 is chaptered before this bill and amends Section 2924f, Section 3 5 of this act shall become operative on the effective date of this act and Section 3 of this act shall not become operative.

CHAPTER 1016

An act to repeal and add Article 2 (commencing with Section 20766) of Chapter 7 of Division 8 of the Business and Professions Code, relating to petroleum products, and making an appropriation therefor

[Approved by Governor September 26, 1979 Filed with Secretary of State September 26, 1979]

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

SECTION 1 Article 2 (commencing with Section 20766) of Chapter 7 of Division 8 of the Business and Professions Code is repealed

SEC 2 Article 2 (commencing with Section 20766) is added to Chapter 7 of Division 8 of the Business and Professions Code, to read:

Article 2. Motor Oil Fee

20766. As used in this article, "motor oil dealer" means any person, firm, or corporation engaged in the business of producing, packaging or otherwise preparing motor oil for market, or selling or distributing motor oil.

Notwithstanding any other provision of this division, and for the purpose of this article, "motor oil" means any product used to lubricate the moving parts of an internal combustion engine.

20767 The following persons shall pay to the director a maximum fee of four-tenths of one cent ($.004) for each gallon of motor oil sold or purchased as hereinafter provided:

(a) The first person who produced the motor oil shall pay the fee when the motor oil is sold to any retail establishment or motor oil dealer including any sold to the federal government, or its agencies.

(b) A retailer shall pay the fee for motor oil received when he transports or causes to be transported motor oil into this state from out-of-state.

(c) On any other sale of motor oil the dealer shall pay the fee except that this subdivision shall not apply to any person selling motor oil at retail

(d) The assessment provided for in this section shall only be paid once on any particular motor oil.

20768. The fees provided in Section 20767 are maximum fees and may be established at a lower rate by the director at any time the funds derived from such assessment are more than reasonably necessary to cover the cost of administration and enforcement of this chapter, including the maintenance of a reasonable reserve fund for such purposes.

20769. The director may, by regulation, prescribe the frequency of payments of such assessments, the procedures for such payment, the procedures for refunds of payment, and penalties for late payment

20770. The moneys which are received by the director pursuant to this chapter shall be deposited in the Department of Food and Agriculture Fund and shall be used only for the administration and enforcement of Chapters 7 (commencing with Section 20700), 10 (commencing with Section 21700), 11 (commencing with Section 21800), and 11 5 (commencing with Section 21900) of Division 8 of the Business and Professions Code

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CHAPTER 1017

An act making an appropriation for the state park system, and in this connection amending Section 2 9E of the Budget Act of 1978, and amending and supplementing the Budget Act of 1979 by adding Section 2 5A thereto, and declaring the urgency thereof, to take

effect immediately

[Approved by Governor September 26, 1979 Filed with Secretary of State September 26, 1979]

The people of the State of California do enact as follows

SECTION 1 Section 2 9E of the Budget Act of 1978, as added by Chapter 1258 of the Statutes of 1978, is amended 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 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 Resources 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 Section 2 5A is added to the Budget Act of 1979, to read

STATE BEACH, PARK, RECREATIONAL, AND HISTORICAL FACILITIES BOND ACT OF 1964 PROGRAM

SEC. 2 5A. The following sum of money, or so much thereof as may be necessary, unless otherwise provided herein, is hereby appropriated for expenditure during the 1979–80, 1980–81, and 1981–82 fiscal years. All such appropriations, unless otherwise herein provided, shall be paid out of the State Beach, Park, Recreational, and Historical Facilities Fund of 1964.

CAPITAL OUTLAY

RESOURCES

495 5A—For capital outlay, Department of Parks and Recreation, for purposes set forth in subdivisions (a) and (b) of Section 5096.15 of the Public Resources Code, payable from the State Beach, Park, Recreational, and Historical Facilities Fund of 1964 1,225,000

Schedule.

(a) For acquisition of the unimproved portion of parcel 122-060-11, and the real property commonly known as Clayton Oaks, consisting of parcels 122-060-14, 122-060-15, 122-060-16, and 122-060-17, as shown in records of the Assessor of the County of Contra Costa, as an addition to Mount Diablo State Park 1,225,000

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

Provided, further, that none of the funds appropriated by this item for the project set forth herein shall be available for expenditure unless and

until such project is recommended by the State Park and Recreation Commission and reviewed by the Secretary of the Resources Agency.

SEC. 3. The acquisition authorized by Section 2 of this act shall be made pursuant to the Property Acquisition Law, Part 11 (commencing with Section 15850) of Division 3 of Title 2 of the Government Code

SEC. 4 Notwithstanding subdivision (c) of Section 10.07 of the Budget Act of 1979 (Chapter 259, Statutes of 1979), Hostel Facilities Use Fees, General Fund, paragraph (2), funds reappropriated pursuant to category (b) of Section 2 of Chapter 1529 of the Statutes of 1974 are hereby reappropriated for both acquisition and development

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:

Since a portion of the property to be acquired pursuant to Section 2 of this act is being considered for residential development, which would lessen the value of the remaining land as parkland, and since the property to be acquired will provide the only access to Mount Diablo State Park from the north and will facilitate connecting with trail networks in the County of Contra Costa, and, further, in order to complete recreational trail development at Folsom Lake State Recreation Area and at Saratoga Gap in the current fiscal year, it is necessary that this act take effect immediately.

CHAPTER 1018

An act to amend Sections 68203, 69104, 69105, 69580, 69582, 69586, 69591, 69592, 69593, 69594, 69595, 69596, 69598, 69600, 69602, 69605, 69606, 69609, 73641, 74001, and 74601 of, and to add Section 72602 3 to, the Government Code, relating to courts, and making an appropriation therefor

[Approved by Governor September 26, 1979 Filed with Secretary of State September 26, 1979]

The people of the State of California do enact as follows

SECTION 1 Section 68203 of the Government Code is amended to read·

68203 (a) On July 1, 1980, and on July 1 of each year thereafter the salary of each justice and judge named in Sections 68200 to 68202, inclusive, shall be increased by that amount which is produced by multiplying the then current salary of each justice or judge by the average percentage salary increase for the current fiscal year for California State employees but not to exceed five percent, provided,

however, that if in either of the two previous fiscal years the average salary increase for state employees was less than five percent, the judges or justices shall in addition receive that portion of a current increase in excess of five percent which they would have been entitled to had the increases in the two previous fiscal years each been equal to five percent.

(b) For the purposes of this section, salary increases for state employees shall be such increases as reported by the California Office of Employee Relations.

(c) The salary increase for judges and justices made on July 1, 1980, for the 1980–81 fiscal year, shall in no case exceed five percent.

SEC 2 Section 69104 of the Government Code is amended to read

69104. The Court of Appeal for the Fourth Appellate District consists of two divisions. One division shall hold its regular sessions at San Diego and shall have five judges and the other shall hold its regular sessions at San Bernardino and shall have five judges.

SEC. 3. Section 69105 of the Government Code is amended to read.

69105. The Court of Appeal for the Fifth Appellate District consists of one division having six judges and shall hold its regular sessions at Fresno.

SEC. 4 Section 69580 of the Government Code is amended to read.

69580 In the County of Alameda there shall be 31 judges of the superior court.

SEC 5. Section 69582 of the Government Code is amended to read

69582. In the County of Contra Costa there shall be 14 judges of the superior court.

SEC 6. Section 69586 of the Government Code is amended to read.

69586. In the County of Los Angeles there shall be 171 judges of the superior court, any one or more of whom may hold court; provided, that at such time as the Los Angeles County Board of Supervisors finds there are sufficient funds for 25 additional judges and adopts a resolution to that effect, there shall be 196 judges of the superior court, any one or more of whom may hold court.

SEC. 7 Section 69591 of the Government Code is amended to read.

69591 In the County of Orange there shall be 42 judges of the superior court.

SEC 8 Section 69592 of the Government Code is amended to read.

69592 In the County of Riverside there shall be 17 judges of the superior court

SEC 9 Section 69593 of the Government Code is amended to read

69593 In the County of Sacramento there shall be 23 judges of the

superior court

SEC. 10 Section 69594 of the Government Code is amended to read

69594 In the County of San Bernardino there shall be 20 judges

SEC 11. Section 69595 of the Government Code is amended to read

69595 In the County of San Diego there shall be 41 judges of the Superior Court

SEC 12 Section 69596 of the Government Code is amended to read

69596 In the City and County of San Francisco there shall be 27 judges of the superior court, any one or more of whom may hold court

SEC 13 Section 69598 of the Government Code is amended to read

69598 In the County of San Joaquin there shall be eight judges of the superior court.

SEC 14 Section 69600 of the Government Code is amended to read·

69600 In the County of Santa Clara there shall be 33 judges of the superior court

SEC. 14 5 Section 69602 of the Government Code is amended to read

69602 In the County of Solano there shall be five judges of the superior court

SEC. 15. Section 69605 of the Government Code is amended to read

69605 In the County of Tulare there shall be six judges of the superior court

SEC 16 Section 69606 of the Government Code is amended to read

69606 In the County of Ventura there shall be 11 judges of the superior court

SEC 17 Section 69609 of the Government Code is amended to read.

69609 In the County of Placer there shall be four judges of the superior court

SEC 18 Section 72602 3 is added to the Government Code, to read.

72602 3 In addition to the number of judges prescribed by Section 72602, at such time as the Los Angeles County Board of Supervisors finds there are sufficient funds for one additional judge for the South Bay Municipal Court District and adopts a resolution to that effect, there shall be one additional judge for the South Bay Mumcipal Court District

SEC 19 Section 73641 of the Government Code is amended to read

73641 There shall be six judges, provided, that at such time as the San Diego County Board of Supervisors finds there are sufficient

funds for seven judges and adopts a resolution to that effect, there shall be seven judges.

SEC 20. Section 74001 of the Government Code is amended to read.

74001 There shall be the following number of judges: in the North Orange County Municipal Court, 10, and on July 1, 1978, 11, in the Central Orange County Municipal Court, 12, and on January 1, 1978, 13; in the West Orange County Municipal Court, nine, provided, that at such time as the Orange County Board of Supervisors finds there are sufficient funds for 10 judges and adopts a resolution to that effect, there shall be 10 judges; in the Orange County Harbor Municipal Court, six; and in the South Orange County Municipal Court, three.

SEC 21. Section 74601 of the Government Code is amended to read

74601 There shall be three judges; provided, that at such time as the San Luis Obispo County Board of Supervisors finds there are sufficient funds for four judges and adopts a resolution to that effect, there shall be four judges The judges shall select one of them to be presiding judge of the court Thereafter, the duties of the presiding judge of the court shall alternate annually between the judges

SEC. 22. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to those sections for salaries of municipal court judges because the provisions of this act authorizing new municipal court judgeships are in accordance with the request of local governmental entities which desired legislative authority to carry out such programs It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC 23. The sum of four million one hundred sixty-nine thousand nine hundred thirteen dollars ($4,169,913) is hereby appropriated from the General Fund to the State Controller for allocation and disbursement as follows

(a) In augmentation of Item 21, Budget Act of 1979, for the state's share of salaries of judges of the superior courts as provided by Section 68206 of the Government Code, one million eight thousand eight hundred eighty-five dollars ($1,008,885)

(b) In augmentation of Item 22, Budget Act of 1979, 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, two million seven hundred thousand dollars ($2,700,000)

(c) In augmentation of Item 17, Budget Act of 1979, for the Courts of Appeal, Fourth and Fifth Appellate Districts, one hundred ninety-two thousand five hundred forty-one dollars ($192,541)

(d) In augmentation of Item 17, Budget Act of 1979, for alteration of facilities to accommodate two additional judges and staff for the

Court of Appeal, Fifth Appellate District, two hundred sixty-eight thousand four hundred eighty-seven dollars ($268,487).

SEC 24 Subdivision (d) of Section 23 of this act makes an appropriation for the usual current expenses of the state within the meaning of Article IV of the Constitution and shall go into immediate effect

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CHAPTER 1019

An act to amend Section 11161 8 of the Penal Code, relating to reporting of injuries

[Approved by Governor September 26, 1979 Filed with Secretary of State September 26, 1979]

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

SECTION 1 Section 11161 8 of the Penal Code is amended to read

11161 8 Every person, firm, or corporation conducting any hospital in the state, or the managing agent thereof, or the person managing or in charge of such hospital, or in charge of any ward or part of such hospital, who receives a patient transferred from a health facility, as defined in Section 1250 of the Health and Safety Code or from a community care facility, as defined in Section 1502 of the Health and Safety Code, who exhibits a physical injury or condition which, in the opinion of the admitting physician, reasonably appears to be the result of neglect or abuse, shall report such fact by telephone and in writing, within 36 hours, to both the local police authority having jurisdiction and the county health department.

Any registered nurse, licensed vocational nurse, or licensed clinical social worker employed at such hospital may also make a report under this section, if, in the opinion of such person, a patient exhibits a physical injury or condition which reasonably appears to be the result of neglect or abuse

Every physician and surgeon who has under his charge or care any such patient who exhibits a physical injury or condition which reasonably appears to be the result of neglect or abuse shall make such report

The report shall state the character and extent of the physical injury or condition

No employee shall be discharged, suspended, disciplined, or harassed for making a report pursuant to this section

No person shall incur any civil or criminal liability as a result of making any report authorized by this section

SEC 2 Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these

sections because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 1020

An act to amend Section 69105 of the Government Code, relating to courts, and making an appropriation for the usual current expenses of the state, to take effect immediately.

[Approved by Governor September 26, 1979 Filed with Secretary of State September 26, 1979]

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

SECTION 1. Section 69105 of the Government Code is amended to read.

69105. The Court of Appeal for the Fifth Appellate District consists of one division having six judges and shall hold its regular sessions at Fresno.

SEC. 2 The sum of three hundred ninety-six thousand eighty-six dollars ($396,086) is hereby appropriated from the General Fund to the State Controller for allocation and disbursement as follows·

(a) In augmentation of Item 17, Budget Act of 1979, for the Court of Appeal, Fifth Appellate District, one hundred twenty-seven thousand five hundred ninety-nine dollars ($127,599).

(b) In augmentation of Item 17, Budget Act of 1979, for alteration of facilities to accommodate two additional judges and staff for the Court of Appeal, Fifth Appellate District, two hundred sixty-eight thousand four hundred eighty-seven dollars ($268,487).

(c) However, it is the intent of the Legislature that if this bill and Senate Bill 53 are both chaptered and become effective on or before January 1, 1980, and this bill is chaptered last, and both bills appropriate money for the purposes of the Court of Appeal of the Fifth Appellate District, that money should not be appropriated by both bills for the same purpose, but that the total appropriation from both bills for the Court of Appeal for the Fifth Appellate District should be three hundred ninty-six thousand eighty-six dollars ($396,086).

Therefore, if both bills are chaptered and appropriate money to be allocated to the Court of Appeal for the Fifth Appellate District, both bills become effective on or before January 1, 1980, and this bill is chaptered last, then the appropriation made by this act shall be reduced by the amount appropriated by Senate Bill 53 which is to be allocated to the Court of Appeal for the Fifth Appellate District.

SEC 3 Subdivision (b) of Section 2 of this act makes an appropriation for the usual current expenses of the state within the meaning of Article IV of the Constitution and shall go into immediate effect

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CHAPTER 1021

An act to amend Sections 7480 and 7490 of the Government Code, and to amend Section 1092 of the Unemployment Insurance Code, relating to financial records.

[Approved by Governor September 26, 1979 Filed with Secretary of State September 26, 1979]

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

SECTION 1 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 or credit union 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 or credit union in this state, such police or sheriff's department or district attorney may request a bank or credit union to furnish, and a bank or credit union 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 or credit union 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, the Employment Development Department, the Controller or an inheritance tax referee when administering the

Inheritance Tax Law (Part 8 (commencing with Section 13301), Division 2, Revenue and Taxation Code), 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 2 Section 7490 of the Government Code is amended to read

7490 Except as provided in Sections 6069, 10145, 10146, and 17766 5 of the Business and Professions Code, Sections 25134, 25241, 29535, and 31111 of the Corporations Code, Sections 12300.3, 15101, 17409, 18612, 18945, 18986, 22406 and 24406 of the Financial Code,

Section 12586 of the Government Code, Sections 1351.1, 1352 and 1357 of the Health and Safety Code, Sections 904 and 1703 of the Insurance Code, Section 1092 of the Unemployment Insurance Code, and Section 11703.4 of the Vehicle Code, no waiver by a customer of any right or procedure hereunder shall be valid, whether oral or written, and whether with or without consideration

SEC. 3 Section 1092 of the Unemployment Insurance Code is amended to read:

1092. Every employing unit shall furnish to the director, referee, or deputy, upon demand, a sworn statement of the matters contained in the records required by Section 1085. If such records are kept pursuant to contract with a financial institution as defined in Section 7465 of the Government Code, the employing unit shall also furnish to the director or the director's authorized representative an authorization for disclosure of such account or accounts. The authorization for disclosure shall be that provided for in Section 7473 of the Government Code. Such records shall be open to inspection and shall be subject to being copied by the director or his authorized representative at any time during the business hours of the employing unit. Any claimant or his authorized representative at a hearing before a deputy or referee or the Appeals Board shall be supplied with information from such records to the extent necessary for the proper presentation of his claim.

CHAPTER 1022

An act to amend Sections 22650 and 22658 of, to add Section 22852 to, and to repeal Section 22852 of, the Vehicle Code, relating to vehicles.

[Approved by Governor September 26, 1979 Filed with Secretary of State September 26, 1979]

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

SECTION 1. Section 22650 of the Vehicle Code is amended to read:

22650. It is unlawful for any peace officer or any unauthorized person to remove any unattended vehicle from a highway to a garage or to any other place, except as provided in this code

(a) Those law enforcement and other agencies identified in this chapter as having the authority to remove vehicles shall also have the authority to provide hearings in compliance with the provisions of Section 22852 During these hearings the storing agency shall have the burden of establishing the authority for, and the validity of, the removal.

(b) Nothing in this section shall be deemed to prevent a review or other action as may be permitted by the laws of this state by a

court of competent jurisdiction.

SEC. 2. Section 22658 of the Vehicle Code is amended to read.

22658 (a) The owner or person in lawful possession of any private property may, subsequent to giving notice to the city police or county sheriff, whichever is appropriate, cause the removal of a vehicle parked on such property to the nearest public garage if there is displayed in plain view on the property a sign prohibiting public parking and containing the telephone number of the local traffic law enforcement agency. The person causing removal of such vehicle shall, if the person knows or is able to ascertain from the registration records of the Department of Motor Vehicles the name and address of the registered and legal owner thereof, immediately give or cause to be given notice in writing to such registered and legal owner of the fact of such removal, the grounds for the removal, and indicate the place to which such vehicle has been removed. In the event the vehicle is stored in a public garage a copy of the notice shall be given to the proprietor of the garage The notice provided for in this section shall include the amount of mileage on the vehicle at the time of removal If the person does not know and is not able to ascertain the name of the owner or for any other reason is unable to give the notice to the owner as provided in this section, such person causing removal of such vehicle shall comply with the requirements of Section 22853 relating to notice in the same manner as applicable to an officer removing a vehicle from private property. The provisions of this section shall not limit or affect any right or remedy which the owner or person in lawful possession of private property may have by virtue of other provisions of law authorizing the removal of a vehicle parked upon such property.

(b) The owner of a vehicle removed from private property pursuant to subdivision (a) may recover for any damage to the vehicle resulting from any intentional or negligent act of any person causing the removal of, or removing, the vehicle.

SEC 3 Section 22852 of the Vehicle Code is repealed

SEC 4. Section 22852 is added to the Vehicle Code, to read:

22852. Whenever an authorized member of a public agency directs the storage of a vehicle, as permitted by this chapter, or upon the storage of any vehicle as permitted herein (except as provided in subdivision (c)), the agency or person directing the storage shall provide the vehicle's registered and legal owners of record, or their agents, with the opportunity for a post-storage hearing to determine the validity of the storage.

(a) A notice of such storage shall be mailed or personally delivered to the registered and legal owners within 48 hours, excluding weekends and holidays, and shall include the following information

(1) The name, address, and telephone number of the agency providing the notice,

(2) The location of the place of storage and description of the vehicle which shall include, if available, the name or make, the

manufacturer, the license plate number, and the mileage;

(3) The authority and purpose for the removal of the vehicle.

Such notification shall also specify that, in order to receive their post-storage hearing, such owners, or their agents, must request the hearing in person, writing, or by telephone within 10 days of the date appearing on the notice. Any such hearing shall be conducted within 48 hours of the request, excluding weekends and holidays. The public agency may authorize its own officer or employee to conduct the hearing, so long as such hearing officer is not the same person who directed the storage of the vehicle.

(b) Failure of either the registered or legal owner, or their agent, to request or to attend a scheduled hearing shall satisfy the post-storage validity hearing requirement of this section.

The agency employing the person who directed the storage shall be responsible for the costs incurred for towing and storage if it is determined in the hearing that probable cause for the storage cannot be established

(c) The provisions of this section shall not apply to the removal of vehicles abated under the Abandoned Vehicle Abatement Program pursuant to Sections 22660 to 22668, inclusive, and Section 22710, or to vehicles impounded for investigation pursuant to Section 22655, or to vehicles removed from private property pursuant to Section 22658

SEC 5. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because the performance of any service required to be performed by this act is mandated by judicial decision. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 1023

An act to amend Sections 1791, 1791.1, 1792 2, and 1793 of, to add Sections 1793.02 and 1794 2 to, and to repeal Section 1794.2 of, the Civil Code, relating to consumer warranties.

[Approved by Governor September 26, 1979 Filed with Secretary of State September 26, 1979]

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

SECTION 1 Section 1791 of the Civil Code is amended to read·

1791. As used in this chapter·

(a) "Consumer goods" means any new product or part thereof that is used or bought for use primarily for personal, family, or household purposes, except for clothing and consumables. "Consumer goods" shall include new and used assistive devices sold at retail

(b) "Buyer" or "retail buyer" means any individual who buys consumer goods from a person engaged in the business of

manufacturing, distributing, or selling such goods at retail. As used in this subdivision, "person" means any individual, partnership, corporation, association, or other legal entity which engages in any such business

(c) "Clothing" means any wearing apparel, worn for any purpose, including under and outer garments, shoes, and accessories composed primarily of woven material, natural or synthetic yarn, fiber, or leather or similar fabric.

(d) "Consumables" means any product which is intended for consumption by individuals, or use by individuals for purposes of personal care or in the performance of services ordinarily rendered within the household, and which usually is consumed or expended in the course of such consumption or use

(e) "Distributor" means any individual, partnership, corporation, association, or other legal relationship which stands between the manufacturer and the retail seller in purchases, consignments, or contracts for sale of consumer goods

(f) "Independent repair or service facility" or "independent service dealer" means any individual, partnership, corporation, association, or other legal entity, not an employee or subsidiary of a manufacturer or distributor, which engages in the business of servicing and repairing consumer goods

(g) "Manufacturer" means any individual, partnership, corporation, association, or other legal relationship which manufactures, assembles, or produces consumer goods.

(h) "Place of business" means, for the purposes of any retail seller that sells consumer goods by catalog or mail order, the distribution point for such goods

(i) "Retail seller," "seller," or "retailer" means any individual, partnership, corporation, association, or other legal relationship which engages in the business of selling consumer goods to retail buyers

(j) "Return to the retail seller" means, for the purposes of any retail seller that sells consumer goods by catalog or mail order, the retail seller's place of business, as defined in subdivision (h)

(k) "Sale" means (1) the passing of title from the seller to the buyer for a price, or (2) a consignment for sale.

(*l*) "Service contract" means a contract in writing to perform, over a fixed period of time or for a specified duration, services relating to the maintenance or repair of a consumer product

(m) "Assistive device" means any instrument, apparatus, or contrivance, including any component or part thereof or accessory thereto, which is used or intended to be used, to assist a physically disabled person in the mitigation or treatment of an injury or disease or to assist or affect or replace the structure or any function of the body of a physically disabled person

(n) "Catalogue or similar sale" means a sale in which neither the seller nor any employee or agent of the seller nor any person related to the seller nor any person with a financial interest in the sale participates in the diagnosis of the buyer's condition or in the selection or fitting of the device

SEC. 1 5. Section 1791 1 of the Civil Code is amended to read:

1791.1. As used in this chapter:

(a) "Implied warranty of merchantability" or "implied warranty that goods are merchantable" means that the consumer goods meet each of the following:

(1) Pass without objection in the trade under the contract description.

(2) Are fit for the ordinary purposes for which such goods are used

(3) Are adequately contained, packaged, and labeled.

(4) Conform to the promises or affirmations of fact made on the container or label

(b) "Implied warranty of fitness" means (1) that when the retailer, distributor, or manufacturer has reason to know any particular purpose for which the consumer goods are required, and further, that the buyer is relying on the skill and judgment of the seller to select and furnish suitable goods, then there is an implied warranty that the goods shall be fit for such purpose and (2) that when there is a sale of an assistive device sold at retail in this state, then there is an implied warranty by the retailer that the device is specifically fit for the particular needs of the buyer.

(c) The duration of the implied warranty of merchantability and where present the implied warranty of fitness shall be coextensive in duration with an express warranty which accompanies the consumer goods, provided the duration of the express warranty is reasonable, but in no event shall such implied warranty have a duration of less than 60 days nor more than one year following the sale of new consumer goods to a retail buyer. Where no duration for an express warranty is stated with respect to consumer goods, or parts thereof, the duration of the implied warranty shall be the maximum period prescribed above.

(d) Any buyer of consumer goods injured by a breach of the implied warranty of merchantability and where applicable by a breach of the implied warranty of fitness has the remedies provided in Chapter 6 (commencing with Section 2601) and Chapter 7 (commencing with Section 2701) of Division 2 of the Commercial Code, and, in any action brought under such provisions, Section 1794 of this chapter shall apply.

SEC. 2. Section 1792.2 of the Civil Code is amended to read.

1792 2. (a) Every sale of consumer goods that are sold at retail in this state by a retailer or distributor who has reason to know at the time of the retail sale that the goods are required for a particular purpose, and that the buyer is relying on the retailer's or distributor's skill or judgment to select or furnish suitable goods shall be accompanied by such retailer's or distributor's implied warranty that the goods are fit for that purpose.

(b) Every sale of an assistive device sold at retail in this state shall be accompanied by the retail seller's implied warranty that the device is specifically fit for the particular needs of the buyer.

SEC 3. Section 1793 of the Civil Code is amended to read.

1793 Except as provided in Section 1793 02, nothing in this

chapter shall affect the right of the manufacturer, distributor, or retailer to make express warranties with respect to consumer goods. However, a manufacturer, distributor, or retailer, in transacting a sale in which express warranties are given, may not limit, modify, or disclaim the implied warranties guaranteed by this chapter to the sale of consumer goods

SEC. 4 Section 1793.02 is added to the Civil Code, to read:

1793 02 (a) All new and used assistive devices sold at retail in this state shall be accompanied by the retail seller's written warranty which shall contain the following language: "This assistive device is warranted to be specifically fit for the particular needs of you, the buyer. If the device is not specifically fit for your particular needs, it may be returned to the seller within 30 days of the date of actual receipt by you or completion of fitting by the seller, whichever occurs later If you return the device, the seller will either adjust or replace the device or promptly refund the total amount paid. This warranty does not affect the protections and remedies you have under other laws." In lieu of the words "30 days" the retail seller may specify any longer period

(b) The language prescribed in subdivision (a) shall appear on the first page of the warranty in at least 10-point bold type. The warranty shall be delivered to the buyer at the time of the sale of the device.

(c) If the buyer returns the device within the period specified in the written warranty, the seller shall, without charge and within a reasonable time, adjust the device or, if appropriate, replace it with a device that is specifically fit for the particular needs of the buyer. If the seller does not adjust or replace the device so that it is specifically fit for the particular needs of the buyer, the seller shall promptly refund to the buyer the total amount paid, the transaction shall be deemed rescinded, and the seller shall promptly return to the buyer all payments and any assistive device or other consideration exchanged as part of the transaction and shall promptly cancel or cause to be cancelled all contracts, instruments, and security agreements executed by the buyer in connection with the sale When a sale is rescinded under this section, no charge, penalty, or other fee may be imposed in connection with the purchase, fitting, financing, or return of the device

(d) With respect to the retail sale of an assistive device to an individual, organization, or agency known by the seller to be purchasing for the ultimate user of the device, this section and subdivision (b) of Section 1792.2 shall be construed to require that the device be specifically fit for the particular needs of the ultimate user

(e) This section and subdivision (b) of Section 1792.2 shall not apply to any sale of an assistive device which is a catalogue or similar sale or which involves a retail sale price of less than fifteen dollars ($15)

(f) The rights and remedies of the buyer under this section and subdivision (b) of Section 1792 2 are not subject to waiver under

Section 1792 3. The rights and remedies of the buyer under this section and subdivision (b) of Section 1792 2 are cumulative, and shall not be construed to affect the obligations of the retail seller or any other party or to supplant the rights or remedies of the buyer under any other section of this chapter or under any other law or instrument

(g) Section 1795.5 shall not apply to a sale of used assistive devices, and for the purposes of the Song-Beverly Consumer Warranty Act the buyer of a used assistive device shall have the same rights and remedies as the buyer of a new assistive device

(h) The language in subdivision (a) shall not constitute an express warranty for purposes of Sections 1793 2 and 1793 3.

SEC. 5 Section 1794.2 of the Civil Code is repealed.

SEC. 6 Section 1794 2 is added to the Civil Code, to read·

1794.2 The provision of Section 1794 authorizing the recovery of three times the amount of the buyer's actual damages shall not apply to either of the following.

(a) A cause of action commenced or maintained pursuant to Section 382 of the Code of Civil Procedure or pursuant to Section 1781 of this code

(b) A judgment based solely on a breach of the implied warranty of merchantability, or, where present, the implied warranty of fitness

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CHAPTER 1024

An act to add and repeal Section 4432 of the Welfare and Institutions Code, relating to state hospitals.

[Approved by Governor September 26, 1979 Filed with Secretary of State September 26, 1979]

The people of the State of California do enact as follows

SECTION 1 Section 4432 is added to the Welfare and Institutions Code, to read·

4432. The department shall conduct a study or pilot project, or both, in one or more state hospitals to determine the cost-effectiveness and feasibility of providing, at the same level of quality, all or some portion of food services, janitorial services, medical/surgical services, laundry services, or pharmacy services, or the management of one or more services, by contract with private providers

The department shall submit a report to the Legislature on the results of the study or pilot project, or both, on or before January 1, 1982

This section 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.

CHAPTER 1025

An act to amend Sections 61305, 61341, 61381, 61441, and 62096 of, to add Section 4107 to, to amend and renumber Sections 61443 and 61444 of, to amend, repeal, and add Section 61378 of, to repeal Article 5 (commencing with Section 61411) of Chapter 1 of Part 3 of Division 21 of, and to repeal Sections 61307 and 61442 of, the Food and Agricultural Code, relating to agriculture.

[Approved by Governor September 26, 1979 Filed with Secretary of State September 26, 1979]

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

SECTION 1 Section 4107 is added to the Food and Agricultural Code, to read·

4107 Notwithstanding any other provision of law, a Member of the Legislature representing any district in Los Angeles County may be appointed as a director of the California Museum of Science and Industry.

SEC 1 2 Section 61305 of the Food and Agricultural Code is amended to read

61305. "Dairy product" means any product classified as Class 1 or Class 2 under the provisions of Section 61932, 61933, or 61936; any frozen product or frozen product mix manufactured in a milk products plant licensed under Part 3 (commencing with Section 36601) of Division 15, butter, American or cheddar cheese; Monterey jack cheese; pasteurized process cheese; and any filled product or any imitation milk product in which the use of market milk or any component of market milk is required by Section 38925.

SEC. 1 3 Section 61307 of the Food and Agricultural Code is repealed

SEC. 1 4 Section 61341 of the Food and Agricultural Code is amended to read·

61341 The director may adopt regulations for the proper administration and enforcement of the provisions of this chapter. Any violation of any such regulation is subject to the remedies, procedures, and penalties which are provided in Article 10 (commencing with Section 61571) of this chapter.

SEC. 1 5 Section 61378 of the Food and Agricultural Code is amended to read

61378 A distributor shall not allow or give any payment of money, credit, compensation, gift, or loan of anything of value to a wholesale customer for advertising or display in connection with the sale of the distributor's dairy products as follows·

(a) Dairy products classified as Class 1

(b) Dairy products classified as Class 2 for which market milk is required, except market creams, sour cream, and sour cream dressing; provided that, when any such payment or loan is permissible, it shall apply only to products sold under a distributor's own registered brand

This section 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. 1.7. Section 61378 is added to the Food and Agricultural Code, to read:

61378. A distributor shall not allow or give any payment of money, credit, compensation, gift, or loan of anything of value to a wholesale customer for advertising or display in connection with the sale of the distributor's dairy products as follows:

(a) Dairy products classified as Class 1, except yogurts.

(b) Dairy products classified as Class 2 for which market milk is required, except market creams, sour cream, and sour cream dressing.

When any such payment or loan is permissible, it shall apply only to products sold under a distributor's own registered brand.

This section shall become operative on January 1, 1981.

SEC. 2. Section 61381 of the Food and Agricultural Code is amended to read:

61381. Any false or misleading advertising, as defined in Sections 32914 and 36062 of this code, and Sections 17500, 17501, and 17502 of the Business and Professions Code, of milk, cream, or any dairy product is an unfair practice.

SEC. 3. Article 5 (commencing with Section 61411) of Chapter 1 of Part 3 of Division 21 of the Food and Agricultural Code is repealed.

SEC. 4. Section 61441 of the Food and Agricultural Code is amended to read:

61441. Every distributor or manufacturer of milk, cream, or any dairy product shall maintain and keep, for a period of one year from their initial recordation, or for a period of one year from their expiration date, whichever period is longer, all of the following records.

(a) A record of all milk, cream, or dairy products received, detailed as to location, names and addresses of suppliers, prices paid, and deductions or charges made, and the use to which such milk or cream was put.

(b) A record of all milk, cream, or dairy products sold, classified as to kind and grade of milk, cream, or dairy product, showing where such milk, cream, and dairy products were sold, the quantities sold, the amounts received for such sales, and the written price schedules maintained by the distributor or manufacturer for all milk, cream, and dairy products sold

(c) A record of the wastage or loss of milk or any dairy product.

(d) A record of all costs of manufacturing, processing, handling, sale, and delivery, including overhead costs.

(e) A record of all property or financial transactions, other than those for which records are maintained under subdivision (b) of this section, between the distributor or manufacturer and wholesale customers

(f) Such other records as the director may deem necessary for the proper enforcement of this chapter.

SEC. 5. Section 61442 of the Food and Agricultural Code is repealed.

SEC. 6 Section 61443 of the Food and Agricultural Code is amended and renumbered to read:

61442. The director shall have access to, and may enter at all reasonable hours, any place where any dairy product is being processed, bottled, stored, kept, or sold, or where the books, papers, records, or documents pertaining to any transaction which relates to any dairy product is kept. He may inspect and copy such books, papers, records, or documents in any place within the state.

SEC. 7 Section 61444 of the Food and Agricultural Code is amended and renumbered to read:

61443 Any record or report which is made to the director pursuant to any provision of this article is confidential and shall not be divulged, except if necessary for the proper determination of any court proceeding or hearing before the director.

SEC. 8 Section 62096 of the Food and Agricultural Code is amended to read:

62096. Except as otherwise provided in Section 62098, the purchase of any market milk in excess of 200 gallons monthly from any producer unless a written contract, which complies with all of the requirements which are prescribed by this section, has been entered into with such producer is an unlawful trade practice.

The contract shall include all of the following:

(a) The amount of market milk which is to be purchased for any period

(b) Except as otherwise provided in this subdivision, the minimum quantity of such market milk which is to be paid for as class 1, if any is to be purchased for class 1 purposes The quantity shall be stated in pounds of market milk, pounds of market milk fat, or gallons of market milk, unless the price which is to be paid for such class 1 market milk is established separately for the market milk fat and market skim milk contained in such market milk. If it is, the quantity to be paid for as class 1 shall be stated in pounds of market milk, pounds of market milk fat, or gallons of market milk, or both in pounds of market milk fat and pounds of market skim milk separately.

The minimum quantity of market milk to be paid for as class 1 shall not be less than 70 percent of the total quantity provided in the contract to be purchased at a milk products plant, and not less than 60 percent of the total quantity of market milk fat, or the total quantity of market skim milk components, but not necessarily both, provided in the contract to be purchased at a country plant, as

defined by the director in stabilization and market plans.

(c) The price to be paid for all market milk received.

(d) The date and method of payment for such market milk, which shall be that payment shall be made for approximately one-half of the market milk delivered in any calendar month not later than the first day of the next following month and the remainder not later than the 15th day of that month

(e) The charges for transportation if hauled by the handler.

(f) A proviso that no market milk received within the total quantity provided by the contract to be purchased for any period shall be paid for at less than the minimum price for market milk used for class 2

The contract may contain such other provisions as are not in conflict with this chapter. A signed copy of such contract shall be filed by the handler with the director within five days from the date of its execution

Subdivisions (b) and (f) shall not be applicable if an equalization pool, as provided for under Chapter 3 (commencing with Section 62700) is in effect for the area in which the purchase of the market milk occurs.

CHAPTER 1026

An act to amend Section 1143 of the Probate Code, relating to public administrators

[Approved by Governor September 26, 1979 Filed with Secretary of State September 26, 1979]

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

SECTION 1. Section 1143 of the Probate Code is amended to read

1143 (a) Except as provided in subdivision (b), when a public administrator takes possession of the estate of a decedent as provided in this chapter, and it appears that the total value of the estate of the decedent does not exceed twenty thousand dollars ($20,000) excluding any motor vehicle owned by the decedent, the public administrator may apply to the superior court of his county or a judge thereof for an order permitting him summarily to sell any personal property belonging to the decedent, and to withdraw any money of the decedent on deposit with any bank, and to collect any indebtedness or claim that may be owing to the decedent The money received from any such sale or collection shall be used to pay commissions to the public administrator, and to defray the expenses of the burial of the decedent and the expenses of his last illness, the balance, if any, shall be used to pay other claims approved by the court, and there shall be no administration upon the estate unless

additional property is discovered. No notice of the application need be given. The application may be filed whether or not there is a will of the decedent in existence, if the executor named therein refuses to act, or if the will does not appoint an executor.

(b) When a public administrator takes possession of the estate of a decedent as provided in this chapter, and it appears that the total value of the estate of the decedent does not exceed five hundred dollars ($500), the public administrator may, instead of applying to the superior court or judge thereof for an order provided in subdivision (a), apply such money or proceeds from the sale of any personal property towards the expense of the burial of the decedent or may deposit such money with the county treasurer for use in the general fund without regard for any claims, other than preferred claims, against the decedent's estate.

(c) The commissions payable to the public administrator pursuant to this section and the attorney, if any, for the public administrator for the filing of the application provided for in this section, and for the performance of any duty or service connected therewith, are those set forth in Section 901, except that, in any case administered pursuant to this section, the public administrator shall be entitled to a minimum of two hundred fifty dollars ($250) if there are sufficient proceeds in the decedent's estate therefor.

SEC. 1.5. Section 1143 of the Probate Code is amended to read.

1143. (a) Except as provided in subdivision (b), when a public administrator takes possession of the estate of a decedent as provided in this chapter, and it appears that the total value of the estate of the decedent does not exceed twenty thousand dollars ($20,000) excluding any motor vehicle owned by the decedent, the public administrator may apply to the superior court of his county or a judge thereof for an order permitting him summarily to sell any personal property belonging to the decedent, and to withdraw any money of the decedent on deposit with any bank, and to collect any indebtedness or claim that may be owing to the decedent. The money received from any such sale or collection shall be used to pay commissions to the public administrator, and to defray the expenses of the burial of the decedent and the expenses of his last illness; the balance, if any, shall be used to pay other claims presented to the public administrator within four months of the above order and there shall be no administration upon the estate unless additional property is discovered No notice of the application need be given. The application may be filed whether or not there is a will of the decedent in existence, if the executor named therein refuses to act, or if the will does not appoint an executor.

(b) When a public administrator takes possession of the estate of a decedent as provided in this chapter, and it appears that the total value of the estate of the decedent does not exceed five hundred dollars ($500), the public administrator may, instead of applying to the superior court or judge thereof for an order provided in subdivision (a), apply such money or proceeds from the sale of any

personal property towards the expense of the burial of the decedent, pay other proper claims against the decedent's estate, and deposit the balance with the county treasurer for use in the general fund.

(c) The commissions payable to the public administrator pursuant to this section and the attorney, if any, for the public administrator for the filing of the application provided for in this section, and for the performance of any duty or service connected therewith, are those set forth in Section 901, except that, in any case administered pursuant to this section, the public administrator shall be entitled to a minimum of $250 if there are sufficient proceeds in the decedent's estate therefor.

SEC. 2. The amendments to subdivision (c) of Section 1143 of the Probate Code made by this act shall apply to all decedents' estates which are being administered by a public administrator on the date on which this act becomes operative.

SEC. 3 It is the intent of the Legislature, if this bill and Assembly Bill 1623 are both chaptered and become effective on or before January 1, 1980, both bills amend Section 1143 of the Probate Code, and this bill is chaptered after Assembly Bill 1623, that Section 1143 of the Probate Code, as amended by Section 1 of this act, shall remain operative until the effective date of Assembly Bill 1623, and that on the effective date of Assembly Bill 1623 Section 1143 of the Probate 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 1143 proposed by Assembly Bill 1623. Therefore, if this bill and Assembly Bill 1623 are both chaptered and become effective on or before January 1, 1980, and Assembly Bill 1623 is chaptered before this bill and amends Section 1143, Section 1.5 of this act shall become operative on the effective date of Assembly Bill 1623.

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 there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs

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CHAPTER 1027

An act to add and repeal Chapter 6 (commencing with Section 68001) to Division 22 of the Food and Agricultural Code, relating to marketing of agricultural products, and making an appropriation therefor.

[Approved by Governor September 26, 1979 Filed with Secretary of State September 26, 1979]

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

SECTION 1. Chapter 6 (commencing with Section 68001) is added to Division 22 of the Food and Agricultural Code, to read

CHAPTER 6 CALIFORNIA KIWIFRUIT COMMISSION

Article 1. Declaration and General Provisions

68001 The kiwifruit industry in this state is expanding and can constitute one of California's principal fruit crops The industry can provide an important source of employment for many people in the state, a high proportion of whom are from underprivileged and historically deprived segments of the population.

68002 As an exotic subtropical fruit, the kiwifruit is not heavily consumed in this country or abroad Opportunity exists for continued growth and expansion of the industry, by creating new markets in such areas. The success of such an expansion program is uniquely dependent upon effective advertising and promotion, since the creation of new markets is essentially a matter of educating people to the use of a previously unknown or unrecognized food

68003. The establishment of a California Kiwifruit Commission is necessary for the efficient development and management of a national and international advertising program and essential to ensure that the California kiwifruit industry can compete successfully in the marketplace and reduce the spread between consumer cost and the amount received by the producer

68004 The production and marketing of kiwifruit produced in this state is hereby declared to be affected with public interest The provisions of this chapter are enacted in the exercise of the police power of this state for the purpose of protecting the health, peace, safety, and general welfare of the people of this state

68005. A commission form of administration created by this chapter is designed to deal with the broad fields of advertising, promotion, marketing research, and production research

68006 No action taken by the commission, nor by any individual in accordance with this chapter or with rules or regulations adopted under the chapter, shall be deemed a violation of the Cartwright Act, the Unfair Practices Act, the Fair Trade Act, Section 1673 of the Civil Code, or any rule of statutory or common law against monopolies or combinations in restraint of trade

Article 2 Definitions

68021 Unless the context otherwise requires, the definitions in this article govern the construction of this chapter

68022 "Kiwifruit" means any variety of kiwifruit ("kiwi", "Chinese Gooseberry," or species Actinidia chinensis planch) produced in the state, including any kiwifruit delivered to a

processor for processing into any kiwifruit product

68023. "Books and records" means books, records, contracts, documents, memoranda, papers, correspondence, or other written data pertaining to matters relating to the activities subject to the provisions of this chapter.

68024 "Cooperative producer" means any member of a nonprofit cooperative marketing association marketing kiwifruit.

68025. "Commission" means the California Kiwifruit Commission

68026. "Commissioner" means any member of the commission.

68027 "Distribute" means to engage in the business of a distributor.

68028. "Distributor" means any person who engages in the operation of selling, marketing, or distributing kiwifruit which he has produced or purchased or acquired from a producer, or which he is marketing on behalf of a producer, whether as owner, agent, employee, broker, or otherwise. It does not, however, include a retailer, except a retailer who purchases or acquires from, or handles on behalf of any producer, kiwifruit which was not previously subject to regulation by the commission.

68029 "Director" means the Director of Food and Agriculture.

68030 "Districts" shall consist of the following:

(a) District 1 consists of Del Norte, Siskiyou, Modoc, Humboldt, Trinity, Shasta, Lassen, Tehama, Mendocino, Glenn, Butte, and Plumas Counties

(b) District 2 consists of Lake, Colusa, Sutter, Yolo, Napa, Sonoma, Marin, and Solano Counties

(c) District 3 consists of Sierra, Yuba, Nevada, Placer, El Dorado, Alpine, Amador, and Sacramento Counties.

(d) District 4 consists of Contra Costa, Alameda, Santa Clara, Santa Cruz, San Benito, San Mateo, and Monterey Counties.

(e) District 5 consists of San Joaquin, Calaveras, Tuolumne, Mono, Mariposa, Stanislaus, and Merced Counties

(f) District 6 consists of Madera, Fresno, Kings, Tulare, Inyo, and Kern Counties

(g) District 7 consists of San Luis Obispo, Santa Barbara, and Ventura Counties

(h) District 8 consists of San Bernardino, Riverside, Orange, Los Angeles, San Diego, and Imperial Counties

The boundaries of any district may be changed by a two-thirds vote of the commission, which is concurred in by the director, when necessary to maintain similar total production among the districts, and to insure proper representation by producers and handlers Such boundaries need not coincide with county lines

68031 "Ex officio member" shall be a nonvoting member of the commission

68032 "Handle" means to engage in the business of a handler as defined in Section 68033

68033 "Handler" means any person engaged, within this state, as

a distributor in the business of distributing kiwifruit or any person engaged as a processor in the business of processing kiwifruit and employees thereof so engaged.

68034 "Independent handler" means a handler who primarily handles fruit for an independent producer or grower.

68034.5 "Cooperative handler" means a handler who primarily handles fruit for a cooperative producer or grower.

68035. "Independent producer or grower" is a grower who is primarily affiliated with an independent handler

68036 "Marketing research" means any research relating to the sale of kiwifruit

68037 "Marketing season" or "fiscal year" means the period beginning October 1 of any year and extending through the last day of September of the following year

68038 "Nonprofit cooperative association" or "cooperative" means any corporation which is organized pursuant to Chapter 1 (commencing with Section 54001) of Division 20

68039. "Processor" means any person engaged, within this state, in the operation of receiving, grading, packing, canning, fermenting, distilling, extracting, preserving, grinding, crushing, or changing the form of kiwifruit for the purpose of preparing it for market or marketing such kiwifruit, or who is engaged in any other activities which are performed for the purpose of preparing for market or marketing kiwifruit It does not, however, include a person who is engaged in manufacturing from kiwifruit so changed in form another and different product

68040 "Process" means to engage in the business of a processor

68041. "Producer" or "grower," for purposes of voting, means any person who is engaged, within this state, in the business of producing, or causing to be produced for market, kiwifruit, who shall, upon request, provide proof of commodity sale during the preceding crop year as provided in Section 68101

68042 "Production research" means any research related to the production and processing of kiwifruit, other than marketing research

68043 When the director is required to concur in a decision of the commission, he shall indicate his response to the commission within 15 working days from notification of such decision Such response may be a request that additional information be provided

Article 3 The California Kiwifruit Commission

68051 There is in the state government the California Kiwifruit Commission, a state agency operating under authority of this chapter The commission shall be composed of eight kiwifruit producers who are not handlers, two handlers, and one public member Eight producers, one from each district, shall be elected by and from producers within the respective districts One handler shall be elected by and from independent handlers, as defined in Section

68034, and one handler shall be elected by and from cooperative handlers, as defined in Section 68034.5.

The public member shall be appointed by the director from the nominees recommended by the commission.

The director and other appropriate individuals as determined by the commission shall be nonvoting ex officio members of the commission.

68052. The director may require the commission to correct or cease any existing or proposed activity or function which is determined by the director to be in violation of this chapter or not to be in the public interest.

If the commission refuses or fails to cease such activities or functions or to make such corrections as required by the director, the director may, upon written notice, suspend all or a portion of the activities and functions of the commission until such time that the cessation or correction of activities or functions as required by the director has been accomplished by the commission.

Actions of the commission in violation of such written notice shall be without legal force or effect The director, to the extent feasible shall issue such written notice prior to the commission entering into any contractual relationship affecting the existing or proposed activities or functions which are the subject of such written notice.

Upon service of the written notice, the director shall notify the commission, in writing, of the specific acts which he determines are not in the public interest or are in violation of this chapter, his reasons for requiring a cessation or correction of specific existing or proposed activities or functions, and may make recommendations that will make such activities or functions acceptable.

68053 The commission or director may bring an action for judicial relief from the director's written notice, or from noncompliance by the commission with such written notice, in a court of competent jurisdiction, which may issue a temporary restraining order, permanent injunction, or other applicable relief

60854 The commission shall reimburse the director for all expenditures incurred by the director in carrying out his duties and responsibilities under this chapter; provided, however, that the court may, if it finds that the director acted arbitrarily or capriciously in restricting the activities or functions of the commission, relieve the commission of responsibility for payment of the director's legal costs with regard to such action

68054.5 Each member of the commission, except the ex officio members, shall have an alternate member, to be elected in the same manner as the member An alternate member shall, in the absence of the member for whom he is alternate, serve in place of the member on the commission, and shall have, and be able to exercise, all the rights, privileges, and powers of the member when serving on the commission In the event of death, removal, resignation, or the disqualification of a member, the alternate shall act as a member on the commission until a successor is elected and has qualified

68055 Any vacancy on the commission occurring by the failure of any person elected to the commission as a member or alternate member to continue in his position due to a change in status making him ineligible to serve, or through death, removal, or resignation, shall be filled, for the unexpired portion of the term, by the commission by majority vote; provided, however, that such person shall fulfill all the qualifications set forth in this article as required for the member whose office he is to fill. Qualifications of any person to fill a vacancy on the commission shall be certified, in writing, to the director. The director shall notify the commission if he determines that any such person is not qualified

68056 Producer members and their alternates on the commission shall have a financial interest in producing, or causing to be produced, kiwifruit for market.

Handler members and their alternates shall have a financial interest in handling kiwifruit for market.

The public member or his alternate on the commission, shall have all the powers, rights, and privileges of any other member on the commission. The public member shall not have any financial interest in the kiwifruit industry

68057. The term of office of all commissioners, except any ex officio member, shall be for two years from the date of their election and until their successors are qualified; provided, however, that of the first members of the commission, one-half shall serve for one year, and one-half shall serve for two years, with the determination of term of each such member to be made by lot at the time of election. The same selection procedure shall apply to the two handler members Terms of office of each commissioner shall be limited to four consecutive terms

68058 The commission shall be and is hereby declared and created a corporate body It shall have the power to sue and be sued, to contract and be contracted with, and to have and possess all of the powers of a corporation. It may adopt a corporate seal Copies of its proceedings, records, and acts, when authenticated, shall be admissible in evidence in all courts of the state, and shall be prima facie evidence of the truth of all statements therein

68061 A quorum of the commission shall be any seven voting commissioners. Except as provided in Sections 68030 and 68132, the vote of a majority of members present at a meeting at which there is a quorum shall constitute the act of the commission

68062 The director or his representatives shall be notified and may attend each meeting of the commission and any committee meeting of the commission However, the director shall not be entitled to attend an executive session of the commission called for the purpose of discussing potential or actual litigation against the department

68063 No commissioner or member of a committee established by the commission who is a nonmember of the commission shall receive a salary Each commissioner, except ex officio members, and

each member of a committee established by the commission who is a nonmember of the commission may receive a sum of not to exceed one hundred dollars ($100) per day, as established by the commission, for each day spent in actual attendance on, or in traveling to and from, meetings of the commission or committees of the commission, or on special assignment for the commission, approved by the commission, together with the necessary traveling expenses and meal allowances, as approved by the commission.

68064. All moneys received by any person from the assessments levied under the authority of this chapter or otherwise received by the commission, shall be deposited in such banks as the commission may designate and shall be disbursed by order of the commission through such agent or agents as it may designate for that purpose. Any such agent or agents shall be bonded by a fidelity bond, executed by a surety company authorized to transact business as such in the State of California, in favor of the commission, in the penal sum of not less than twenty-five thousand dollars ($25,000).

68065. The state shall not be liable for the acts of the commission or its contracts. Payments of all claims arising by reason of the administration of this chapter or acts of the commission shall be limited to the funds collected by the commission. No member of the commission or alternate member, or any employee or agent thereof, shall be personally liable on the contracts of the commission nor shall a commissioner, alternate member, or employee of such commission be responsible individually in any way to any producer or handler or any other person for error in judgment, mistakes, or other acts, either of commission or omission, as principal, agent, or employee, except for his own individual acts of dishonesty or crime. No commissioner or alternate member shall be held responsible individually for any act or omission of any member of such commission. The liability of the commissioners shall be several and not joint, and no commissioner shall be liable for the default of any other commissioner

Article 4. Powers and Duties of the Commission

68081 The powers and duties of the commission, subject to Sections 68052 and 68053, shall include, but are not limited to, all of the following

(a) To adopt, and from time to time, alter, rescind, modify, and amend all proper and necessary bylaws, rules, regulations, and orders for carrying out the provisions of this chapter, including appeals from any bylaw, rule, regulation, or order of the commission

(b) To administer and enforce this chapter, and to do and perform all acts and exercise all powers incidental to, or in connection with or deemed reasonably necessary for, proper or advisable effectuation of the purposes of this chapter

(c) To appoint its own officers, including a chairman, one or more vice chairmen, and such other officers as it deems necessary The

officers shall have the powers and duties delegated to them by the commission

(d) To employ, with the concurrence of the director, a manager to serve, at the pleasure of the commission and the director, as president and chief executive officer of the commission and other personnel, including legal counsel, as necessary to carry out the provisions of this chapter The commission may retain a management firm or any staff from any board, commission, or committee of the state to perform the functions prescribed by this subdivision under the control of the commission

(e) To fix the compensation for all employees of the commission

(f) To appoint committees composed of both members and nonmembers of the commission to advise the commission in carrying out the provisions of this chapter

(g) To establish offices and incur expense, and to enter into any and all contracts and agreements, and to create such liabilities and borrow such funds in advance of receipt of assessments as may be necessary, in the opinion of the commission, for the proper administration and enforcement of this chapter and the performance of its duties

(h) To keep accurate books, records and accounts of all of its dealings, which books, records and accounts shall be subject to an annual audit by an auditing firm selected by the commission with the concurrence of the director The audit shall be made a part of an annual report to all producers and handlers of kiwifruit, copies of which shall also be submitted to the Legislature and the Department of Food and Agriculture In addition, the director may, as he determines necessary, conduct, or cause to be conducted, a fiscal and compliance audit of the commission The Department of Finance may audit books, records, and accounts of the commission at any time

(i) To promote the sale of kiwifruit by advertising and other promotional means, including cost-sharing advertising, for the purpose of maintaining and expanding present markets and creating new and larger intrastate, interstate, and foreign markets for kiwifruit and to educate and instruct the public with respect to kiwifruit and the uses and time to use the several varieties and the healthful properties and nutritional value of kiwifruit

(j) To educate and instruct the wholesale and retail trade with respect to proper methods of handling and selling kiwifruit, to arrange for the performance of dealer service work providing display and other promotional materials, to make market surveys and analyses, to present facts to, and negotiate with, state, federal and foreign agencies on matters which affect the marketing of kiwifruit

(k) To make, in the name of the commission, contracts to render service in formulating and conducting plans and programs, and such other contracts or agreements as the commission may deem necessary for the promotion of the sale of kiwifruit

(l) To conduct and contract with others to conduct scientific

research, including the study, analysis, dissemination, and accumulation of information obtained from such research or elsewhere respecting cultural and production practices, marketing, and distribution of kiwifruit. In connection with such research, the commission shall have the power to accept contributions of, or to match, private, state, or federal funds that may be available for such purposes, and to employ or make contributions of funds to other persons or state or federal agencies conducting such research.

(m) To publish and distribute, without charge, a bulletin or other communication for dissemination of information relating to the kiwifruit industry to producers and handlers.

(n) To establish an assessment rate to defray operating costs of the commission.

(o) To establish an annual budget according to acceptable accounting practices. The budget shall be concurred in by the director prior to disbursement of funds, except for disbursements made pursuant to subdivision (e) of Section 68081.

(p) To submit a statement of contemplated annual activities authorized under this chapter, including advertising, promotion, marketing research, and production research, which shall be concurred in by the director.

Article 5 Implementation and Voting Procedures

68091 Within 90 days after January 1, 1980, the director shall establish a list of producers eligible to vote on implementation of this chapter In establishing such list, the director shall require that handlers, county agricultural commissioners, and kiwifruit producers in this state submit the names, mailing addresses, and district numbers of all kiwifruit producers who produce 500 pounds or more of kiwifruit per year The request for such information shall be in writing Such list shall be filed within 30 days following receipt of such written notice

Any producer of kiwifruit, whose name does not appear upon the director's list of producers affected, may have his name established on such list by filing with the director a signed statement, identifying himself as a producer. Failure to be on such list does not exempt the producer from paying assessments under this chapter.

68092 The provisions of this chapter, except as necessary to conduct an implementation referendum vote, shall not become operative until the director finds, in a referendum conducted by the director, that at least 40 percent of the total number of producers from the list established by the director pursuant to Section 68091, participate, and that

(a) Sixty-five percent or more of the producers who voted in the referendum, and the producers so voting marketed a majority or more of the total quantity of kiwifruit in the preceding season by all of the producers who voted in the referendum, voted in favor of the provisions of this chapter, or

(b) A majority or more of the producers who voted in the referendum, and the producers so voting marketed 65 percent or more of the total quantity of kiwifruit in the preceding season by all of the producers who voted in the referendum, voted in favor of the provisions of this chapter.

68093. The director shall establish a period in which to conduct such referendum which shall not be less than 10 days nor more than 60 days in duration, and may prescribe such additional procedure as may be necessary to conduct such a referendum. If the initial period established is less than 60 days, the director may extend such period However, the total referendum period may not exceed 60 days.

68094. Nonreceipt of a ballot shall not invalidate such a referendum.

68095. If the director finds that a favorable vote has been given as provided in Section 68092, he shall certify and give notice of such favorable vote to all producers and handlers whose names and addresses may be on file with the director

68096. If the director finds that a favorable vote has not been given as provided in Section 68092, he shall so certify and declare all provisions of this chapter inoperative.

68097 Upon certification of the commission, the director shall call meetings of producers in each district for the purpose of nominating and electing persons for appointment to the commission by the director All producers on the director's list shall be given written notice of the election meetings at least 15 days prior to the meeting date

68098 Subsequent to the first election of commissioners under this chapter, persons to be elected to the commission shall be selected pursuant to such nomination and election procedures as shall be established by the commission with the concurrence of the director.

68099 Prior to the referendum vote conducted by the director pursuant to Section 68092, the proponents of the commission shall deposit with the director such amount as the director may deem necessary to defray the expenses of preparing the necessary lists and information and conducting such vote.

Any unused funds in carrying out the provisions of Section 68092 shall be returned to the proponents of the commission who deposited the funds with the director

Upon establishment of the commission, the commission is authorized to reimburse the proponents of the commission for any funds deposited with the director and which were used in carrying out the provisions of Section 68092 and for any legal expenses and costs incurred in establishing the commission

Article 6 Assessments and Records

68101 The commission shall not later than October 1 of each year, establish the assessment for the following year beginning

October 1 and ending September 30 In no event shall the combined assessment of the commission and any other state authorized kiwifruit production research and market program exceed 6 percent of the gross dollar value of the year's sale of kiwifruit by all producers to handlers

Expenditures for administrative purposes, as defined by the commission, within the maximum assessment shall not exceed 1½ percent of the gross dollar value of sales of kiwifruit by all producers to handlers

The commission shall establish producer gross dollar value through rules and regulations, taking into consideration postharvest expenses and the varying circumstances in handling kiwifruit

68102 The provisions of this chapter do not apply to kiwifruit produced only for the producer's home use or where the kiwifruit are used only for ornamental purposes, provided, however, that such producer shall file an affidavit with the commission establishing that his kiwifruit are not produced for commercial purposes. In any event, no production of kiwifruit in excess of 500 pounds per year is exempt from the assessment under this article.

68103 Every handler shall keep a complete and accurate record of all kiwifruit shipped by him and the name of the producer whose kiwifruit were shipped Such records shall be in simple form and contain such information as the commission shall prescribe Such records shall be preserved by the handler for a period of two years and shall be offered and submitted for inspection at any reasonable time upon written demand of the commission or its duly authorized agent

68104 All proprietary information obtained by the commission or the director from producers or handlers shall be confidential and shall not be disclosed except when required in a judicial proceeding Information on volume shipments, crop value, and any other related information which is required for reports to governmental agencies, financial reports to the commission or aggregate sales and inventory information, and any other such information which the handlers request from the commission to receive in total, excluding individual handler information, may be disclosed by the commission

68105 Assessments provided for in this article shall be upon the producer The handler first handling the kiwifruit being assessed shall deduct such assessments from amounts paid by him to the producer and shall be a trustee of such funds until they are paid to the commission at the time and in the manner prescribed by the commission

68106 Every handler shall be personally liable for the payment of the collected assessments, and failure of the handler to collect the assessment from any producer shall not exempt any handler from such liability

68107 Any assessment which is levied as provided for in this chapter, is a personal debt of every producer so assessed Failure of a handler to make payment of the collected assessment to the

commission shall not relieve the producer of this obligation.

68108 Any producer or handler who fails to file a return or pay any assessment within the time required by the commission shall pay to the commission a penalty of 10 percent of the amount of such assessment determined to be due and, in addition, 1½ percent interest per month on the unpaid balance.

Article 7 Actions and Penalties

68111. It shall be a misdemeanor punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding five hundred dollars ($500), or by both such fine and imprisonment, for any person to do any of the following:

(a) Willfully to render or furnish a false report, statement, or record required by the commission

(b) When engaged in the shipping of kiwifruit or in the wholesale or retail trade of kiwifruit, to fail or refuse to furnish to the commission or its duly authorized agents, upon request, information concerning the name and address of the persons from whom he has received kiwifruit and the quantity so received.

(c) Secrete, destroy, or alter records required to be kept under the provisions of this chapter.

68112 The commission shall adopt procedures for the purpose of according individuals aggrieved by its actions or determinations an informal hearing before the commission, or before a committee of the commission designated for such purpose. Appeals from decisions of the commission may be made to the director. The determination of the director shall be subject to judicial review upon petition filed with the appropriate superior court.

68113. The commission shall be empowered to commence civil actions and to utilize all remedies provided in law or equity for the collection of assessments and civil penalties, and for the obtaining of injunctive relief or specific performance, respecting the provisions of this chapter and the rules and regulations adopted under this chapter Except as provided in Section 68054, upon a favorable verdict for the commission, it shall be entitled to receive reimbursement for any reasonable attorney's fees and other related costs Venue for such actions may be established at the domicile or place of business of the defendant or in the county of the principal office of the commission. The commission may be sued only in the county of its principal office

Article 9 Continuation, Suspension, and Termination

68131 Between October 1, 1984, and September 30, 1985, the commission shall cause a referendum to be conducted among producers in the manner prescribed in Section 68092 to determine whether the operations of the provisions of this chapter shall be reapproved and continued effective If the director finds that a

favorable vote has been given, he shall so certify and all provisions of this chapter shall remain effective. If the director finds that a favorable vote has not been given, he shall so certify and declare the operation of the provisions of this chapter and the commission suspended upon the expiration of the current marketing season ending September 30, 1985 Thereupon, the operations of the commission shall be concluded and funds distributed in the manner provided in Section 68134 No bond or security shall be required for any such referendum

68132 Following a favorable referendum conducted prior to September 30, 1985, a referendum shall be conducted by the commission every fifth year thereafter between October 1st and January 31st, following procedures provided by this section, unless a referendum is conducted as the result of a petition pursuant to Section 68133 In such case the referendum shall be every fifth year following the industry petitioned referendum

68133 Upon the finding of a two-thirds vote of the commission that the operation of the provisions of this chapter has not tended to effectuate its declared purposes, the commission may recommend to the director that the operation of this chapter shall be suspended, provided, that any such suspension shall not become effective until the expiration of the current marketing season The director shall, upon receipt of such recommendation, or may, after a public hearing to review a petition filed with him requesting such suspension, signed by 15 percent of the producers by number who produced not less than 15 percent of the volume in the immediately preceding season, cause a referendum to be conducted among the listed producers to determine if such operation and the operations of the commission shall be suspended, and shall establish a referendum period, which shall not be less than 10 nor more than 60 days in duration The director is authorized to prescribe such additional procedures as may be necessary to conduct such a referendum At the close of the established referendum period, the director shall tabulate the ballots filed during such period If at least 40 percent of the total number of producers from the list established by the director, participate in the referendum, the director shall continue the operation of this chapter, if he finds either one of the following:

(a) Sixty-five percent or more of the producers who voted in the referendum voted in favor of continuation, and the producers so voting marketed a majority or more of the total quantity of kiwifruit marketed in the preceding marketing season by all of the producers who voted in the referendum

(b) That a majority or more of the producers who voted in the referendum voted in favor of continuation, and that the producers so voting marketed 65 percent or more of the total quantity of kiwifruit marketed in the preceding season by all of the producers who voted in the referendum

Should the referendum fail to meet the requirements of subdivision (a) or (b), the director shall suspend the operation of this

chapter upon the expiration of the current marketing season.

68134. After the effective date of suspension of the operation of the provisions of this chapter and of the commission, the operations of the commission shall be concluded and any and all moneys remaining held by the commission, collected by assessment and not required to defray the expenses of concluding and terminating operations of the commission, shall be returned upon a pro rata basis to all persons from whom assessments were collected in the immediately preceding current marketing season; provided further, however, that if the commission finds that the amounts so returnable are so small as to make impractical the computation and remitting of such pro rata refund to such persons, any such moneys remaining and any moneys remaining after payment of all expenses of winding up and terminating operations shall be withdrawn from the approved depository and paid into the State Treasury as unclaimed trust moneys.

68135. Upon suspension of the operation of this chapter and of the commission, the commission shall mail a copy of the notice of suspension to all producers and handlers affected by such suspension whose names and addresses are on file.

68140 This chapter shall remain in effect only until January 1, 1986, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1986, deletes or extends such date

All moneys remaining held by the commission after the repeal of this chapter shall be disposed of in accordance with Section 68134

SEC. 2 No appropriation is made by this act pursuant to Section 2231 or 2234 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. It is recognized, however, that such agency or district may pursue any other remedies available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code

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CHAPTER 1028

An act to amend, repeal and add Section 2982 of the Civil Code, and to amend, repeal and add Section 1900 of the Financial Code, and to amend and repeal Section 1223 of the Financial Code, and to amend Sections, 1371, 1756, 1756 1, 1756 2, 3504, 3514, and 3527 of the Financial Code, and to amend Sections 3370.5, 3371, and 3373 of the Financial Code as amended by Senate Bill No. 1141 of the 1979–80 Regular Session, relating to lenders, and declaring the urgency thereof, to take effect immediately

[Approved by Governor September 26, 1979 Filed with Secretary of State September 26, 1979]

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

SECTION 1. Section 2982 of the Civil Code, as amended by Chapter 278 of the Statutes of 1979, is amended to read:

2982. (a) Every conditional sale contract for the sale of a motor vehicle, with or without accessories, shall be in writing and, if printed, shall be printed in type no smaller than 6-point, and shall contain in a single document all of the agreements of the buyer and seller with respect to the total cost and the terms of payment for the motor vehicle, including any promissory notes or any other evidences of indebtedness. The conditional sale contract or a purchase order shall be signed by the buyer or his authorized representative and by the seller or its authorized representative, and an exact copy thereof shall be furnished the buyer by the seller at the time the buyer and the seller have signed the contract or purchase order No motor vehicle shall be delivered under this chapter until the seller delivers to the buyer a fully executed copy of the conditional sale contract or purchase order and any vehicle purchase proposal and any credit statement which the seller has required or requested the buyer to sign, and which he has signed, during the contract negotiations The seller shall not obtain the signature of the buyer to a contract when it contains blank spaces to be filled in after it has been signed. Every conditional sale contract shall contain, although not necessarily in the sequence or order set forth below, the following separate items

1 The cash price of the motor vehicle described in the conditional sale contract.

2 The amount of the buyer's downpayment, and whether made in cash or represented by the net agreed value of described property traded in, or both, together with a statement of the respective amounts credited for cash and for such property

3 The unpaid balance of cash price, which is the difference between items 1 and 2

4 The cost to the buyer of any insurance, the premium for which is included in the contract balance Any such cost for credit life or disability insurance may be included in the finance charge if the amount thereof is separately stated on the face of the contract

5 The amounts, if any, paid or to be paid to any public officer in connection with the transaction and for license, certificate of title, and registration fees imposed by law

6 The amount of any city, county, or city and county imposed fee or tax for a mobilehome

7 The amount of any mobilehome escrow fee

8 The amount of the state fee for issuance of a certificate of compliance or certificate of waiver pursuant to Section 9889 56 of the Business and Professions Code

9. The amount, if any, charged by the dealer for documentary preparation If a dealer charges a buyer a documentary preparation charge, then the contract shall contain a notice advising the buyer that such charge is not a governmental fee.

10. The amount of the unpaid balance, which is the sum of items 3, 4, 5, 6, 7, 8, and 9

11 The amount, if any, of an administrative finance charge

12 The amount financed, which is the difference between items 10 and 11.

13 The finance charge (i) expressed as the annual percentage rate as defined in Regulation Z and (ii) expressed in dollars.

14 The number, amount, and due dates or periods of payments scheduled to repay the indebtedness and the sum of such payments.

15 The names and addresses of all persons to whom the notice required under Section 2983.2 and permitted under Sections 2983 5 and 2984 of this code is to be sent.

16. (A) Where the contract includes a finance charge determined on the precomputed basis, an identification of the method of computing the unearned portion of the finance charge in the event of prepayment in full of the buyer's obligation and a statement of the amount or method of computation of any charge that may be deducted from the amount of any rebate of such unearned finance charge that will be credited to the obligation or refunded to the buyer. Reference to the Rule of 78's, the sum of the digits, the sum of the periodic time balances or the actuarial method shall constitute a sufficient identification of the method of computing the unearned portion of the finance charge.

(B) Where the contract includes a finance charge which is determined on the simple-interest basis but provides for a minimum finance charge in the event of prepayment in full, a statement of that fact and the amount of the minimum finance charge or its method of calculation

17. (A) Where the contract includes a finance charge which is determined on the precomputed basis, a notice as set forth in either item (i) or (ii) in at least 8-point bold type if the contract is printed

(i) "Notice to the buyer. (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in (2) You are entitled to a completely filled-in copy of this agreement (3) Under the law, you have the right to pay off in advance the full amount due and under certain conditions to obtain a partial refund of the finance charge. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement "

(ii) "Notice to the buyer (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement (3) You can prepay the full amount due under this agreement at any time and under certain conditions obtain a partial refund of the finance

charge Because the refund will be figured by the Rule of 78's, the time when you prepay may affect the ultimate cost of credit under this agreement. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement "

(B) Where the contract includes a finance charge which is determined on the simple-interest basis, a notice, in a least 8-point bold type if the contract is printed, reading as follows "Notice to the buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement (3) You can prepay the full amount due under this agreement at any time. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement."

18 A notice to the buyer, in writing, and, if printed, in type no smaller than 8-point, that complaints concerning unfair or deceptive practices or methods by the seller shall be referred to the seller and, if the complaint is not resolved, may be referred to the Department of Motor Vehicles, Division of Compliance, 2570 24th Street, Sacramento, 95818

Additional items may be included to explain the computations made in determining the amount to be paid by the buyer. If the finance charge or any portion thereof is calculated on the 365-day basis, the amount of the finance charge shown pursuant to item 13 shall be the amount which will be incurred by the buyer if all payments are received by the seller on their respective due dates

(b) If any charge for insurance (other than for credit life or disability) is included in the contract balance and disbursement of any part thereof be made more than one year after the date of the conditional sale contract, any finance charge on the amount to be disbursed after one year shall be computed from the month the disbursement is to be made to the due date of the last installment under the conditional sale contract

(c) (1) If the finance charge is determined by the precomputed basis, the dollar amount of the finance charge shown pursuant to item 13 of subdivision (a) shall not exceed the greater of

(A) One percent of the unpaid balance multiplied by the number of months (computed on the basis of a full month for any fractional month period in excess of 15 days) elapsing between the date of the contract and the due date of the last installment, or

(B) Twenty-five dollars ($25)

(2) If the finance charge or a portion thereof is determined by the simple-interest basis, the dollar amount of the finance charge shown pursuant to item 13 of subdivision (a) shall not exceed the greater of

(A) The product of the unpaid balance multiplied by the maximum annual percentage rate (as defined in Regulation Z)

which would be permitted if subparagraph (A) of paragraph (1) were applicable to the contract; or

(B) (i) Twenty-five dollars ($25) if the unpaid balance does not exceed one thousand dollars ($1,000), (ii) fifty dollars ($50) if the unpaid balance exceeds one thousand dollars ($1,000) but does not exceed two thousand dollars ($2,000), or (iii) seventy-five dollars ($75) if the unpaid balance exceeds two thousand dollars ($2,000).

(3) The holder of the contract shall not charge, collect or receive a finance charge which exceeds the dollar amount shown pursuant to item 13 of subdivision (a), except to the extent caused by (A) the holder's receipt of one or more payments under a contract which provides for determination of the finance charge or a portion thereof on the 365-day basis at a time or times other than as originally scheduled, (B) the use of estimations in the providing of the disclosures required by this chapter to the extent permitted by Regulation Z, or (C) as permitted by subdivision (c) of Section 2982.8.

(4) If the finance charge or a portion thereof is determined by the simple-interest basis and the amount of the unpaid balance exceeds five thousand dollars ($5,000), the holder of the contract may, in lieu of its right to a minimum finance charge under subparagraph (B) of paragraph (2), charge, receive or collect on the date of the contract an administrative finance charge not to exceed seventy-five dollars ($75) provided that the sum of any such administrative finance charge and the portion of the finance charge determined by the simple-interest basis shall not exceed the maximum total finance charge permitted by subparagraph (A) of paragraph (2). Any administrative finance charge which is charged, received or collected by a holder shall be deemed a finance charge earned on the date of the contract.

(d) The contract may provide for a delinquency charge or charges on any installment in default for a period of not less than 10 days in an amount not to exceed in the aggregate 5 percent of the installment, which amount may be collected only once on any installment regardless of the period during which it remains in default. The contract may provide for reasonable collection costs and fees in the event of delinquency

(e) Notwithstanding any provision of a contract to the contrary, the buyer may pay at any time before maturity the entire indebtedness evidenced by the contract without penalty. In the event of prepayment in full.

(1) If the finance charge was determined on the precomputed basis, the amount required to prepay the contract shall be the outstanding contract balance as of that date, provided, however, that the buyer shall be entitled to a refund credit in the amount of the unearned portion of the finance charge, except as provided in paragraphs (3) and (4) The amount of the unearned portion of the finance charge shall be at least as great a proportion of the finance charge, or if the contract has been extended, deferred or refinanced,

of the additional charge therefor, as the sum of the periodic monthly time balances payable more than 15 days after the date of prepayment bears to the sum of all the periodic monthly time balances under the schedule of installments in the contract or, if the contract has been extended, deferred or refinanced, as so extended, deferred or refinanced. Where the amount of the refund credit is less than one dollar ($1), no refund credit need be made by the holder. Any refund credit in the amount of one dollar ($1) or more may be made in cash or credited to the outstanding obligations of the buyer under the contract

(2) If the finance charge or a portion thereof was determined on the simple-interest basis, the amount required to prepay the contract shall be the outstanding contract balance as of that date, including any earned finance charges which are unpaid as of that date and, if applicable, the amount provided in paragraph (3), and provided further that in cases where a finance charge is determined on the 360-day basis, the payments theretofore received will be assumed to have been received on their respective due dates regardless of the actual dates on which such payments were received.

(3) Where the minimum finance charge provided by subparagraph (B) of paragraph (1) of subdivision (c) or subparagraph (B) of paragraph (2) of subdivision (c), if either is applicable, is greater than the earned finance charge as of the date of prepayment, the holder shall be additionally entitled to the difference.

(4) The provisions of this subdivision shall not impair the right of the seller or his assignee to receive delinquency charges on delinquent installments and reasonable costs and fees as provided in subdivision (d) of this section.

(f) Notwithstanding any other provision of this chapter to the contrary, in the event any required downpayment on which no finance charge is imposed is to be made by the buyer to the seller on a conditional sale contract after the date of such contract but prior to the date of the second payment otherwise scheduled, the amount of such payment may be shown in such contract as a deferred portion of the cash downpayment or, if the finance charge is determined on the precomputed basis, as a deduction from the amount of the unpaid balance, and shall be included in the total of payments.

(g) Notwithstanding any other provision of this chapter to the contrary, any information required to be disclosed in a conditional sale contract under this chapter may be disclosed in any manner, method, or terminology required or permitted under Regulation Z, as in effect at the time such disclosure is made Nothing contained in this chapter shall be deemed to prohibit the disclosure in such contract of additional information required or permitted under Regulation Z, as in effect at the time such disclosure is made.

(h) If the requirements of this section are otherwise met, the preparation and use of a separate document for agreements governing the ownership of the wheels, wheel hubs, and axles and

for escrow instructions under Section 11950 of the Vehicle Code, relating to the sale of mobilehomes, shall not violate the single-document requirement of subdivision (a).

Without such an agreement governing the ownership of wheels, wheel hubs, and axles, no dealer or transporter shall remove or cause to be removed any wheel, wheel hub, or axle from any mobilehome. Any price quoted for any mobilehome in a conditional sale contract, purchase order, or security agreement pursuant to this section shall state whether such price includes or excludes the cost of wheels, wheel hubs, and axles. If such price does not include the wheels, wheel hubs, or axles, it shall show a deduction for the cost of such parts not included

(i) This section shall remain in effect only until January 1, 1981, and as of such date is repealed.

SEC 2 Section 2982 is added to the Civil Code, to read:

2982 (a) Every conditional sale contract for the sale of a motor vehicle, with or without accessories, shall be in writing and, if printed, shall be printed in type no smaller than 6-point, and shall contain in a single document all of the agreements of the buyer and seller with respect to the total cost and the terms of payment for the motor vehicle, including any promissory notes or any other evidences of indebtedness The conditional sale contract or a purchase order shall be signed by the buyer or his authorized representative and by the seller or its authorized representative, and an exact copy thereof shall be furnished the buyer by the seller at the time the buyer and the seller have signed the contract or purchase order No motor vehicle shall be delivered under this chapter until the seller delivers to the buyer a fully executed copy of the conditional sale contract or purchase order and any vehicle purchase proposal and any credit statement which the seller has required or requested the buyer to sign, and which he has signed, during the contract negotiations The seller shall not obtain the signature of the buyer to a contract when it contains blank spaces to be filled in after it has been signed. Every conditional sale contract shall contain, although not necessarily in the sequence or order set forth below, the following separate items.

1 The cash price of the motor vehicle described in the conditional sale contract

2 The amount of the buyer's downpayment, and whether made in cash or represented by the net agreed value of described property traded in, or both, together with a statement of the respective amounts credited for cash and for such property

3 The unpaid balance of cash price, which is the difference between items 1 and 2

4 The cost to the buyer of any insurance, the premium for which is included in the contract balance Any such cost for credit life or disability insurance may be included in the finance charge if the amount thereof is separately stated on the face of the contract.

5 The amounts, if any, paid or to be paid to any public officer in

connection with the transaction and for license, certificate of title, and registration fees imposed by law

6 The amount of any city, county, or city and county imposed fee or tax for a mobilehome.

7. The amount of any mobilehome escrow fee.

8 The amount of the state fee for issuance of a certificate of compliance or certificate of waiver pursuant to Section 9889.56 of the Business and Professions Code

9. The amount, if any, charged by the dealer for documentary preparation. If a dealer charges a buyer a documentary preparation charge, then the contract shall contain a notice advising the buyer that such charge is not a governmental fee

10 The amount of the unpaid balance, which is the sum of items 3, 4, 5, 6, 7, 8, and 9.

11 The amount, if any, of an administrative finance charge.

12 The amount financed, which is the difference between items 10 and 11.

13. The finance charge (i) expressed as the annual percentage rate as defined in Regulation Z and (ii) expressed in dollars.

14. The number, amount and due dates or periods of payments scheduled to repay the indebtedness and the sum of such payments.

15. The names and addresses of all persons to whom the notice required under Section 2983 2 and permitted under Sections 2983.5 and 2984 of this code is to be sent.

16. (A) Where the contract includes a finance charge determined on the precomputed basis, an identification of the method of computing the unearned portion of the finance charge in the event of prepayment in full of the buyer's obligation and a statement of the amount or method of computation of any charge that may be deducted from the amount of any rebate of such unearned finance charge that will be credited to the obligation or refunded to the buyer. Reference to the Rule of 78's, the sum of the digits, the sum of the periodic time balances or the actuarial method shall constitute a sufficient identification of the method of computing the unearned portion of the finance charge.

(B) Where the contract includes a finance charge which is determined on the simple-interest basis but provides for a minimum finance charge in the event of prepayment in full, a statement of that fact and the amount of the minimum finance charge or its method of calculation

17. (A) Where the contract includes a finance charge which is determined on the precomputed basis, a notice, in at least 8-point bold type if the contract is printed, reading as follows: "Notice to the buyer (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time and under certain conditions obtain a partial refund of the finance charge. Because the refund will be figured by the Rule of 78's, the time when you prepay

may affect the ultimate cost of credit under this agreement. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement."

(B) Where the contract includes a finance charge which is determined on the simple-interest basis, a notice, in a least 8-point bold type if the contract is printed, reading as follows: "Notice to the buyer· (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in (2) You are entitled to a completely filled-in copy of this agreement (3) You can prepay the full amount due under this agreement at any time. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement."

18 A notice to the buyer, in writing, and, if printed, in type no smaller than 8-point, that complaints concerning unfair or deceptive practices or methods by the seller shall be referred to the seller and, if the complaint is not resolved, may be referred to the Department of Motor Vehicles, Division of Compliance, 2570 24th Street, Sacramento, 95818.

Additional items may be included to explain the computations made in determining the amount to be paid by the buyer. If the finance charge or any portion thereof is calculated on the 365-day basis, the amount of the finance charge shown pursuant to item 13 shall be the amount which will be incurred by the buyer if all payments are received by the seller on their respective due dates.

(b) If any charge for insurance (other than for credit life or disability) is included in the contract balance and disbursement of any part thereof be made more than one year after the date of the conditional sale contract, any finance charge on the amount to be disbursed after one year shall be computed from the month the disbursement is to be made to the due date of the last installment under the conditional sale contract.

(c) (1) If the finance charge is determined by the precomputed basis, the dollar amount of the finance charge shown pursuant to item 13 of subdivision (a) shall not exceed the greater of:

(A) One percent of the unpaid balance multiplied by the number of months (computed on the basis of a full month for any fractional month period in excess of 15 days) elapsing between the date of the contract and the due date of the last installment; or

(B) Twenty-five dollars ($25).

(2) If the finance charge or a portion thereof is determined by the simple-interest basis, the dollar amount of the finance charge shown pursuant to item 13 of subdivision (a) shall not exceed the greater of

(A) The product of the unpaid balance multiplied by the maximum annual percentage rate (as defined in Regulation Z) which would be permitted if subparagraph (A) of paragraph (1)

were applicable to the contract; or

(B) (i) Twenty-five dollars ($25) if the unpaid balance does not exceed one thousand dollars ($1,000), (ii) fifty dollars ($50) if the unpaid balance exceeds one thousand dollars ($1,000) but does not exceed two thousand dollars ($2,000), or (iii) seventy-five dollars ($75) if the unpaid balance exceeds two thousand dollars ($2,000).

(3) The holder of the contract shall not charge, collect or receive a finance charge which exceeds the dollar amount shown pursuant to item 13 of subdivision (a), except to the extent caused by (A) the holder's receipt of one or more payments under a contract which provides for determination of the finance charge or a portion thereof on the 365-day basis at a time or times other than as originally scheduled, (B) the use of estimations in the providing of the disclosures required by this chapter to the extent permitted by Regulation Z, or (C) as permitted by subdivision (c) of Section 2982 8

(4) If the finance charge or a portion thereof is determined by the simple-interest basis and the amount of the unpaid balance exceeds five thousand dollars ($5,000), the holder of the contract may, in lieu of its right to a minimum finance charge under subparagraph (B) of paragraph (2), charge, receive or collect on the date of the contract an administrative finance charge not to exceed seventy-five dollars ($75) provided that the sum of any such administrative finance charge and the portion of the finance charge determined by the simple-interest basis shall not exceed the maximum total finance charge permitted by subparagraph (A) of paragraph (2). Any administrative finance charge which is charged, received or collected by a holder shall be deemed a finance charge earned on the date of the contract.

(d) The contract may provide for a delinquency charge or charges on any installment in default for a period of not less than 10 days in an amount not to exceed in the aggregate 5 percent of the installment, which amount may be collected only once on any installment regardless of the period during which it remains in default. The contract may provide for reasonable collection costs and fees in the event of delinquency.

(e) Notwithstanding any provision of a contract to the contrary, the buyer may pay at any time before maturity the entire indebtedness evidenced by the contract without penalty In the event of prepayment in full.

(1) If the finance charge was determined on the precomputed basis, the amount required to prepay the contract shall be the outstanding contract balance as of that date, provided, however, that the buyer shall be entitled to a refund credit in the amount of the unearned portion of the finance charge, except as provided in paragraphs (3) and (4). The amount of the unearned portion of the finance charge shall be at least as great a proportion of the finance charge, or if the contract has been extended, deferred or refinanced, of the additional charge therefor, as the sum of the periodic monthly

time balances payable more than 15 days after the date of prepayment bears to the sum of all the periodic monthly time balances under the schedule of installments in the contract or, if the contract has been extended, deferred or refinanced, as so extended, deferred or refinanced. Where the amount of the refund credit is less than one dollar ($1), no refund credit need be made by the holder. Any refund credit in the amount of one dollar ($1) or more may be made in cash or credited to the outstanding obligations of the buyer under the contract

(2) If the finance charge or a portion thereof was determined on the simple-interest basis, the amount required to prepay the contract shall be the outstanding contract balance as of that date, including any earned finance charges which are unpaid as of that date and, if applicable, the amount provided in paragraph (3), and provided further that in cases where a finance charge is determined on the 360-day basis, the payments theretofore received will be assumed to have been received on their respective due dates regardless of the actual dates on which such payments were received

(3) Where the minimum finance charge provided by subparagraph (B) of paragraph (1) of subdivision (c) or subparagraph (B) of paragraph (2) of subdivision (c), if either is applicable, is greater than the earned finance charge as of the date of prepayment, the holder shall be additionally entitled to the difference

(4) The provisions of this subdivision shall not impair the right of the seller or his assignee to receive delinquency charges on delinquent installments and reasonable costs and fees as provided in subdivision (d) of this section

(f) Notwithstanding any other provision of this chapter to the contrary, in the event any required downpayment on which no finance charge is imposed is to be made by the buyer to the seller on a conditional sale contract after the date of such contract but prior to the date of the second payment otherwise scheduled, the amount of such payment may be shown in such contract as a deferred portion of the cash downpayment or, if the finance charge is determined on the precomputed basis, as a deduction from the amount of the unpaid balance, and shall be included in the total of payments

(g) Notwithstanding any other provision of this chapter to the contrary, any information required to be disclosed in a conditional sale contract under this chapter may be disclosed in any manner, method, or terminology required or permitted under Regulation Z, as in effect at the time such disclosure is made Nothing contained in this chapter shall be deemed to prohibit the disclosure in such contract of additional information required or permitted under Regulation Z, as in effect at the time such disclosure is made

(h) If the requirements of this section are otherwise met, the preparation and use of a separate document for agreements governing the ownership of the wheels, wheel hubs, and axles and for escrow instructions under Section 11950 of the Vehicle Code,

relating to the sale of mobilehomes, shall not violate the single-document requirement of subdivision (a)

Without such an agreement governing the ownership of wheels, wheel hubs, and axles, no dealer or transporter shall remove or cause to be removed any wheel, wheel hub, or axle from any mobilehome. Any price quoted for any mobilehome in a conditional sale contract, purchase order, or security agreement pursuant to this section shall state whether such price includes or excludes the cost of wheels, wheel hubs, and axles. If such price does not include the wheels, wheel hubs, or axles, it shall show a deduction for the cost of such parts not included.

(i) This section shall become operative on January 1, 1981.

SEC. 3. Section 1223 of the Financial Code is amended to read·

1223 An obligation shall not be deemed secured by personal property or collateral unless the personal property or collateral held as security is of a kind which has not been declared ineligible by the superintendent and unless it has a market value at least 15 percent greater than the amount of the obligations secured thereby. The superintendent may by general regulation declare any particular kinds or classes of personal property ineligible as security. An obligation shall not be deemed secured by real property unless the obligation and the lien securing the same conform to the provisions of Section 1227, 1228, 1236, 1237, or 1238 or the first sentence of Section 1235. Secured and unsecured loans shall be represented by separate notes and shall not be combined in any way within one note or notes

SEC. 4 Section 1223 of the Financial Code is amended to read:

1223. An obligation shall not be deemed secured by personal property or collateral unless the personal property or collateral held as security is of a kind which has not been declared ineligible by the superintendent and unless it has a market value at least 15 percent greater than the amount of the obligations secured thereby. The superintendent may by general regulation declare any particular kinds or classes of personal property ineligible as security. An obligation shall not be deemed secured by real property unless the obligation and the lien securing the same conform to the provisions of Section 1227, 1228, 1236, 1237, 1238, or 1239 or the first sentence of Section 1235 Secured and unsecured loans shall be represented by separate notes and shall not be combined in any way within one note or notes.

SEC. 5. Section 1371 of the Financial Code is amended to read:

1371. The superintendent is authorized upon the written application of any person made upon such form and containing such information as the superintendent may prescribe, accompanied by a fee of one hundred dollars ($100), and when in the superintendent's opinion the purposes of this article will be served thereby, to issue a certificate certifying that in the superintendent's opinion and upon the information furnished the superintendent, specifying the same, any particular security which is issued or guaranteed by the State of

California, by any city, county, political subdivision, or public corporation of the State of California (herein referred to generally as California public corporations), or by any department, board, agency, or authority of the State of California or of any California public corporation constitutes a legal investment for savings and commercial banks pursuant to the provisions of this article. The superintendent may request any public official in whose office information relative to the assessed valuation of taxable property of any California public corporation is kept, or in whose office information relative to the direct debt or the overlapping debt of any California public corporation is kept, or in whose office any other information pertinent to a determination of whether or not any bonds issued by any California public corporation are qualified as investments for savings and commercial banks under this article is kept, to furnish the superintendent such information, and upon such request being made it shall be the duty of such public official to furnish to the superintendent such information.

SEC 6. Section 1756 of the Financial Code is amended to read:

1756 (a) A foreign corporation which is authorized by license under Section 1754 may transact in this state the business of buying, selling, paying, or collecting bills of exchange, of issuing letters of credit, of receiving money for transmission by draft, check, cable or otherwise, and of making loans.

(b) A foreign corporation organized under the laws of another state of the United States of America shall not accept deposits in this state.

(c) A foreign corporation organized under the laws of a foreign country may transact in this state the business of accepting deposits if under the laws of such foreign country a bank or trust company (organized under the laws of the United States or a state thereof) may be authorized to maintain either a branch or agency or may be authorized to own all the shares (except for directors' qualifying shares) of a banking organization organized under the laws of such foreign country, if it has complied with all of the requirements of Sections 1751 and 1756.1, and if it has received from the superintendent written approval under this subdivision to transact such business In this subdivision "foreign country" includes, but is not limited to, any territory of the United States, Puerto Rico, Guam, and the Virgin Islands

SEC. 7 Section 1756.1 of the Financial Code is amended to read.

1756 1. A foreign banking corporation shall not commence to transact in this state the business of accepting deposits, or transact such business thereafter unless it has met the following requirements:

(a) Deposits in each office in this state at which it transacts such business are insured by the Federal Deposit Insurance Corporation in accordance with the provisions of the Federal Deposit Insurance Act

(b) It holds in this state currency, bonds, notes, debentures, drafts,

bills of exchange or other evidences of indebtedness or other obligations payable in the United States or in United States funds or, with the prior approval of the superintendent, in funds freely convertible into United States funds, in an amount not less than 108 per centum of the aggregate amount of liabilities of such foreign banking corporation payable at or through its branch or branches in this state, including acceptances, but excluding (1) accrued expenses, and (2) amounts due and other liabilities to other offices or branches of, and wholly owned (except for a nominal number of directors' shares) subsidiaries of, such foreign banking corporation. For the purposes of this subdivision, the superintendent shall value marketable securities at principal amount or market value, whichever is lower, shall have the right to determine the value of any nonmarketable bond, note, debenture, draft, bill of exchange, other evidence of indebtedness, or of any other obligation held by or owed to the foreign banking corporation or its branch or branches within the state, and in determining the amount of assets for the purpose of computing the above ratio of assets to liabilities, shall have the power to exclude any particular asset but shall give credit to assets required to be maintained pursuant to this subdivision, to reserves required to be maintained by state or federal law, and, subject to such rules and regulations as the superintendent may from time to time promulgate, to deposits and credit balances with unaffiliated banking institutions outside this state if such deposits or credit balances are payable in United States funds or in currencies freely convertible into United States funds; provided that credit given for such deposits and credit balances shall not exceed in aggregate amount such percentage, but not less than 8 per centum, as the superintendent may from time to time prescribe of the aggregate amount of liabilities of such foreign banking corporation, determined as hereinabove provided in this subdivision. If, by reason of the existence or the potential occurrence of unusual and extraordinary circumstances, the superintendent deems it necessary or desirable for the maintenance of a sound financial condition, the protection of depositors and the public interest, and to maintain public confidence in the business of the branch or branches of a foreign banking corporation, he may, notwithstanding anything to the contrary contained in this subdivision, reduce the credit to be given as above provided for deposits and credit balances with unaffiliated banking institutions outside this state and he may require such foreign banking corporation to deposit, in accordance with such rules and regulations as he shall from time to time promulgate, the assets required to be held in this state pursuant to this subdivision with such banks or trust companies or national banks located in this state, as such foreign banking corporation may designate and the superintendent may approve

(c) It has such reserves against such deposits as may be required from time to time by the laws of this state to be maintained by banks and trust companies Amounts carried on the books of any such

foreign banking corporation as credits to the account of another office or branch or wholly owned (except for a nominal number of directors' shares) subsidiary of such foreign banking corporation shall not be deemed to be deposits. However, this subdivision shall not apply to an office of a foreign banking corporation if such office is subject to reserve requirements of the Board of Governors of the Federal Reserve System.

(d) It certifies, at such intervals of time as the superintendent may require, the amount of its shareholders' equity, expressed in the currency of the country of its incorporation, the dollar equivalent of which amount as determined by the superintendent, shall be deemed to be the amount of its shareholders' equity. Loans, purchases, and discounts of notes, bills of exchange, bonds, debentures and other obligations, and extensions of credit and acceptances by such foreign banking corporation within this state shall be subject to the same limitations as to amount in relation to shareholders' equity as may be imposed from time to time by the laws of this state upon banks and trust companies.

SEC. 8 Section 1756.2 of the Financial Code is amended to read:

1756.2. (a) In this section:

(1) "Foreign state" means any foreign government or any department, district, province, county, possession, or other similar governmental organization or subdivision of a foreign government, and any agency or instrumentality of any such foreign government or of any such organization or subdivision.

(2) "Person" means any person, firm, partnership, association, corporation, company, syndicate, estate, trust, business trust, or organization of any kind, or any branch or division thereof.

(b) Notwithstanding the provisions of Sections 1756 and 1756.1 of this code, a foreign banking corporation organized under the laws of a foreign state may transact in this state the business of accepting deposits from any foreign state or from any person which resides, is domiciled, and maintains its principal place of business in a foreign state, if:

(1) Such foreign banking corporation has complied with all of the requirements of Section 1751 of this code; and

(2) Such foreign banking corporation has received from the superintendent written approval under this section to transact such business in this state

(c) A foreign banking corporation which transacts such business in this state shall, with respect to business transacted by it in this state, comply with and be subject to the provisions of Chapter 6 (commencing with Section 750), Chapter 7 (commencing with Section 850), Chapter 8 (commencing with Section 952), and Article 2 (commencing with Section 3370) of Chapter 18 of this division applicable to banks, and the provisions of Chapter 10 (commencing with Section 1200) of this division applicable to commercial banks However, the provisions of Article 3 (commencing with Section 1250) of Chapter 10 of this division shall not apply to an office of a

foreign banking corporation if such office is subject to reserve requirements of the Board of Governors of the Federal Reserve System.

SEC. 9 Section 1900 of the Financial Code is amended to read:

1900. The superintendent shall cause every bank, every foreign banking corporation, every trust company, and the trust department of every title insurance company doing a trust business to be examined to the extent and whenever and as often as he shall deem it advisable, but in no case less than once every two calendar years. The officers and employees of every bank, trust company, title company's trust department, and foreign banking corporation being examined shall exhibit to the examiners, on request, any or all of its securities, books, records, and accounts and shall otherwise facilitate the examination so far as it may be in their power.

This section shall remain in effect only until January 1, 1985, and as of such date is repealed

SEC. 10 Section 1900 is added to the Financial Code, to read

1900. The superintendent shall cause every bank, every foreign banking corporation, every trust company, and the trust department of every title insurance company doing a trust business to be examined to the extent and whenever and as often as he shall deem it advisable, but in no case less than once every two calendar years. On each biennial examination the superintendent shall inquire as to the condition and resources of the bank or foreign banking corporation, the mode of managing its affairs, the actions of its board of directors, the investment and disposition of its funds, the safety and prudence of its management, the security afforded its depositors and creditors, and whether its articles of incorporation and all applicable provisions thereof are being complied with and into such other matters as the superintendent may determine The officers and employees of every bank, trust company, title company's trust department, and foreign banking corporation being examined shall exhibit to the examiners, on request, any or all of its securities, books, records, and accounts and shall otherwise facilitate the examination so far as it may be in their power.

SEC 11 Section 3370 5 of the Financial Code, as amended by Senate Bill No. 1141 of the 1979–1980 Regular Session of the Legislature, is amended to read·

3370 5. A bank shall not make any loan to any executive officer of the bank, directly or indirectly, or to any corporation in which such executive officer is a stockholder, director, officer or employee or to any partnership of which such executive officer is a partner or employee, or for the benefit of such executive officer or on the endorsement, surety, or guaranty of such executive officer, except as follows·

(a) A loan may be made to a corporation of which the executive officer is a director, officer, employee, or a minority stockholder; provided, that if the executive officer is a director, officer, or employee of such corporation or owns or controls directly or

indirectly more than 10 percent of any class of the voting securities of such corporation or if two or more directors or executive officers of the bank own or control more than 20 percent of any class of the voting securities of such corporation, the loan is authorized in advance by a majority of all of the directors of such bank and the affirmative vote of two-thirds of the directors of such bank present at the meeting authorizing such loan, provided, that the interested party shall not vote or participate in any manner in the action of the board authorizing the loan, except with the consent of the superintendent previously obtained in writing.

(b) A loan may be made to a limited partnership of which the executive officer is a limited partner owning or controlling not more than a 50-percent interest, or an employee; provided, that if the executive officer is an employee of such partnership or owns or controls more than a 10-percent interest or if two or more executive officers or directors of the bank own or control more than a 20-percent interest in such partnership, the loan is authorized in the manner provided in subdivision (a).

(c) A loan may be made to an executive officer to finance the purchase, construction, maintenance, or improvement of a dwelling of the executive officer, secured by a first lien on such dwelling; provided, that:

(1) The dwelling, whether existing at the time of the loan or to be constructed with the proceeds of the loan, is owned or after the making of the loan is expected to be owned by such executive officer and used as the executive officer's residence,

(2) The loan is a secured loan within the meaning of Section 1223 provided, however, that the market or appraised value of the property by which the loan is secured shall, for purposes of Section 1223 or any applicable section referred to in Section 1223, be determined by an independent appraisal; and

(3) No other loan to such executive officer under authority of this subdivision is outstanding.

(d) A loan may be made to an executive officer for the purpose of financing the education of the children of such executive officer; provided, that such loan, together with other outstanding loans made to such executive officer under authority of this subdivision, does not exceed the aggregate amount of twenty thousand dollars ($20,000)

(e) A loan may be made to an executive officer if such loan, together with any outstanding loans to the executive officer (other than loans made under authority of subdivisions (a), (b), (c), or (d) of this section), does not exceed ten thousand dollars ($10,000).

(f) No loan authorized by subdivision (c), (d), or (e) may be made if the amount of such loan, when aggregated with the amount of all other loans then outstanding by the bank to such executive officer pursuant to such subdivisions, would exceed twenty-five thousand dollars ($25,000), unless such loan is approved in advance by a majority of all of the directors of such bank, provided, that the interested party shall not vote or participate in any manner in the

action of the board approving the loan, except with the consent of the superintendent previously obtained in writing

SEC 12 Section 3371 of the Financial Code, as amended by Senate Bill No. 1141 of the 1979–1980 Regular Session of the Legislature, is amended to read:

3371. A bank shall not make any loan to a director of the bank, directly or indirectly, or to any corporation of which such director is a stockholder, director, officer, or employee or to any partnership of which such director is a partner or on the endorsement, surety, or guaranty of such director unless:

(a) The loan is secured by obligations of the United States or for the payment of which the faith and credit of the United States are pledged, obligations of the State of California or for the payment of which the faith and credit of the State of California are pledged, or bonds of any city, county, city and county, metropolitan water district, or school district of the State of California; or

(b) The loan is to a corporation of which such director is a stockholder, officer, or director and such director does not own or control more than 10 percent of any class of the voting securities of the corporation and no two or more executive officers or directors of the bank together own or control more than 20 percent of any class of the voting securities of the corporation, or

(c) The loan is to a limited partnership of which such director is a limited partner, and such director does not own or control more than a 10-percent interest in such partnership, and no two or more executive officers or directors of the bank together own or control more than a 20-percent interest in such partnership, or

(d) The amount of the loan, when aggregated with the amount of all other loans (other than loans made under authority of subdivisions (b) and (c)) then outstanding by the bank to such director, directly or indirectly, to any corporation of which such director is a stockholder, director, officer, or employee, to any partnership of which such director is a partner, or on the endorsement, surety, or guaranty of such director, does not exceed twenty-five thousand dollars ($25,000); provided, however, that a loan in excess of such amount may be made if it is approved in advance by a majority of all of the directors of such bank The interested director shall not vote or participate in any manner in the action of the board approving the loan, except with the consent of the superintendent previously obtained in writing

SEC. 13 Section 3373 of the Financial Code, as amended by Senate Bill No 1141 of the 1979–1980 Regular Session of the Legislature, is amended to read·

3373 (a) For the purpose of this article "loan" includes a making or renewal of any loan, a granting of a line of credit, or an extending of credit in any manner whatsoever, and includes

(1) A purchase under repurchase agreement of securities, other assets, or obligations,

(2) An advance by means of an overdraft, cash item, or otherwise,

(3) Issuance of a standby letter of credit (or other similar arrangement regardless of name or description) or acceptance of a time draft which does not meet the requirements for discount with a Federal Reserve Bank;

(4) An acquisition by discount, purchase, exchange, or otherwise of any note, draft, bill of exchange, or other evidence of indebtedness upon which a person may be liable as maker, drawer, endorser, guarantor, or surety;

(5) A discount of promissory notes, bills of exchange, conditional sales contracts, or similar paper, whether with or without recourse, but the acquisition of such paper by a bank from another bank, without recourse, shall not be considered a discount by the bank for the other bank;

(6) An increase of an existing indebtedness, but not if the additional funds are advanced by the bank for its own protection for (i) accrued interest or (ii) taxes, insurance, or other expenses incidental to the existing indebtedness;

(7) An advance of unearned salary or other unearned compensation for a period in excess of 30 days; and

(8) Any other transaction as a result of which a person becomes obligated to pay money (or its equivalent) to a bank, whether the obligation arises directly or indirectly, or because of an endorsement on an obligation or otherwise, or by any means whatsoever.

(b) For the purpose of this article "loan" does not include:

(1) Advances against accrued salary or other accrued compensation, or advances for the payment of authorized travel or other expenses incurred or to be incurred on behalf of the bank.

(2) The receipt by a bank of any check deposited in or delivered to the bank in the usual course of business unless it results in the carrying of a cash item or the granting of an overdraft.

(3) The acquisition of any note, draft, bill of exchange, or other evidence of indebtedness (i) through a merger or consolidation of banks or a similar transaction by which a bank acquires assets and assumes liabilities of another bank or similar organization or (ii) through foreclosure on collateral or similar proceeding for the protection of the bank, provided that such indebtedness is not held for a period of more than three years from the date of acquisition, subject to extension by the superintendent for good cause.

(4) The endorsement or guarantee for the protection of a bank of any loan or other asset previously acquired by such bank in good faith.

(5) Any indebtedness for the purpose of protecting a bank against loss or giving financial assistance to it.

(6) Indebtedness of five thousand dollars ($5,000) or less arising by reason of any general arrangement under which a bank (i) acquires charge or time credit accounts or (ii) makes payments to or on behalf of participants in a bank credit card plan, check credit plan, or similar plan; provided, that such indebtedness does not involve prior individual clearance or approval by the bank other than for the

purposes of determining authority to participate in the arrangement and compliance with any dollar limit under the arrangement and such indebtedness is incurred under terms that are not more favorable than those offered to the general public.

(b) The board of the bank may fix the aggregate amount of credit which may be extended during a given period not in excess of 14 months to any borrower pursuant to this article. Such bank may make advances and renewals pursuant to the board's authorization without further action by the board.

SEC. 14 Section 3504 of the Financial Code is amended to read:

3504. Each corporation shall have power, under such rules and regulations as the superintendent may prescribe:

(a) To purchase, sell, discount, and negotiate, with or without its endorsement or guaranty, notes, drafts, checks, bills of exchange, acceptances, including bankers' acceptances, cable transfers, and other evidences of indebtedness; to purchase and sell, with or without its endorsement or guaranty, securities, including the obligations of the United States or of any state thereof but not including shares of stock in any corporation except as herein provided, to accept bills or drafts drawn upon it subject to such limitations and restrictions as the superintendent may impose; to issue letters of credit; to purchase and sell coin, bullion, and exchange; to borrow and to lend money; to issue debentures, bonds, and promissory notes under such general conditions as to security and such limitations as the superintendent may prescribe; to receive deposits outside of the United States and to receive only such deposits in this state or in any other state of the United States as may be incidental to or for the purpose of carrying out transactions in foreign countries or dependencies or insular possessions of the United States

(b) Generally, to exercise such powers as are incidental to the powers conferred by this article or as may be usual, in the determination of the superintendent, in connection with the transaction of the business of banking or other financial operations in the countries, colonies, dependencies, or possessions in which it shall transact business and not inconsistent with the power specifically granted herein Nothing contained in this article shall be construed to prohibit the superintendent, under his power to prescribe rules and regulations, from limiting the aggregate amount of liabilities of any or all classes incurred by the corporation and outstanding at any one time. Whenever a corporation receives deposits in the United States authorized by this article it shall, unless it is subject to reserve requirements of the Board of Governors of the Federal Reserve System, comply with and be subject to the provisions of Article 3 (commencing with Section 1250) of Chapter 10 of this division applicable to commercial banks.

(c) To establish and maintain for the transaction of its business branches or agencies in foreign countries, their dependencies or colonies, and in any state of the United States, and in the

dependencies or insular possessions of the United States, at such places as may be approved by the superintendent and under such rules and regulations as he may prescribe, including any state of the United States, or countries or dependencies not specified in the original organization certificate

(d) With the consent of the superintendent to purchase and hold stock or other certificates of ownership in any other corporation organized under the laws of this state for the purpose of transacting business pursuant to this article, or under the laws of the United States, or under the laws of any foreign country or a colony of dependency thereof, or under the laws of any state, dependency or insular possession of the United States but not engaged in the general business of buying or selling goods, wares, merchandise, or commodities in the United States, and not transacting any business in the United States except such as in the judgment of the superintendent may be incidental to its international or foreign business.

SEC 15 Section 3514 of the Financial Code is amended to read

3514 (a) In this section, "foreign bank" means any company organized under the laws of a foreign country, a territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands, which engages in the business of banking, or any subsidiary or affiliate, organized under such laws, of any such company "Foreign bank" includes, without limitation, foreign commerical banks, foreign merchant banks, and other foreign institutions that engage in banking activities usual in connection with the business of banking in the countries where such foreign institutions are organized or operating

(b) Except as otherwise provided in subdivision (c), a majority of the shares of the capital stock of any corporation shall at all times be held and owned by citizens of the United States, by corporations the controlling interest in which is owned by citizens of the United States, chartered under the laws of the United States or of a state of the United States, or by firms or companies, the controlling interest in which is owned by citizens of the United States

(c) Notwithstanding the provisions of subdivision (b), one or more foreign banks, institutions organized under the laws of foreign countries which own or control foreign banks, or banks organized under the laws of the United States, the states of the United States, or the District of Columbia, the controlling interests in which are owned by any such foreign banks or institutions, may, with the approval of the superintendent and upon such terms and conditions and subject to such rules and regulations as the superintendent may prescribe, own and hold 50 percent or more of the shares of the capital stock of any corporation

SEC 16 Section 3527 of the Financial Code is amended to read

3527 Every corporation shall make reports to the superintendent at such times and in such form as the superintendent may require and is subject to examination by examiners appointed by the

superintendent, to the extent and whenever and as often as the superintendent shall deem it advisable, but in no case less than once every two calendar years. The cost of such examinations shall be fixed by the superintendent and be paid by the corporation examined.

SEC. 17. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order to avoid imposing double reserve requirements upon certain Califoria offices of foreign banks, to regulate any transformation of agencies of foreign banks into branches, and otherwise to coordinate the California Banking Law with the International Banking Act of 1978, it is necessary that this act take effect immediately.

SEC. 18. It is the intent of the Legislature that Sections 1 and 2 of this act shall only become operative if Assembly Bill 258 is chaptered. Section 1 of this act shall become operative on January 1, 1980, and Section 2 of this act shall become operative on January 1, 1981.

SEC. 19 Section 4 of this act shall become operative on January 1, 1980, but only if Senate Bill 1169 is chaptered and becomes effective on January 1, 1980, in which case Section 1223 of the Financial Code, as amended by Section 3 of this act, shall remain in effect only until January 1, 1980, and on that date is repealed.

SEC. 20. Sections 11, 12, and 13 of this act shall become operative only if Senate Bill 1141 is chaptered before this bill is chaptered.

SEC 21 Section 10 of this act shall become operative on January 1, 1985

CHAPTER 1029

An act to add Chapter 2 5 (commencing with Section 1695) to Title 5 of Part 2 of Division 3 of, and to add Article 1.5 (commencing with Section 2945) to Chapter 2 of Title 14 of Part 4 of Division 3 of, the Civil Code, relating to real property

[Approved by Governor September 26, 1979 Filed with Secretary of State September 26, 1979]

The people of the State of California do enact as follows

SECTION 1 Chapter 2 5 (commencing with Section 1695) is added to Title 5 of Part 2 of Division 3 of the Civil Code, to read·

CHAPTER 2 5 HOME EQUITY SALES CONTRACTS

1695 (a) The Legislature finds and declares that homeowners whose residences are in foreclosure have been subjected to fraud,

deception, and unfair dealing by home equity purchasers. The recent rapid escalation of home values, particularly in the urban areas, has resulted in a significant increase in home equities which are usually the greatest financial asset held by the homeowners of this state During the time period between the commencement of foreclosure proceedings and the scheduled foreclosure sale date, homeowners in financial distress, especially the poor, elderly, and financially unsophisticated, are vulnerable to the importunities of equity purchasers who induce homeowners to sell their homes for a small fraction of their fair market values through the use of schemes which often involve oral and written misrepresentations, deceit, intimidation, and other unreasonable commercial practices

(b) The Legislature declares that it is the express policy of the state to preserve and guard the precious asset of home equity, and the social as well as the economic value of homeownership

(c) The Legislature further finds that equity purchasers have a significant impact upon the economy and well-being of this state and its local communities, and therefore the provisions of this chapter are necessary to promote the public welfare

(d) The intent and purposes of this chapter are the following.

(1) To provide each homeowner with information necessary to make an informed and intelligent decision regarding the sale of his or her home to an equity purchaser, to require that the sales agreement be expressed in writing, to safeguard the public against deceit and financial hardship, to insure, foster, and encourage fair dealing in the sale and purchase of homes in foreclosure; to prohibit representations that tend to mislead, to prohibit or restrict unfair contract terms; to afford homeowners a reasonable and meaningful opportunity to rescind sales to equity purchasers, and to preserve and protect home equities for the homeowners of this state

(2) This chapter shall be liberally construed to effectuate this intent and to achieve these purposes

1695 1 The following definitions apply to this chapter

(a) "Equity purchaser" means any person who acquires title to any residence in foreclosure, except a person who acquires such title as follows

(1) For the purpose of using such property as a personal residence

(2) By a deed in lieu of foreclosure of any voluntary lien or encumbrance of record

(3) By a deed from a trustee acting under the power of sale contained in a deed of trust or mortgage at a foreclosure sale conducted pursuant to Article 1 (commencing with Section 2920) of Chapter 2 of Title 14 of Part 4 of Division 3

(4) At any sale of property authorized by statute

(5) By order or judgment of any court

(6) From a spouse, blood relative, or blood relative of a spouse

(b) "Residence in foreclosure" means a residence, including all land appurtenant and improvements thereto, consisting of one- to

four-family dwelling units, one of which the owner occupies as his personal residence, that is or was within 12 months of the sale of such residence, the subject of a Notice of Default recorded pursuant to Article 1 (commencing with Section 2920) of Chapter 2 of Title 14 of Part 4 of Division 3

(c) "Equity seller" means any seller of a residence in foreclosure.

(d) "Business day" means any calendar day except Sunday, or the following business holidays: New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, and Christmas Day.

(e) "Contract" means any offer or any contract, agreement, or arrangement, or any term thereof, between an equity purchaser and equity seller incident to the sale of a residence in foreclosure.

1695 2 Every contract shall be written in letters of a size equal to 10-point bold type, in the same language principally used by the equity purchaser and equity seller to negotiate the sale of the residence in foreclosure and shall be fully completed and signed and dated by the equity seller and equity purchaser prior to the execution of any instrument of conveyance of the residence in foreclosure

1695 3 Every contract shall contain the entire agreement of the parties and shall include the following terms·

(a) The name, business address, and the telephone number of the equity purchaser

(b) The address of the residence in foreclosure

(c) The total consideration to be given by the equity purchaser in connection with or incident to the sale

(d) A complete description of the terms of payment or other consideration including, but not limited to, any services of any nature which the equity purchaser represents he will perform for the equity seller before or after the sale.

(e) The time at which possession is to be transferred to the equity purchaser

(f) The terms of any rental agreement.

(g) A Notice of Cancellation as provided in subdivision (b) of Section 1695 5

(h) The following notice, printed in at least 14-point boldface type and completed with the name of the equity purchaser, immediately above the statement required by Section 1695 5(a)

"NOTICE REQUIRED BY CALIFORNIA LAW

Until your right to cancel this contract has ended,

_____
(Name)

or anyone working for _____
(Name)

CANNOT ask you to sign or have you sign any deed or any other document "

The contract required by this section shall survive delivery of any instrument of conveyance of the residence in foreclosure, and shall have no effect on persons other than the parties to the contract

1695.4. (a) In addition to any other right of rescission, the equity seller has the right to cancel any contract with an equity purchaser until midnight of the fifth business day following the day on which the equity seller signs any contract or until 8 a.m on the day scheduled for the sale of the property pursuant to a power of sale conferred in a deed of trust, whichever occurs first.

(b) Cancellation occurs when the equity seller personally delivers written notice of cancellation to the address specified in the contract or sends a telegram indicating cancellation to that address

(c) A notice of cancellation given by the equity seller need not take the particular form as provided with the contract and, however expressed, is effective if it indicates the intention of the equity seller not to be bound by the contract.

1695.5 (a) The contract shall contain in immediate proximity to the space reserved for the equity seller's signature a conspicuous statement in a size equal to at least 12-point bold type, as follows "You may cancel this contract for the sale of your house without any penalty or obligation at any time before

_____.

(Date and time of day)

See the attached notice of cancellation form for an explanation of this right " The equity purchaser shall accurately enter the date and time of day on which the rescission right ends

(b) The contract shall be accompanied by a completed form in duplicate, captioned "Notice of Cancellation" in a size equal to 12-point bold type followed by a space in which the equity purchaser shall enter the date on which the equity seller executes any contract This form shall be attached to the contract, shall be easily detachable, and shall contain in type of at least 10-point the following statement written in the same language as used in the contract

"NOTICE OF CANCELLATION

_____

(Enter date contract signed)

You may cancel this contract for the sale of your house, without any penalty or obligation, at any time before

_____

(Enter date and time of day)

To cancel this transaction, personally deliver a signed and dated copy of this cancellation notice, or send a telegram to _____

(Name of purchaser)

at _____

(Street address of purchaser s place of business)

NOT LATER THAN _____

(Enter date and time of day)

I hereby cancel this transaction _____

(Date)

_____ "

(Seller's signature)

(c) The equity purchaser shall provide the equity seller with a copy of the contract and the attached notice of cancellation and shall inform the equity seller orally of his right to cancel at the time the contract is executed

(d) Until the equity purchaser has complied with Sections 1695.2, 1695.3, and 1695 5, the equity seller may cancel the contract.

1695 6. (a) The contract as required by Sections 1695.2, 1695.3, and 1695.5, shall be provided and completed in conformity with those sections by the equity purchaser

(b) Until the time within which the equity seller may cancel the transaction has fully elapsed, the equity purchaser shall not do any of the following

(1) Accept from any equity seller an execution of, or induce any equity seller to execute, any instrument of conveyance of any interest in the residence in foreclosure.

(2) Record with the County Recorder any document, including, but not limited to, any instrument of conveyance, signed by the equity seller.

(3) Transfer or encumber or purport to transfer or encumber any interest in the residence in foreclosure to any third party, provided no grant of any interest or encumbrance shall be defeated or affected as against a bona fide purchaser or encumbrancer for value and without notice.

(4) Pay the equity seller any consideration.

(c) Within 10 days following receipt of a notice of cancellation given in accordance with Sections 1695.4 and 1695.5, the equity purchaser shall return without condition any original contract and any other documents signed by the equity seller

(d) An equity purchaser shall make no untrue or misleading statements regarding the value of the residence in foreclosure, the amount of proceeds the equity seller will receive after a foreclosure sale, any contract term, the equity seller's rights or obligations incident to or arising out of the sale transaction, the nature of any document which the equity purchaser induces the equity seller to sign, or any other untrue or misleading statement concerning the sale of the residence in foreclosure to the equity purchaser

(e) Whenever any equity purchaser purports to hold title as a result of any transaction in which the equity seller grants the residence in foreclosure by any instrument which purports to be an absolute conveyance and reserves or is given by the equity purchaser an option to repurchase such residence, the equity purchaser shall not cause any encumbrance or encumbrances to be placed on such property or grant any interest in such property to any other person

without the written consent of the equity seller

1695 7 An equity seller may bring an action for the recovery of damages or other equitable relief against an equity purchaser for a violation of any subdivision of Section 1695 6 The equity seller shall recover actual damages plus reasonable attorneys' fees and costs In addition, the court shall award exemplary damages or equitable relief, or both, if the court deems such award proper, but in any event shall award exemplary damages in an amount not less than three times the equity seller's actual damages for any violation of paragraph (3) of subdivision (b) of Section 1695 6

1695 8. Any equity purchaser who violates any subdivision of Section 1695 6 or who engages in any practice which would operate as a fraud or deceit upon an equity seller shall, upon conviction, be fined not more than ten thousand dollars ($10,000) or imprisoned in the county jail for not more than one year, or be punished by both such fine and imprisonment for each violation

1695 9 The provisions of this chapter are not exclusive and are in addition to any other requirements, rights, remedies, and penalties provided by law

1695 10 Any waiver of the provisions of this chapter shall be void and unenforceable as contrary to the public policy

1695 11 If any provision of this chapter, or if any application thereof to any person or circumstance is held unconstitutional, the remainder of this chapter and the application of its provisions to other persons and circumstances shall not be affected thereby

1695 12 Any transaction in which an equity seller purports to grant a residence in foreclosure to an equity purchaser by any instrument which appears to be an absolute conveyance and reserves to himself or is given by the equity purchaser an option to repurchase such residence shall be presumed to be a loan transaction, and the purported absolute conveyance shall be deemed a mortgage, however, such grant is not defeated or affected as against any bona fide purchaser or encumbrancer for value and without notice

SEC 2 Article 1 5 (commencing with Section 2945) is added to Chapter 2 of Title 14 of Part 4 of Division 3 of the Civil Code, to read

Article 1 5 Mortgage Foreclosure Consultants

2945 (a) The Legislature finds and declares that homeowners whose residences are in foreclosure are subject to fraud, deception, harassment, and unfair dealing by foreclosure consultants from the time a Notice of Default is recorded pursuant to Section 2924 until the time of the foreclosure sale Foreclosure consultants represent that they can assist homeowners who have defaulted on obligations secured by their residences These foreclosure consultants, however, often charge high fees, the payment of which is often secured by a deed of trust on the residence to be saved, and perform no service or essentially a worthless service Homeowners, relying on the foreclosure consultants' promises of help, take no other action are

diverted from lawful businesses which could render beneficial services, and often lose their homes, sometimes to the foreclosure consultants who purchase homes at a fraction of their value before the sale.

(b) The Legislature further finds and declares that foreclosure consultants have a significant impact on the economy of this state and on the welfare of its citizens.

(c) The intent and purposes of this chapter are the following:

(1) To require that foreclosure consultant service agreements be expressed in writing; to safeguard the public against deceit and financial hardship; to permit rescission of foreclosure consultation contracts, to prohibit representations that tend to mislead; and to encourage fair dealing in the rendition of foreclosure services.

(2) The provisions of this chapter shall be liberally construed to effectuate this intent and to achieve these purposes.

2945 1. The following definitions apply to this chapter:

(a) "Foreclosure consultant" means any person who makes any solicitation, representation, or offer to any owner to perform for compensation or who, for compensation, performs any service which such person in any manner represents will in any manner do any of the following:

(1) Stop or postpone the foreclosure sale.

(2) Obtain any forbearance from any beneficiary or mortgagee

(3) Assist the owner to exercise the right of reinstatement provided in Section 2924c.

(4) Obtain any extension of the period within which the owner may reinstate his obligation.

(5) Obtain any waiver of an acceleration clause contained in any promissory note or contract secured by a deed of trust or mortgage on a residence in foreclosure or contained in any such deed of trust or mortgage.

(6) Assist the owner to obtain a loan or advance of funds.

(7) Avoid or ameliorate the impairment of the owner's credit resulting from the recording of a notice of default or the conduct of a foreclosure sale.

(8) Save such owner's residence from foreclosure

(b) A foreclosure consultant does
not include any of the following:

(1) A person licensed to practice law in this state when such person renders service in the course of his practice as an attorney at law

(2) A person licensed under Division 3 (commencing with Section 12000) of the Financial Code when such person is acting as a prorater as defined therein

(3) A person licensed under Part 1 (commencing with Section 10000) of Division 4 of the Business and Professions Code when such person is acting in any capacity for which such person is licensed under such part, except when such person performs services for borrowers in connection with loans secured directly or collaterally

by liens on a residence in foreclosure.

(4) A person licensed under Chapter 1 (commencing with Section 5000) of Division 3 of the Business and Professions Code when such person is acting in any capacity for which such person is licensed under such part

(5) A person or his authorized agent acting under the express authority or written approval of the Department of Housing and Urban Development or other department or agency of the United States or this state to provide services

(6) A person who holds or is owed an obligation secured by a lien on any residence in foreclosure when such person performs services in connection with this obligation or lien

(c) "Person" means any individual, partnership, corporation, association or other group, however organized.

(d) "Service" means and includes, but is not limited to, any of the following:

(1) Debt, budget, or financial counseling of any type

(2) Receiving money for the purpose of distributing it to creditors in payment or partial payment of any obligation secured by a lien on a residence in foreclosure.

(3) Contacting creditors on behalf of an owner of a residence in foreclosure

(4) Arranging or attempting to arrange for an extension of the period within which the owner of a residence in foreclosure may cure his default and reinstate his obligation pursuant to Section 2924c

(5) Arranging or attempting to arrange for any delay or postponement of the time of sale of the residence in foreclosure

(6) Advising the filing of any document or assisting in any manner in the preparation of any document for filing with any bankruptcy court

(7) Giving any advice, explanation or instruction to an owner of a residence in foreclosure which in any manner relates to the cure of a default in or the reinstatement of an obligation secured by a lien on the residence in foreclosure, the full satisfaction of such an obligation, or the postponement or avoidance of a sale of a residence in foreclosure pursuant to a power of sale contained in any deed of trust

(e) "Residence in foreclosure" means a residence, including all land appurtenant and improvements thereto, consisting of one- to four-family units one of which the owner occupies as his personal residence, that is the subject of a Notice of a Default recorded pursuant to Article 1 (commencing with Section 2920) of Chapter 2 of Title 14 of Part 4 of Division 3

(f) "Owner" means an owner of a residence in foreclosure

(g) "Contract" means any agreement, or any term thereof, between a foreclosure consultant and an owner for the rendition of any service as defined in subdivision (c)

2945 2 (a) In addition to any other right under law to rescind a

contract, an owner has the right to cancel such a contract until midnight of the third "business day" as defined in subdivision (e) of Section 1689 5 after the day on which the owner signs a contract which complies with Section 2945 3

(b) Cancellation occurs when the owner gives written notice of cancellation to the foreclosure consultant at the address specified in the contract

(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 owner need not take the particular form as provided with the contract and, however expressed, is effective if it indicates the intention of the owner not to be bound by the contract

2945 3 (a) Every contract shall be in writing and shall fully disclose the exact nature of the foreclosure consultant's services and the total amount and terms of compensation

(b) The following notice, printed in at least 14-point boldface type and completed with the name of the foreclosure consultant, shall be printed immediately above the statement required by subdivision (c)

"NOTICE REQUIRED BY CALIFORNIA LAW

_____ or anyone working for him
(Name)
or her CANNOT

(1) Take any money from you or ask you for money until ____

_____
(Name)
has completely finished doing everything he or she said he or she would do, and

(2) Ask you to sign or have you sign any lien, deed of trust, or deed "

(c) The contract shall be written in the same language as principally used by the foreclosure consultant to describe his services or to negotiate the contract, shall be dated and signed by the owner, and shall contain in immediate proximity to the space reserved for the owner's signature a conspicuous statement in a size equal to at least 10-point bold type, as follows "You, the owner, may cancel this transaction at any time prior to midnight of the third business day after the date of this transaction See the attached notice of cancellation form for an explanation of this right "

(d) The contract shall contain on the first page, in a type size no smaller than that generally used in the body of the document, each of the following

(1) The name and address of the foreclosure consultant to which the notice or cancellation is to be mailed

(2) The date the owner signed the contract

(e) The contract shall be accompanied by a completed form in duplicate, captioned "Notice of Cancellation", which shall be attached to the contract, shall be easily detachable, and shall contain in type of at least 10-point the following statement written in the same language as used in the contract:

"NOTICE OF CANCELLATION

_____

(Enter date of transaction) (Date)

You may cancel this transaction, without any penalty or obligation, within three business days from the above date.

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 foreclosure consultant)

at _____

(Address of foreclosure consultant's place of business)

NOT LATER THAN MIDNIGHT OF _____

(Date)

I hereby cancel this transaction _____

(Date)

_____ "

(Owner's signature)

(f) The foreclosure consultant shall provide the owner with a copy of the contract and the attached notice of cancellation, and shall inform the owner orally of his right to cancel at the time the contract is executed

(g) Until the foreclosure consultant has complied with this section the owner may cancel the contract.

2945.4 It shall be a violation for a foreclosure consultant to.

(a) Claim, demand, charge, collect, or receive any compensation until after the foreclosure consultant has fully performed each and every service the foreclosure consultant contracted to perform or represented he would perform.

(b) Claim, demand, charge, collect, or receive any fee, interest, or any other compensation for any reason which exceeds 10 percent per annum of the amount of any loan which the foreclosure consultant may make to the owner

(c) Take any wage assignment, any lien of any type on real or personal property, or other security to secure the payment of compensation Any such security shall be void and unenforceable.

(d) Receive any consideration from any third party in connection with services rendered to an owner unless such consideration is fully disclosed to the owner

(e) Acquire any interest in a residence in foreclosure from an owner with whom the foreclosure consultant has contracted Any

interest acquired in violation of this subdivision shall be voided, provided that nothing herein shall affect or defeat the title of a bona fide purchaser or encumbrancer for value and without notice.

(f) Take any power of attorney from an owner for any purpose, except to inspect documents as provided by law

(g) Induce or attempt to induce any owner to enter a contract which does not comply in all respects with Sections 2945.2 and 2945 3.

2945 5 Any waiver by an owner of the provisions of this chapter shall be deemed void and unenforceable as contrary to public policy Any attempt by a foreclosure consultant to induce an owner to waive his rights shall be deemed a violation of this chapter.

2945 6 (a) An owner may bring an action against a foreclosure consultant for any violation of this chapter. Judgment shall be entered for actual damages, reasonable attorneys' fees and costs, and appropriate equitable relief The court also may, in its discretion, award exemplary damages and shall award exemplary damages equivalent to at least three times the compensation received by the foreclosure consultant in violation of subdivision (a), (b), or (d) of Section 2945 4, in addition to any other award of actual or exemplary damages.

(b) The rights and remedies provided in subdivision (a) are cumulative to, and not a limitation of, any other rights and remedies provided by law

2945 7 Any person who commits any violation described in Section 2945 4 shall be guilty of a misdemeanor for each violation

2945 8. If any provision of this article or the application thereof to any person or circumstance is held to be unconstitutional, the remainder of the article and the application of such provision to other persons and circumstances shall not be affected thereby

SEC 3 Notwithstanding Section 2231 of the Revenue and Taxation Code, there sha l 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 governmental entities which, in the aggregate, do not result in significant identifiable cost changes.

CHAPTER 1030

An act to amend Sections 199, 4370, and 4702 of, and to add Section 4600 2 to, the Civil Code, to amend Sections 1653, 1673, 1676, 1680, 1681, 1684, and 1697 of, and to add Section 1655 5 to, the Code of Civil Procedure, to amend Sections 11477, 11478, and 11478 5 of, and to add Section 11478 7 to, the Welfare and Institutions Code, relating to parent and child

[Approved by Governor September 26, 1979 Filed with Secretary of State September 26, 1979]

The people of the State of California do enact as follows

SECTION 1. Section 199 of the Civil Code is amended to read:

199 The obligation of a father and mother to support their natural child under this chapter, including but not limited to Sections 196 and 206, shall extend only to, and may be satisfied only from, the total earnings, or the assets acquired therefrom, and separate property of each, if there has been a dissolution of their marriage as specified by Section 4350.

SEC. 2. Section 4370 of the Civil Code is amended to read

4370. (a) During the pendency of any proceeding under this part, the court may order the husband or wife, or father or mother, as the case may be, to pay such amount as may be reasonably necessary for the cost of maintaining or defending the proceeding and for attorneys' fees, and from time to time and before entry of judgment, the court may augment or modify the original award for costs and attorneys' fees as may be reasonably necessary for the prosecution or defense of the proceeding or any proceeding relating thereto. In respect to services rendered or costs incurred after the entry of judgment, the court may award such costs and attorneys' fees as may be reasonably necessary to maintain or defend any subsequent proceeding therein, and may thereafter augment or modify any award so made. Attorneys' fees and costs within the provisions of this subdivision may be awarded for legal services rendered or costs incurred prior, as well as subsequent, to the commencement of the proceeding

(b) During the pendency of any proceeding under this part, an application for a temporary order making, augmenting, or modifying an award of attorneys' fees or costs or both shall be made by motion on notice or by an order to show cause, except that it may be made without notice by an oral motion in open court:

(1) At the time of the hearing of the cause on the merits; or

(2) At any time prior to entry of judgment against a party whose default has been entered pursuant to Section 585 or 586 of the Code of Civil Procedure

(c) Notwithstanding any other provision of law, absent good cause to the contrary, the court, upon determining an ability to pay, shall award reasonable attorney's fees to a custodial parent in any action to enforce an existing order for child support.

SEC 3. Section 4600 2 is added to the Civil Code, to read.

4600 2 Any order awarding custody to a parent who is receiving, or in the opinion of the court is likely to receive, assistance pursuant to the Burton-Miller Act (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code) for the maintenance of the child shall include an order pursuant to Section 4700 or 4702 directing the noncustodial parent to pay any

amount necessary for the support of the child, to the extent of the noncustodial parent's ability to pay

SEC 4. Section 4702 of the Civil Code is amended to read:

4702 (a) Notwithstanding the provisions of Section 4701, in any proceeding where a court makes or has made an order requiring payment of child support to a parent receiving welfare moneys for the maintenance of minor children, the court shall direct that payments of support be made to the county clerk, probation officer, or other officer of the court or county officer designated by the court for such purpose, and shall direct the district attorney to appear on behalf of such welfare recipient in any proceeding to enforce such order

(b) In any proceeding where a court makes or has made an order requiring payment of child support to the person having custody of any minor children of the marriage, the court may direct that payments thereof be made to the county clerk, probation officer, or other officer of the court or county officer designated by the court for such purpose, and may direct the district attorney to appear on behalf of such minor children in any action to enforce such order The court shall include in its order any service charge imposed under the authority of Section 580 5 of the Welfare and Institutions Code

(c) Notwithstanding any other provision of law, in any proceeding where the custodial parent resides in one county and the parent ordered to pay support resides in another county, the court may direct payment to be made to the county clerk, probation officer, or other officer of the court or county officer designated by the court for such purposes in the county of residence of the custodial parent, and may direct the district attorney of either county to enforce such order Civil enforcement by the district attorney of the county of residence of the custodial parent, where the order is in the county of the noncustodial parent or any other county, may be brought in accordance with Section 1697 of the Code of Civil Procedure If the court directs the district attorney of the county of residence of the noncustodial parent to enforce such order, the expenses of the district attorney with respect to such enforcement shall be a charge upon the county of residence of the noncustodial parent

(d) Except as provided in subdivision (c), expenses of the county clerk, probation officer, or other officer of the court or county officer designated by the court, and expenses of the district attorney incurred in the enforcement of any order of the type described in subdivision (a) or (b), shall be a charge upon the county where the proceedings are pending Any fees for service of process in the enforcement of any such order shall be a charge upon the county where the process is served

SEC 5 Section 1653 of the Code of Civil Procedure is amended to read

1653 As used in this title unless the context requires otherwise

(a) "Court" means the superior court of this state and when the *context requires means* the court of any other state as defined in a

substantially similar reciprocal law.

(b) "Duty of support" means a duty of support whether imposed or imposable by law or by order, decree, or judgment of any court whether interlocutory or final or whether incidental to a proceeding for dissolution of marriage, judgment of nullity, or for legal separation, or to an action for divorce, separation, separate maintenance, or otherwise and includes the duty to pay arrearages of support past due and unpaid.

(c) "Governor" includes any person performing the functions of Governor or the executive authority of any state covered by this title

(d) "Initiating state" means a state in which a proceeding pursuant to this or a substantially similar reciprocal law is commenced "Initiating court" means the court in which a proceeding is commenced.

(e) "Law" includes both common and statutory law.

(f) "Obligee" means a person including a state or political subdivision to whom a duty of support is owed or a person including a state or political subdivision that has commenced a proceeding for enforcement of an alleged duty of support It is immaterial if the person to whom a duty of support is owed is a recipient of public assistance.

(g) "Obligor" means any person owing a duty of support or against whom a proceeding for the enforcement of a duty of support is commenced

(h) "Prosecuting attorney" means the public official in the appropriate place who has the duty to enforce criminal laws relating to the failure to provide for the support of any person

(i) "Responding state" means a state in which any responsive proceeding pursuant to the proceeding in the initiating state is commenced. "Responding court" means the court in which the responsive proceeding is commenced

(j) "State" includes a state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any foreign jurisdiction in which this or a substantially similar law or procedure is in effect or which has established enforcement procedures with or without court participation under a treaty, the application of which is extended to this state

(k) "Support order" means any judgment, decree, or order of support in favor of an obligee whether temporary or final, or subject to modification, revocation, or remission, regardless of the kind of action or proceeding in which it is entered

(*l*) "Register" means to file in the Registry of Foreign Support Orders

(m) "Registering court" means any court of this state in which a support order of a rendering state is registered

(n) "Rendering state" means a state in which the court has issued a support order for which registration is sought or granted in the court of another state

SEC 6 Section 1655 5 is added to the Code of Civil Procedure,

to read·

1655 5 Notwithstanding any other provision of law, privately retained counsel may represent an obligee in any proceeding under this title

SEC 7 Section 1673 of the Code of Civil Procedure is amended to read

1673 (a) The complaint or claim shall be verified and shall state the name and, so far as known to the obligee, the address and circumstances of the obligor and the persons for whom support is sought, and all other pertinent information. Verification shall be in accordance with the requirements of the initiating state. The obligee may include in or attach to the complaint any information which may help in locating or identifying the obligor, including a photograph of the obligor, a description of any distinguishing marks on his person, other names and aliases by which he has been or is known, the name of his employer, his fingerprints, and his social security number.

(b) The complaint may be filed in the appropriate court of any state in which the obligee resides. The court shall not decline or refuse to accept and forward the complaint on the ground that it should be filed with some other court of this or any other state where there is pending a proceeding for dissolution of the marriage or for legal separation, or another action for divorce, separation, annulment, dissolution, habeas corpus, adoption, or custody, between the same parties, or where another court has already issued a support order in some other proceeding and has retained jurisdiction for its enforcement.

(c) When the obligee removes his or her residence from the county in which the proceeding was initiated to another county in the state, the court may transfer the proceeding to the new county of residence The clerk of the court in which the proceeding was initiated shall forward certified copies of all documents necessary for continued prosecution of the proceeding to the county where the proceeding was transferred The clerk of the court to which the proceeding has been transferred shall inform the court of the responding state that the case has been transferred, and that payment should be made through the appropriate agency of the transferee county Transfer procedures under this section may be initiated by the obligee, or by the court, prosecuting official or clerk of either county or of the responding state.

SEC 8 Section 1676 of the Code of Civil Procedure is amended to read

1676 If the initiating court or agency finds that the complaint or claim sets forth facts from which it may be determined that the obligor owes a duty of support and that a court of the responding state may obtain jurisdiction of the obligor or his property, it shall so certify and cause three copies of the complaint or claim and its certificate and one copy of this title or of the declaration of reciprocity made pursuant to Section 1693 to be sent to the responding state Certification shall be in accordance with the

requirements of the initiating state. If the name and address of the responding court is unknown and the responding state has an information agency comparable to that established in the initiating state, it shall cause the copies to be sent to the state information agency or other proper official of the responding state, with a request that the agency or official forward them to the proper court and that the court of the responding state acknowledge their receipt to the initiating court

SEC. 9. Section 1680 of the Code of Civil Procedure is amended to read:

1680 (a) After the responding court receives copies of the complaint, certificate and act from the initiating court the clerk of the court shall docket the case and notify the prosecuting attorney of his action Claims received by this state from an initiating agency shall be forwarded to the district attorney for preparation and filing of appropriate pleadings.

(b) The prosecuting attorney shall prosecute the case diligently. He shall take all action necessary to enable the court to obtain jurisdiction over the obligor or his property in accordance with law. He shall, upon being notified that the cause has been docketed either (1) request the court to issue a citation requiring defendant to appear personally at a specified time and place to show cause why an order should not be issued on the basis of the complaint on file and cause a copy of the complaint and of the citation to be served upon the obligor at least 10 days prior to the hearing or (2) request the issuance of a summons and cause a copy of the complaint and summons to be served upon the obligor.

(c) If the prosecuting attorney neglects or refuses to represent the obligee the Attorney General may order him to represent the obligee or may undertake the representation.

SEC. 10. Section 1681 of the Code of Civil Procedure is amended to read·

1681 (a) The prosecuting attorney on his own initiative shall use all means at his disposal to locate the obligor or his property, and if because of inaccuracies in the petition or otherwise the court cannot obtain jurisdiction, the prosecuting attorney shall inform the court of what he has done and request the court to continue the case pending receipt of more accurate information or an amended complaint from the initiating court

(b) If the obligor or his property is not found in the county, and the prosecuting attorney discovers that the obligor or his property may be found in another county of this state or in another state, he shall so inform the court. Thereupon the clerk of the court shall forward the documents received from the court in the initiating state to a court in the other county or to a court in the other state or to the information agency or other proper official of the other state with a request that the documents be forwarded to the proper court All powers and duties provided by this title apply to the recipient of the documents so forwarded If the clerk of a court of this state forwards

documents to another court, he shall forthwith notify the initiating court.

(c) If the prosecuting attorney has no information as to the location of the obligor or his property, he shall so inform the initiating court

SEC. 11 Section 1684 of the Code of Civil Procedure is amended to read

1684 The responding court shall cause a copy of all support orders to be sent to the initiating court or agency and to the obligor.

SEC 12 Section 1697 of the Code of Civil Procedure is amended to read.

1697 (a) If the duty of support is based on a foreign support order, the obligee has the additional remedies provided in Sections 1698 to 1699, inclusive.

(b) A support order made in this state may also be registered pursuant to Sections 1698 to 1699, inclusive, in any county in which either the obligor or the child who is the subject of the order resides

SEC. 13. Section 11477 of the Welfare and Institutions Code is amended to read.

11477 As a condition of eligibility for aid paid under this chapter, each applicant or recipient shall·

(a) Assign to the county any rights to support from any other person such applicant may have in their own behalf or in behalf of any other family member for whom the applicant is applying for or receiving aid, and which have accrued at the time such assignment is made. Receipt of public assistance under this chapter shall operate as an assignment by operation of law. An assignment of support rights to the county shall also constitute an assignment to the state.

(b) Cooperate with the county welfare department and district attorney in establishing the paternity of a child born out of wedlock with respect to whom aid is claimed, and in obtaining any support payments due any person for whom aid is requested or obtained The State Department of Social Services shall establish an exclusive list of acts, in accordance with federal law, which shall be the only acts deemed to be a refusal to offer reasonable cooperation and assistance. The county welfare department shall verify that the applicant or recipient refused to offer reasonable cooperation prior to determining that such applicant or recipient is ineligible. The granting of aid shall not be delayed or denied if the applicant is otherwise eligible, if the applicant completes the necessary forms and agrees to cooperate with the district attorney in securing support and determining paternity, where applicable.

A recipient shall be considered to be cooperating with the county welfare department or the district attorney's office and they shall be eligible for aid, if otherwise eligible, if they cooperate to the best of their ability or have good cause for refusal to cooperate. The department, in accordance with federal law, shall establish standards for determining good cause for refusal to cooperate. With respect to any application or any questionnaire relating to any application, no

questions on paternity shall be asked in cases where paternity is not legally an issue Persons eligible for immediate aid pursuant to Section 11056 or Section 11266 shall receive such aid prior to completing the forms required to obtain child support and establish paternity, provided that they indicate they will cooperate in these matters Appearances at public agencies required pursuant to this section, subsequent to certification of the applicant shall be scheduled with due regard for his parental duties and employment responsibilities. If an appearance is required at a time other than normal working hours, a statement as to the reason for such appearance shall be inserted in the file of the applicant.

If the relative with whom a child is living is found to be ineligible because of failure to comply with the provisions of this section, any aid for which such child is eligible will, to the extent required by federal law, be provided in the form of protective payments.

The county welfare department shall insure that all applicants for or recipients of aid under this chapter are properly notified of the conditions imposed by this section

SEC 14 Section 11478 of the Welfare and Institutions Code is amended to read.

11478 All state, county, and local agencies shall cooperate in the enforcement of any child support obligation and the location of parents who have abandoned, deserted, or abducted children, irrespective of whether such children are or are not receiving aid to families with dependent children, and shall on request supply the county department, any county probation officer, or the district attorney of any county in this state with all information on hand relative to the location, income, or property of any absent parents, notwithstanding any other provision of law making such information confidential, and with all information on hand relative to the location and prosecution of any person who has, by means of false statement or representation or by impersonation or other fraudulent device, obtained aid for a child under this chapter The county department shall use such information only for the purposes of administration of aid under this chapter, and the district attorney or county probation officer shall use it only for the purpose of enforcing the support liability of such absent parents or for locating parents and children abducted by them or for the prosecution of other persons mentioned in this section, and neither shall use the information or disclose it, for any other purpose

Nothing in this section shall be construed to compel the disclosure of information relating to a deserting parent who is a recipient of aid under a public assistance program for which federal aid is paid to this state, if such information is required to be kept confidential by the federal law or regulations relating to such program

SEC 15 Section 11478 5 of the Welfare and Institutions Code is amended to read

11478 5 There is in the Department of Justice a parent locator service showing, as far as is known, with respect to any parent who

has deserted or abandoned any child:

(a) The full and true name of such parent together with any known aliases;

(b) Date and place of birth;

(c) Physical description;

(d) Social security number;

(e) Occupation;

(f) Military status and Veterans Administration or military service serial number;

(g) Last known address and date thereof;

(h) Driver's license number;

(i) Any police record; and

(j) Any further information that may be of assistance in locating the alleged abducting parent.

To effectuate the purposes of this section, the Attorney General shall, to the extent necessary, utilize the parent locator service in the Department of Health, Education, and Welfare, and, may request and shall receive from departments, boards, bureaus, or other agencies of the state, or any of its political subdivisions, and the same are authorized to provide, such assistance and data as will enable the Justice Department and local public agencies to carry out their powers and duties to locate such parents and to enforce their liability for the support of their children and to locate and return abducted children to their parents.

Any records established pursuant to the provisions of this section shall be available only to district attorneys, probation departments, state locator services, the federal parent locator service, and courts having jurisdiction in support, custody, abduction, or abandonment proceedings or actions.

The Department of Justice, in consultation with the State Department of Social Services, shall promulgate rules and regulations to facilitate maximum and efficient use of such locator service

This section shall be construed in a manner consistent with the other provisions of this article.

SEC. 16. Section 11478.7 is added to the Welfare and Institutions Code, to read·

11478 7 In order to facilitate the analysis of each county's performance in child support enforcement activities, every district attorney shall submit to the Attorney General each month a uniform statistical report summarizing such activities in the county. Such monthly report shall not contain any individually identifiable information and shall be submitted on a uniform report form adopted by the Attorney General for this purpose.

CHAPTER 1031

An act to amend Section 17008 of, and to add Sections 17005.5, 17031 3, 17031.4, and 17031.7 to, the Health and Safety Code, relating to employee housing.

[Approved by Governor September 26, 1979 Filed with Secretary of State September 26, 1979]

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

SECTION 1. Section 17008 of the Health and Safety Code is amended to read·

17008 "Labor camp," as used in this part, means any living quarters, dwelling, boardinghouse, tent, bunkhouse, maintenance-of-way car, mobilehome or other housing accommodations, including employee housing or labor supply camp, maintained in connection with any work or place where work is being performed, whether or not rent is involved, and the premises upon which they are situated or the area set aside and provided for parking of mobilehomes or camping of five or more employees by the employer.

"Labor camp" does not include employee community housing, as defined by Section 17005.5, which has been granted an exemption pursuant to Section 17031 3.

SEC 2. Section 17005.5 is added to the Health and Safety Code, to read:

17005 5 (a) "Employee community housing" means a community of single family detached dwellings which meet all of the following requirements:

(1) Each dwelling has a minimum of four rooms, including a separate kitchen and a separate bathroom.

(2) Each dwelling is owned or operated by an employer, and maintained by such employer in compliance with the provisions of the State Housing Law, and the regulations adopted pursuant thereto, which materially affect health and safety.

(3) Each dwelling is inhabited by not more than one family, which includes at least one permanent year-round employee of the employer who owns or operates the dwelling

(4) Each dwelling has direct access to a publicly owned and maintained road

(5) Each dwelling is located within a community, as defined in subdivision (b)

(b) "Community" means not less than 200 single family detached dwellings meeting the requirements of subdivision (a), which are adjacent or in close proximity to each other, and which have maintenance services available to the residents of the dwelling units provided by persons employed by the employer for the express purpose of providing such services

SEC 3 Section 17031.3 is added to the Health and Safety Code, to read·

17031.3. (a) Every person operating or owning employee community housing shall obtain a permit to operate such housing as a labor camp pursuant to this part unless an exemption is granted by the enforcement agency pursuant to this section. A request for an exemption for each community shall be made in writing to the enforcement agency. The person requesting the exemption shall give written notice to each employee/tenant of the employee community housing that an exemption is being requested. The notice shall state the address and telephone number of the enforcement agency, and shall state that any employee/tenant may inform the enforcement agency of violations of health and safety standards within his or her dwelling unit.

(b) The enforcement agency, after a review of all relevant facts, shall grant an exemption to the owner or operator of the employee community housing unless it finds any of the following:

(1) The housing is in violation of provisions of the State Housing Law or the regulations adopted pursuant thereto in a manner which materially affects the health and safety of the residents of the housing

(2) The housing, within the previous two years, has been found in violation of the provisions of this part or the regulations adopted pursuant thereto in a manner which materially affects the health and safety of the residents of the housing

(3) The housing does not meet the requirements of employee community housing as defined by Section 17005.5

(c) An exemption granted for employee community housing in one community shall not apply to employee community housing in other communities operated or owned by the same person.

(d) Employee community housing granted an exemption pursuant to this section, during the period of such exemption, shall be subject to the provisions of the State Housing Law During this period, any notice of violation of such law and verification of corrective action shall be forwarded to the department. Not less than once every 10 years after an exemption is granted pursuant to this part, every person operating or owning employee community housing shall give written notice to each employee/tenant of the employee community housing which shall state the address and telephone number of the enforcement agency, and shall state that any employee/tenant may inform the enforcement agency of violations of health and safety standards within his or her dwelling unit

(e) The exemption granted pursuant to this section shall be rescinded by the enforcement agency if the employee community housing is not operated or maintained in substantial compliance with Section 17005.5

SEC 4 Section 17031.4 is added to the Health and Safety Code, to read

17031 4 When the enforcement agency is a local agency, upon granting an exemption pursuant to Section 17031 3, the enforcement agency shall submit the following information to the department:

(a) The year the housing was constructed.

(b) The number of years, if any, the housing has been operated as a labor camp with a valid permit to operate

(c) The number and character of any complaints received during the time the housing has been operated as a labor camp.

(d) Any violations of the provisions of this part and the State Housing Law which materially affect health and safety cited in the last inspection of the housing

(e) That the employee community housing has been exempted pursuant to Section 17031 3, and conforms with the requirements of Section 17005.5

SEC 5 Section 17031.7 is added to the Health and Safety Code, to read

17031 7 (a) No person operating employee community housing that has been granted an exemption pursuant to Section 17031 3, or who is in the process of applying for such exemption, shall take any retaliatory employment action against an employee/tenant because of the employee/tenant's exercise of any of the following acts:

(1) Exercising any legal right with respect to the housing.

(2) Complaining, orally or in writing, to the landlord or employer about tenantability of the housing.

(3) Complaining, orally or in writing, to any applicable agency about tenantability of the housing.

(4) Bringing an action to enforce any rights provided for by this part or Chapter 2 (commencing with Section 1940) of Title 5 of Part 4 of Division 3 of the Civil Code

(b) "Retaliatory employment action" includes discharge from employment, wage decrease, demotion, or any other action detrimental to the employee/tenant's employment status because of the employee/tenant's exercise of the enumerated acts.

(c) Any person subject to this section shall also be subject to the provisions of Section 1942 5 of the Civil Code

SEC. 6. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to this section, nor shall there be an appropriation by this act because the duties, obligations, or responsibilities imposed on local governments by this act are changes to a program administered by local government on a voluntary basis It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code

CHAPTER 1032

An act to amend Section 29200 of the Elections Code, relating to elections

[Approved by Governor September 26, 1979 Filed with Secretary of State September 26, 1979]

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

SECTION 1. Section 29200 of the Elections Code is amended to read:

29200. (a) Every person who willfully causes, procures, or allows himself or any other person to be registered as a voter, knowing that he or that other person is not entitled to registration, is punishable by imprisonment in the state prison for 16 months or two or three years, or in a county jail for not more than one year.

(b) Every person who knowingly and willfully signs, or causes or procures the signing of an affidavit of, registration of a nonexistent person, and who mails or delivers, or causes or procures the mailing or delivery of, such affidavit to a county clerk is guilty of a crime punishable by imprisonment in the state prison for 16 months or two or three years, or in a county jail for not more than one year. For purposes of this subdivision, "nonexistent person" includes, but is not limited to, deceased persons, animals, and inanimate objects.

SEC 2. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 1033

An act to add Part 7 2 (commencing with Section 15430) to Division 3 of Title 2 of the Government Code, relating to the financing of health care facilities, and making an appropriation therefor

[Approved by Governor September 26, 1979 Filed with Secretary of State September 26, 1979]

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

SECTION 1 Part 7 2 (commencing with Section 15430) is added to Division 3 of Title 2 of the Government Code, to read·

PART 7.2. HEALTH FACILITIES AUTHORITY ACT

15430. This chapter shall be known and may be cited as the California Health Facilities Authority Act

15431. There is in the state government an authority known as the California Health Facilities Authority. The authority constitutes a public instrumentality, and the exercise by the authority of the powers conferred by this part shall be deemed and held to be the performance of an essential public function.

15432. As used in this part, the following words and terms shall have the following meanings, unless the context clearly indicates or requires another or different meaning or intent:

(a) "Act" means this California Health Facilities Authority Act.

(b) "Authority" means the California Health Facilities Authority created by this part or any board, body, commission, department or officer succeeding to the principal functions thereof or to which the powers conferred upon the authority by this part shall be given by law

(c) "Cost," as applied to a project or portion thereof financed under the provisions of this part, means and includes all or any part of the cost of construction and acquisition of all lands, structures, real or personal property, rights, rights-of-way, franchises, easements and interests acquired or used for a project, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, the cost of all machinery and equipment, financing charges, interest prior to, during and for a period not to exceed one year following completion of such construction as determined by the authority, reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations and improvements, the cost of engineering, reasonable financial and legal services, plans, specifications, studies, surveys, estimates, administrative expenses and other expenses necessary or incident to determining the feasibility of constructing any project or incident to the construction or acquisition or financing thereof.

(d) "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 (except in the case of community clinics, as defined in paragraph (6), and includes the following types·

(1) A general acute care hospital is 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

(2) An acute psychiatric hospital is 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.

(3) A skilled nursing facility is a health facility which provides the following basic services· skilled nursing care and supportive care to patients whose primary need is for availability or skilled nursing care on an extended basis.

(4) An intermediate care facility is 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 or continuous skilled nursing care

(5) A special health care facility is 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, acute or nonacute care including, but not limited to, medical, nursing, rehabilitation, dental or maternity

(6) A "community clinic" is 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 September 26, 1978, shall not be required to obtain tax-exempt status under either federal or state law. No natural person or persons shall operate a community clinic

"Health facility" includes the following facilities, if operated in conjunction with one or more of the above types of facilities a laboratory, laundry, nurses, or interns, residence, housing for staff or employees and their families, patients or relatives of patients, physicians' facility, administration building, research facility, maintenance, storage or utility facility and all structures or facilities related to any of the foregoing or required or useful for the operation of a health facility, and the necessary and usual attendant and related facilities and equipment and including parking and supportive service facilities or structures required or useful for the orderly conduct of such health facility

"Health facility" does not include any institution, place, or building used or to be used primarily for sectarian instruction or study or as a place for devotional activities or religious worship.

(e) "Participating health institution" means a private nonprofit corporation or association authorized by the laws of this state to provide or operate a health facility and which, pursuant to the provisions of this part, undertakes the financing or refinancing of the construction or acquisition of a project as provided in this part.

(f) "Project" means construction, expansion, remodeling, renovation, furnishing, or equipping of a health facility or acquisition of a health facility to be financed or refinanced with funds provided in whole or in part pursuant to this part "Project" may include any combination of one or more of the foregoing undertaken jointly by any participating health institution with one or more other participating health institutions.

15433 The authority shall consist of seven members, including the State Treasurer, who shall serve as chairman, the State Controller, the Director of Finance, two members appointed by the Senate Rules Committee subject to confirmation by a majority vote of the Senate, and two members appointed by the Speaker of the Assembly subject to confirmation by a majority vote of the Assembly. Of the members appointed by the Senate Rules Committee, one member shall be a licensed physician and surgeon, and one member shall serve in an executive capacity to a health facility. Of the members appointed by the Speaker of the Assembly, one member shall be a person qualified by training and experience in the field of investment or finance and one member shall be representative of the general public. The terms of appointed members shall be four years, expiring on March 31 However, of the members initially appointed by the Senate Rules Committee, one member shall serve until March 31, 1981, and one member shall serve until March 31, 1984; of the members initially appointed by the Speaker of the Assembly, one member shall serve until March 31, 1982, and one member shall serve until March 31, 1983. The terms of initially appointed members shall be designated by the appointing authority at the time of appointment. Each member shall hold office for the term of his or her appointment and shall continue to serve until a successor shall have been appointed and qualified. Any vacancy among the members shall be filled by appointment for the unexpired term only. A member of the authority shall be eligible for reappointment.

Members of the authority shall serve without compensation, but the authority may reimburse its members for necessary expenses incurred in the discharge of their duties

15434 The authority, upon the first appointment of its members and thereafter on or after March 31 in each year, shall annually elect from its members a vice chairman and a secretary-treasurer who shall hold office until the next ensuing March 31 and shall continue to serve until their respective successors shall have been elected

The chairman of the authority on its behalf shall appoint an

executive director, who shall not be a member of the authority and who shall serve at the pleasure of the authority. The executive director shall receive such compensation as shall be fixed by the authority

15435. The executive director or other person designated by resolution of the authority shall keep a record of the proceedings of the authority and shall be custodian of all books, documents and papers filed with the authority, the minute book or journal of the authority, and its official seal. The executive director or other person may cause copies to be made of all minutes and other records and documents of the authority and may give certificates under the official seal of the authority to the effect that such copies are true copies, and all persons dealing with the authority may rely upon such certificates.

15436. Four members of the authority shall constitute a quorum. The affirmative vote of a majority of a quorum shall be necessary for any action taken by the authority. A vacancy in the membership of the authority shall not impair the right of a quorum to exercise all the rights and perform all the duties of the authority. Each meeting of the authority shall be open to the public and shall be held in accordance with the provisions of Article 11 (commencing with Section 11120) of Chapter 1 of this division. Resolutions of the authority need not be published or posted The authority may delegate by resolution to one or more of its members or its executive director such powers and duties as it may deem proper.

15437. The provisions of this part shall be administered by the authority, which shall have and is hereby vested with all powers reasonably necessary to carry out the powers and responsibilities expressly granted or imposed under this part

The authority shall establish financial eligibility standards by studying the creditworthiness and earning capacity of each project, together with the amount of pledged revenues, debt service coverage, and basic security. In establishing the financial eligibility standards, the authority shall not take into consideration the more favorable interest rates reasonably anticipated through the issuance of revenue bonds under this part.

15438. Subject to the conditions, restrictions, and limitations of Section 15438.1, the authority shall have power:

(a) To adopt bylaws for the regulation of its affairs and the conduct of its business.

(b) To adopt an official seal.

(c) To sue and be sued in its own name

(d) To receive and accept from any agency of the United States or any agency of the State of California or any municipality, county or other political subdivision thereof, or from any individual, association or corporation gifts, grants or donations of moneys for achieving any of the purposes of this chapter

(e) To engage the services of private consultants to render professional and technical assistance and advice in carrying out the

purposes of this part.

(f) To determine the location and character of any project to be financed under this part, and to acquire, construct, enlarge, remodel, renovate, alter, improve, furnish, equip, own, maintain, manage, repair, operate, lease as lessee or lessor and regulate the same, to enter into contracts for any or all of such purposes, to enter into contracts for the management and operation of a project or other health facilities owned by the authority, and to designate a participating health institution as its agent to determine the location and character of a project undertaken by such participating health institution under this chapter and as the agent of the authority, to acquire, construct, enlarge, remodel, renovate, alter, improve, furnish, equip, own, maintain, manage, repair, operate, lease as lessee or lessor and regulate the same, and as the agent of the authority, to enter into contracts for any or all of such purposes, including contracts for the management and operation of such project or other health facilities owned by the authority

(g) To acquire, directly or by and through a participating health institution as its agent, by purchase solely from funds provided under the authority of this part, or by gift or devise, and to sell (by installment sale or otherwise) such lands, structures, property, real or personal, rights, rights-of-way, franchises, easements and other interests in lands, including lands lying under water and riparian rights, which are located within the state as it may deem necessary or convenient for the acquisition, construction or financing of a health facility or the acquisition, construction, financing or operation of a project, upon such terms and at such prices as may be considered by it to be reasonable and can be agreed upon between it and the owner thereof, and to take title thereto in the name of the authority or in the name of a participating health institution as its agent.

(h) To receive and accept from any source loans, contributions or grants for or in aid of the construction, financing or refinancing of a project or any portion thereof in either money, property, labor, or other things of value

(i) To make secured or unsecured loans to any participating health institution in connection with the financing of a project in accordance with an agreement between the authority and the participating health institution; provided, that no such loan shall exceed the total cost of the project as determined by the participating health institution and approved by the authority

(j) To make secured or unsecured loans to any participating health institution in accordance with an agreement between the authority and the participating health institution to refinance indebtedness incurred by such participating health institution in connection with projects undertaken and completed or for health facilities acquired prior to or after the enactment of this part

(k) To mortgage all or any portion of its interest in a project or other health facilities and the property on which any such project or other health facilities are located whether owned or thereafter

acquired including the granting of a security interest in any property (tangible or intangible), and to assign or pledge all or any portion of its interests in mortgages, deeds of trust, indentures of mortgage or trust or similar instruments, notes, and security interests in property (tangible or intangible) of participating health institutions to which the authority has made loans, and the revenues therefrom, including payments or income from any thereof owned or held by the authority, for the benefit of the holders of bonds issued to finance such project or health facilities or issued to refund or refinance outstanding indebtedness of participating health institutions as permitted by this part

(*l*) To lease to a participating health institution the project being financed or other health facilities conveyed to the authority in connection with such financing, upon such terms and conditions as the authority shall deem proper, and to charge and collect rents therefor and to terminate any such lease upon the failure of the lessee to comply with any of the obligations thereof; and to include in any such lease, if desired, provisions that the lessee thereof shall have options to renew the term of the lease for such period or periods and at such rent as shall be determined by the authority to purchase any or all of the health facilities or that upon payment of all of the indebtedness incurred by the authority for the financing of such project or health facilities or for refunding outstanding indebtedness of a participating health institution, then the authority may convey any or all of the project or such other health facilities to the lessee or lessees thereof with or without consideration

(m) To charge and equitably apportion among participating health institutions, its administrative costs and expenses incurred in the exercise of the powers and duties conferred by this part

(n) To obtain, or aid in obtaining, from any department or agency of the United States or of the State of California or any private company, any insurance or guarantee as to, or of, or for the payment or repayment of, interest or principal, or both, or any part thereof, on any loan, lease or obligation or any instrument evidencing or securing the same, made or entered into pursuant to the provisions of this part, and notwithstanding any other provisions of this part to enter into any agreement, contract or any other instrument whatsoever with respect to any such insurance or guarantee, to accept payment in such manner and form as provided therein in the event of default by a participating health institution, and to assign any such insurance or guarantee as security for the authority's bonds

(o) To enter into any and all agreements or contracts, execute any and all instruments, and do and perform any and all acts or things necessary, convenient, or desirable for the purposes of the authority or to carry out any power expressly given in this part

(p) To invest any moneys held in reserve or sinking funds, or any moneys not required for immediate use or disbursement, at the discretion of the authority, in such obligations as are authorized by law for the investment of trust funds in the custody of the State

Treasurer.

15438.1. No project shall be eligible for approval under this part unless a certificate of need has first been obtained pursuant to the requirements of Part 1.5 (commencing with Section 437) of Division 1 of the Health and Safety Code, or a certificate of exemption has been obtained pursuant to such provisions or the project is otherwise exempt from certificate of need or certificate of exemption review and approval.

15438.5. It is the intent of the Legislature in enacting this part to provide financing only, and only to health facilities which can demonstrate the financial feasibility of their projects without regard to the more favorable interest rates anticipated through the issuance of revenue bonds under this part. It is further the intent of the Legislature that all or part of any savings experienced by a participating health institution, as a result of such tax-exempt revenue bond funding, be passed on to the consuming public through lower charges or containment of the rate of increase in hospital rates. It is not the intent of the Legislature in enacting this part to encourage unneeded health facility construction. Further, it is not the intent of the Legislature to authorize the authority to control or participate in the operation of hospitals, except where default occurs or appears likely to occur.

15439 (a) The California Health Facilities Authority Fund is hereby created in the State Treasury. All money in the fund is hereby continuously appropriated to the authority for carrying out the purposes of this division. The authority may pledge any or all of the moneys in the fund as security for payment of the principal of, and interest on, any particular issuance of bonds issued pursuant to this part, and, for such purpose or as necessary or convenient to the accomplishment of any other purpose of the authority, may divide the fund into separate accounts. All moneys accruing to the authority pursuant to this part from whatever source shall be deposited in the fund.

(b) Subject to such priorities as may be created by the pledge of particular moneys in the fund to secure any issuance of bonds of the authority, and subject further to such reasonable costs as may be incurred by the authority in administering the program authorized by this division, all moneys in the fund derived from any source shall be held in trust for the security and payment of bonds of the authority and shall not be used or pledged for any other purpose so long as such bonds are outstanding and unpaid. However, nothing in this section shall limit the power of the authority to make loans with the proceeds of bonds in accordance with the terms of the resolution authorizing the same.

(c) Pursuant to any agreements with the holders of particular bonds pledging any particular assets, revenues, or moneys, the authority may create separate accounts in the fund to manage assets, revenues, or moneys in the manner set forth in such agreements

(d) The authority may, from time to time, direct the State

Treasurer to invest moneys in the fund which are not required for its current needs, including proceeds from the sale of any bonds, in such eligible securities specified in Section 16430 of the Government Code as the agency shall designate. The authority may direct the State Treasurer to deposit moneys in interest-bearing accounts in state or national banks or other financial institutions having principal offices in this state. The authority may alternatively require the transfer of moneys in the 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 or other increment resulting from such investment or deposit shall be deposited in the fund, notwithstanding Section 16305.7 of the Government Code. Moneys in the fund shall not be subject to transfer to any other fund pursuant to any provision of Part 2 (commencing with Section 16300) of Division 4 of Title 2 of the Government Code, excepting the Surplus Money Investment Fund.

(e) All moneys accruing to the authority from whatever source shall be deposited in the fund.

15440 All expenses of the authority incurred in carrying out the provisions of this part shall be payable solely from funds provided pursuant to this part, and no liability shall be incurred by the authority beyond the extent to which moneys shall have been provided under this part; except that for the purposes of meeting the necessary expenses of initial organization and operation of the authority for the period commencing on January 1, 1980, and continuing until such date as the authority derives moneys from funds provided to it under the provisions of this part, the authority may borrow such moneys as the authority may require. Such moneys borrowed by the authority shall subsequently be charged to and apportioned among participating health facilities in an equitable manner and the moneys repaid with appropriate interest over a reasonable period of time.

15441 (a) The authority is authorized, from time to time, to issue its negotiable revenue bonds in order to provide funds for achieving any of its purposes under this part.

(b) Except as may otherwise be expressly provided by the authority, each of its revenue bonds shall be payable from any revenues or moneys of the authority available therefor and not otherwise pledged, subject only to any agreements with the holders of particular bonds or notes pledging any particular revenues or moneys. Notwithstanding that such revenue bonds may be payable from a special fund, they shall be and be deemed to be for all purposes negotiable instruments, subject only to the provisions of such bonds for registration.

(c) The authority's revenue bonds may be issued as serial bonds or as term bonds, or the authority, in its discretion, may issue bonds of both types The issuance of all revenue bonds shall be authorized by resolution of the authority and shall bear such date or dates,

mature at such time or times, not exceeding 30 years from their respective dates, bear interest at such rate or rates, be payable at such time or times, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places, and be subject to such terms of redemption, as the indenture, trust agreement, or resolution relating to such revenue bonds may provide. The authority's revenue bonds or notes may be sold by the State Treasurer at public or private sale, after giving due consideration to the recommendation of the participating health institution, for such price or prices and upon such terms and conditions as the authority shall determine. The State Treasurer may sell any such revenue bonds at a price below the par value thereof, provided, however, that the discount on any bonds so sold shall not exceed 6 percent of the par value thereof. Pending preparation of the definitive bonds, the authority may issue interim receipts or certificates or temporary bonds which shall be exchanged for such definitive bonds.

(d) Any resolution or resolutions authorizing the issuance of any revenue bonds or any issue of revenue bonds may contain provisions, which shall be a part of the contract with the holders of the bonds to be authorized, as to pledging all or any part of the revenues of a project or any revenue-producing contract or contracts made by the authority with any individual, partnership, corporation or association or other body, public or private, to secure the payment of the bonds or of any particular issue of bonds

(e) Neither the members of the authority nor any person executing the revenue bonds shall be liable personally on the bonds or be subject to any personal liability or accountability by reason of the issuance thereof

(f) The authority shall have power out of any funds available therefor to purchase its bonds The authority may hold, pledge, cancel or resell such bonds, subject to and in accordance with agreements with bondholders

15442 In the discretion of the authority, any revenue bonds issued under the provisions of this part may be secured by a trust agreement or indenture by and between the authority and a corporate trustee or trustees, which may be the State Treasurer or any trust company or bank having the powers of a trust company within or without the state Such trust agreement, indenture, or the resolution providing for the issuance of such bonds may pledge or assign the revenues to be received from a participating health institution Such indenture, trust agreement, or resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including particularly such provisions as have hereinabove been specifically authorized to be included in any resolution or resolutions of the authority authorizing bonds thereof Any such trust agreement

or indenture may set forth the rights and remedies of the bondholders and of the trustee or trustees, and may restrict the individual right of action of bondholders. In addition to the foregoing, any such indenture, trust agreement, or resolution may contain such other provisions as the authority may deem reasonable and proper for the security of the bondholders.

15443. Revenue bonds issued under the provisions of this part shall not be deemed to constitute a debt or liability of the state or of any political subdivision thereof or a pledge of the faith and credit of the state or of any such political subdivision, other than the authority, but shall be payable solely from the funds herein provided. All such bonds shall contain on the face thereof a statement to the effect that neither the State of California nor the authority shall be obligated to pay the principal of, or the interest thereon, except from revenues of the authority, and that neither the faith and credit nor the taxing power of the State of California or of any political subdivision thereof is pledged to the payment of the principal of or the interest on such bonds. The issuance of revenue bonds under the provisions of this part shall not directly or indirectly or contingently obligate the state or any political subdivision thereof to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment.

15444 Any holder of revenue bonds issued under the provisions of this part or any of the coupons appertaining thereto, and the trustee or trustees under any indenture or trust agreement, except to the extent the rights herein given may be restricted by any resolution authorizing the issuance of, or any such indenture or trust agreement securing, such bonds, may, either at law or in equity, by suit, action, mandamus or other proceedings, protect and enforce any and all rights under the laws of the state or granted hereunder or under such resolution or indenture or trust agreement, and may enforce and compel the performance of all duties required by this part or by such resolution, indenture, or trust agreement to be performed by the authority or by any officer, employee or agent thereof.

15445 All moneys received pursuant to this part, whether as proceeds from the sale of revenue bonds or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this part Any officer with whom, or any bank or trust company with which, such moneys shall be deposited shall act as trustee of such moneys and shall hold and apply the same for the purposes hereof, subject to such regulations as this part and the resolution authorizing the bonds of any issue or the indenture or trust agreement securing such bonds may provide

15446 (a) The authority may provide for the issuance of bonds of the authority for the purpose of refunding any bonds or any series or issue of bonds of the authority then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption and purchase or

maturity of such bonds

(b) The proceeds of any such bonds issued for the purpose of refunding of outstanding bonds may, in the discretion of the authority, be applied to the purchase or redemption prior to maturity or retirement at maturity or such outstanding bonds on their earliest redemption date or upon the purchase or at the maturity thereof and may, pending such application, be placed in escrow to be applied to such purchase or retirement at maturity or redemption on such date as may be determined by the authority

(c) Any such escrowed proceeds, pending such use, may be invested and reinvested in obligations of, or guaranteed by, the United States of America, or in certificates of deposit or time deposits secured by obligations of, or guaranteed by, the United States of America, maturing at such time or times as shall be appropriate to assure the prompt payment, as to principal, interest and redemption premium, if any, of the outstanding bonds to be so refunded The interest, income and profits, if any, earned or realized on any such investment may also be applied to the payment of the outstanding bonds to be so refunded After the terms of the escrow have been fully satisfied and carried out, any balance of such proceeds and interest, income and profits, if any, earned or realized on the investments thereof may be returned to the authority for use by it in any lawful manner

(d) All such refunding bonds shall be subject to the provisions of this part in the same manner and to the same extent as other bonds issued pursuant to this part

15447 Bonds issued by the authority under the provisions of this part are hereby made securities in which all banks, bankers, savings banks, trust companies and other persons carrying on a banking business, all insurance companies, insurance associations and other persons carrying on an insurance business, and all administrators, executors, guardians, trustees and other fiduciaries, and all other persons whatsoever who now are or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest any funds, including capital belonging to them or within their control, and such bonds, notes or other securities or obligations are hereby made securities which may properly and legally be deposited with and received by any state or municipal officers or agency of the state for any purpose for which the deposit of bonds or other obligations of the state is now or may hereafter be authorized by law

15448 Any bonds issued under the provisions of this part, their transfer, and the income therefrom shall at all times be free from taxation of every kind by the state and by all political subdivisions in the state

15449 The State of California does pledge to and agree with the holders of the bonds issued pursuant to this part, and with those parties who may enter into contracts with the authority pursuant to the provisions of this part, that the state will not limit alter or restrict

the rights hereby vested in the authority to finance health care facilities and to fulfill the terms of any agreements made with the holders of bonds authorized by this part, and with the parties who may enter into contracts with the authority pursuant to the provisions of this part, or in any way impair the rights or remedies of the holders of such bonds or such parties until the bonds, together with interest thereon, are fully paid and discharged and such contracts are fully performed on the part of the authority. The authority as a public body corporate and politic shall have the right to include the pledge herein made in its bonds and contracts.

15450. A pledge by or to the authority of revenues, moneys, accounts, accounts receivable, contract rights and other rights to payment of whatever kind made by or to the authority pursuant to the authority granted in this part shall be valid and binding from the time the pledge is made for the benefit of pledges and successors thereto The revenues, moneys, accounts, accounts receivable, contract rights and other rights to payment of whatever kind pledged and thereafter received by the authority or its assignees shall immediately be subject to the lien of the pledge without physical delivery or further act. The lien of such pledge shall be valid and binding against all parties, irrespective of whether the parties have notice of the claim The indenture, trust agreement, resolution or another instrument by which such pledge is created need not be recorded

15451 The authority shall fix, revise, charge and collect rents for the use of each project owned by the authority and contract with any person, partnership, association or corporation, or other body, public or private, in respect thereof Each lease entered into by the authority with a participating health institution and each agreement, note, mortgage or other instrument evidencing the obligations of a participating health institution to the authority shall provide that the rents or principal, interest and other charges payable by the participating health institution shall be sufficient at all times, (a) to pay the principal of, sinking fund payments, if any, the premium, if any, and the interest on outstanding bonds of the authority issued in respect of such project as the same shall become due and payable, (b) to create and maintain reserves which may but need not be required or provided for in the resolution relating to such bonds of the authority, and (c) to pay its share of the administrative costs and expenses of the authority The authority shall pledge the revenues derived and to be derived from a project or other related health facilities or from a participating health institution for the purposes specified in (a), (b), and (c) of the preceding sentence and additional bonds may be issued which may rank on a parity with other bonds relating to the project to the extent and on the terms and conditions provided in the bond resolution.

15452 When the principal of and interest on bonds issued by the authority to finance the cost of a project or to refinance outstanding indebtedness of one or more participating health institutions,

including any refunding bonds issued to refund and refinance such bonds, have been fully paid and retired or when adequate provision has been made to fully pay and retire the same, and all other conditions of the resolution, the lease, the trust indenture and any mortgage or deed of trust, security interest or any other instrument or instruments authorizing and securing the same have been satisfied and the lien of such mortgage, deed of trust or security interest has been released in accordance with the provisions thereof, the authority shall promptly do all things and execute such releases, release deeds, reassignments, deeds and conveyances as are necessary and required to convey or release its rights, title and interest in such project so financed, and any other health facilities mortgaged or securities or instruments pledged or transferred to secure the bonds, to such participating health institution or institutions

15453 The total amount of bonds which may be outstanding at any one time under this part shall not exceed six hundred fifty million dollars ($650,000,000) Bonds for which money or securities in amounts necessary to pay or redeem the principal, interest, and any redemption premium thereon have been deposited in trust shall not be deemed outstanding for purposes of this section

15455. This part shall be deemed to provide a complete, additional, and alternative method for doing the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws; provided, that the issuance of bonds and refunding bonds under the provisions of this chapter need not comply with the requirements of any other law applicable to the issuance of bonds

15456 To the extent that the provisions of this part are inconsistent with any other provisions of any general statute or special act or parts thereof, the provisions of this part shall be deemed controlling

15457 Any net earnings of the authority beyond that necessary for retirement of any obligations issued by the authority or to implement the purposes of this chapter may inure to the benefit only of the State of California or the authority

15458 Upon dissolution of the authority, title to all property owned by the authority shall vest in the successor authority created by the Legislature, if any, if such successor authority qualifies under Section 103 of the federal Internal Revenue Code of 1954, as amended, and the regulations promulgated thereunder, as an authority entitled to issue obligations on behalf of the State of California the interest on which is exempt from federal income taxation If no such successor authority is so created, title to such property shall vest in the State of California

15459 As a condition of participation under this part, each participating health institution shall give assurance to the Office of Statewide Health Planning and Development regarding availability of its services to community residents in the manner set forth in

subdivision (j) of Section 436 8 of the Health and Safety Code and shall provide notice of such availability as set forth in Section 436.82 of the Health and Safety Code. The remedies and sanctions available to the office against the borrower for failure to adhere to the assurance given to the office shall include 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 community service 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 the assurances given to the office.

(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 subdivision (b) of this section.

However, the remedies obtainable by such legal action shall not include withdrawal or cancellation of the project or projects financed or to be financed under this part

15460. The State Department of Health Services, in establishing reimbursement for services rendered under the Medi-Cal program by facilities financed under this part, shall reflect those interest savings allocable to Medi-Cal services to the extent feasible and in a manner consistent with federal law.

CHAPTER 1034

An act to amend Section 915 of the Evidence Code, and to amend Sections 1524 and 1525 of the Penal Code, relating to search warrants.

[Approved by Governor September 26, 1979 Filed with Secretary of State September 26, 1979]

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

SECTION 1 Section 915 of the Evidence Code is amended to read

915 (a) Subject to subdivision (b), the presiding officer may not require disclosure of information claimed to be privileged under this division in order to rule on the claim of privilege, provided, however, that in any hearing conducted pursuant to subdivision (c) of Section 1524 of the Penal Code in which a claim of privilege is made and the court determines that there is no other feasible means to rule on the validity of such claim other than to require disclosure, the court shall proceed in accordance with subdivision (b)

(b) When a court is ruling on a claim of privilege under Article 9 (commencing with Section 1040) of Chapter 4 (official information

and identity of informer) or under Section 1060 (trade secret) and is unable to do so without requiring disclosure of the information claimed to be privileged, the court may require the person from whom disclosure is sought or the person authorized to claim the privilege, or both, to disclose the information in chambers out of the presence and hearing of all persons except the person authorized to claim the privilege and such other persons as the person authorized to claim the privilege is willing to have present If the judge determines that the information is privileged, neither he nor any other person may ever disclose, without the consent of a person authorized to permit disclosure, what was disclosed in the course of the proceedings in chambers

SEC 2 Section 1524 of the Penal Code is amended to read

1524 (a) A search warrant may be issued upon any of the following grounds

(1) When the property was stolen or embezzled

(2) When the property or things were used as the means of committing a felony

(3) When the property or things are in the possession of any person with the intent to use it as a means of committing a public offense, or in the possession of another to whom he may have delivered it for the purpose of concealing it or preventing its being discovered

(4) When the property or things to be seized consist of any item or constitutes any evidence which tends to show a felony has been committed, or tends to show that a particular person has committed a felony

(b) The property or things described in subdivision (a) may be taken on the warrant from any place, or from any person in whose possession it may be

(c) Notwithstanding subdivision (a) or (b), no search warrant shall issue for any documentary evidence in the possession or under the control of any person, who is a lawyer as defined in Section 950 of the Evidence Code, a physician as defined in Section 990 of the Evidence Code, a psychotherapist as defined in Section 1010 of the Evidence Code, or a clergyman as defined in Section 1030 of the Evidence Code, and who is not reasonably suspected of engaging or having engaged in criminal activity related to the documentary evidence for which a warrant is requested unless the following procedure has been complied with

(1) At the time of the issuance of such warrant the court shall appoint a special master in accordance with subdivision (d) to accompany the person or persons who will serve the warrant Upon service of the warrant, the special master shall inform the party served of the specific items being sought and that the party shall have the opportunity to provide the items requested If the party, in the judgment of the special master, fails to provide the items requested, the special master shall conduct a search for such items in the areas indicated in the search warrant

(2) If the party who has been served states that an item or items should not be disclosed, they shall be sealed by the special master and taken to court for a hearing.

At such hearing the party searched shall be entitled to raise any issues which may be raised pursuant to Section 1538.5 as well as a claim that the item or items are privileged, as provided by law. Any such hearing shall be held in the superior court The court shall provide sufficient time for the parties to obtain counsel and make any motions or present any evidence Such hearing shall be held within three days of the service of the warrant unless the court makes a finding that such expedited hearing is impracticable In that case the matter shall be heard at the earliest possible time.

(3) Any such warrant must, whenever practicable, be served during normal business hours In addition, any such warrant must be served upon a party who appears to have possession or control of the items sought. If after reasonable efforts, the party serving the warrant is unable to locate any such person, the special master shall seal and return to the court for determination by the court any item or items which appear to be privileged as provided by law.

(d) As used in this section, a "special master" is an attorney who is a member in good standing of the California State Bar and who has been selected from a list of such attorneys which is maintained by the State Bar particularly for the purposes of conducting the searches described in this section. Such attorneys shall serve without compensation. In selecting the special master the court shall make every reasonable effort to insure that the person selected has no relationship with any of the parties involved in the pending matter. Any information obtained by the special master shall be confidential and shall not be divulged except in direct response to inquiry by the court

In any case in which the magistrate determines that, after reasonable efforts have been made to obtain a special master, a special master is not available and would not be available within a reasonable period of time, the magistrate may direct the party seeking the order to conduct the search in the manner described in this section in lieu of the special master.

(e) Any search conducted pursuant to this section by a special master may be conducted in such a manner as to permit the party serving the warrant or his designee to accompany the special master as he conducts his search However, such party or his designee shall not participate in the search nor shall he examine any of the items being searched by the special master except upon agreement of the party upon whom the warrant has been served

(f) As used in this section "documentary evidence" includes, but is not limited to, writings, documents, blueprints, drawings, photographs, computer printouts, microfilms, X-rays, files, diagrams, ledgers, books, tapes, audio and video recordings, films or papers of any type or description

(g) No warrant shall issue for any item or items described in

Section 1070 of the Evidence Code.

SEC 3 Section 1525 of the Penal Code is amended to read:

1525 A search warrant cannot be issued but upon probable cause, supported by affidavit, naming or describing the person, and particularly describing the property and the place to be searched

The application shall specify when applicable, that the place to be searched is in the possession or under the control of an attorney, physician, psychotherapist or clergyman

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CHAPTER 1035

An act to amend Sections 2550, 2551, 12516, 17701, 17730.5, 17732, 39363, 42237, 42238, 42239.5, 42240, 45452, 84700, 84701, 84702, 84703, 84704, 84705, 84720, 84721, 84722, and 84724 of, to add Sections 17730.6, 42237.6, 42243 5, 42243 7, and 84719 5 to, to repeal Sections 17726, 17727, 17728, 17732 2, 17737, and 17739 of, to repeal and add Section 17722 of, to add Article 5 (commencing with Section 84801) and Article 6 (commencing with Section 84850) to Chapter 5 of Part 50 of, to repeal and add Chapter 11 (commencing with Section 42900) of Part 24 of, and Article 8 (commencing with Section 84890) of Chapter 5 of Part 50 of, the Education Code, to add Section 100.4 to the Revenue and Taxation Code, to amend Section 27.2 of Chapter 259 of the Statutes of 1979 and Section 97 of Chapter 282 of the Statutes of 1979, and to repeal Chapter 1203 of the Statutes of 1970, relating to the funding of governmental agencies, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately

[Approved by Governor September 26, 1979 Filed with Secretary of State September 26, 1979]

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

SECTION 1. Section 2550 of the Education Code, as added by Chapter 282 of the Statutes of 1979, is amended to read:

2550 The Superintendent of Public Instruction shall perform the computations prescribed in this section for each county superintendent of schools

(a) The Superintendent of Public Instruction shall make the following computations to determine the revenue limits for special education programs operated by county superintendents of schools:

(1) For the 1979–80 fiscal year, the Superintendent of Public Instruction shall determine the 1978–79 revenue limits for each of the programs specified in subdivisions (b), (c), and (d) of Section 2500, as computed pursuant to Section 6 of Chapter 292 of the Statutes of 1978, as amended by Chapter 332 of the Statutes of 1978. The Superintendent of Public Instruction shall increase each of such revenue limits by a percentage equal to the inflation allowance

calculated in Section 2557

(2) For special education tuition charges for which county superintendents of schools were authorized to levy a tax pursuant to Section 2505, the Superintendent of Public Instruction shall calculate a revenue limit by dividing the total tuition actually paid for the 1977–78 fiscal year by the total average daily attendance of pupils educated for the county superintendent by the districts in the county for the 1977–78 fiscal year For the 1979–80 fiscal year, the Superintendent of Public Instruction shall increase such revenue limit by a percentage equal to the inflation allowance calculated in Section 2557

(3) For programs operated pursuant to Section 56604 for which county superintendents were previously reimbursed pursuant to Section 42902, the Superintendent of Public Instruction shall calculate a revenue limit equal to each county superintendent's expenditures per unit of average daily attendance in such programs in the 1977–78 fiscal year For the 1979–80 fiscal year, the Superintendent of Public Instruction shall increase such revenue limit by a percentage equal to the inflation allowance calculated in Section 2557

(4) For programs operated pursuant to Section 56818, the Superintendent of Public Instruction shall calculate a revenue limit equal to each county superintendent's expenditures per instructional hour in such programs in the 1977–78 fiscal year For the 1979–80 fiscal year, the Superintendent of Public Instruction shall increase such revenue limit by a percentage equal to the inflation allowance calculated in Section 2557

(5) For duties established pursuant to subdivisions (a), (b), (c), and (d) of Section 56314, the Superintendent of Public Instruction shall determine an amount equal to five dollars ($5) for a county of the first class, six dollars ($6) for a county of the second class, seven dollars ($7) for a county of the third class, eight dollars ($8) for a county of the fourth class, and ten dollars ($10) for each county in any other class, multiplied by the number of pupils in the county receiving special education services County class shall be determined pursuant to Section 1205

(6) The Superintendent of Public Instruction shall multiply the amounts calculated in paragraphs (1) to (5), inclusive, by the estimated number of classes, units of average daily attendance, instructional hours or pupils receiving special education services, as appropriate, for the 1979–80 fiscal year, with the exception of the amount in paragraph (3), which shall be multiplied by the units of average daily attendance for the 1978–79 fiscal year or the estimated units of average daily attendance for the 1979–80 fiscal year, as appropriate in each county

(7) The total amount determined in paragraph (6) may be used for any of the programs specified in this subdivision

(b) The Superintendent of Public Instruction shall make the following computations to determine the revenue limits for special

schools and classes operated by county superintendents of schools:

(1) For the 1979–80 fiscal year, the Superintendent of Public Instruction shall determine the 1978–79 revenue limits for the programs specified in subdivision (e) of Section 2500, as computed pursuant to Section 6 of Chapter 292 of the Statutes of 1978, as amended by Chapter 332 of the Statutes of 1978 The Superintendent of Public Instruction shall increase such revenue limits by a percentage equal to the inflation allowance calculated in Section 2557

(2) For the 1979–80 fiscal year, the Superintendent of Public Instruction shall determine the allowances which county superintendents receive per unit of average daily attendance in programs operated pursuant to Section 1980 or 48633

(3) The Superintendent of Public Instruction shall multiply the amounts calculated in paragraphs (1) and (2) by the estimated number of units of average daily attendance for such programs for the 1979–80 fiscal year

(4) The total amount calculated in paragraph (3) may be used for any of the programs specified in this subdivision

(c) The Superintendent of Public Instruction shall make the following computations to determine the amount to be allocated for vocational/technical schools and classes operated by county superintendents of schools:

(1) For the 1979–80 fiscal year, for programs operated pursuant to Section 52301, the Superintendent of Public Instruction shall determine the 1978–79 revenue limits specified in Section 52317, as computed pursuant to Section 6 of Chapter 292, Statutes of 1978, as amended by Chapter 332 of the Statutes of 1978 The Superintendent of Public Instruction shall increase such revenue limits by a percentage equal to the inflation allowance calculated in Section 2557 The Superintendent of Public Instruction shall then multiply this adjusted revenue limit by the estimated number of units of average daily attendance for such programs for the 1979–80 fiscal year For purposes of this paragraph, such estimate shall include only average daily attendance earned by students concurrently enrolled in regular high school programs and by adults enrolled in adult programs mandated pursuant to Section 41976

(2) For the 1979–80 fiscal year, the Superintendent of Public Instruction shall determine the revenue limits per unit of average daily attendance for programs operated pursuant to Sections 1791 and 2520, as computed pursuant to Section 6 of Chapter 292 of the Statutes of 1978, as amended by Chapter 332 of the Statutes of 1978 The Superintendent of Public Instruction shall increase such revenue limits by a percentage equal to the inflation allowance calculated in Section 2557 The Superintendent of Public Instruction shall then multiply these adjusted revenue limits by the respective number of units of average daily attendance for such programs for the 1979–80 fiscal year

(3) The total amount calculated in paragraphs (1) and (2) may be

used for any of the programs specified in this subdivision.

SEC 2 Section 2551 of the Education Code, as added by Chapter 282 of the Statutes of 1979, is amended to read

2551. The Superintendent of Public Instruction shall perform the computations prescribed in this section to determine each county superintendent's revenue limit for county superintendent responsibilities and district services.

(a) For the 1979–80 fiscal year, the Superintendent of Public Instruction shall calculate the revenue limit for programs operated pursuant to Sections 1510 and 2506, as computed pursuant to Section 6 of Chapter 292 of the Statutes of 1978, as amended by Chapter 332 of the Statutes of 1978 This amount shall be then increased by the amount of increased cost determined pursuant to Section 2507 7 for the 1978–79 fiscal year The Superintendent of Public Instruction shall increase such revenue limit by a percentage equal to the inflation allowance calculated in Section 2557

(b) For the 1979–80 fiscal year and for each fiscal year thereafter, the Superintendent of Public Instruction shall increase the amount calculated in subdivision (a) by the amounts computed according to Sections 2507.5 and 2510

(c) The total amounts for each program calculated pursuant to subdivision (a) may be used for any of the services or programs specified in this section.

SEC 3 Section 12516 of the Education Code is amended to read:

12516 This chapter shall remain operative until June 30, 1980, and after such date shall have no force or effect

SEC 3 1 Section 17701 of the Education Code is amended to read

17701 The Legislature hereby declares that it is in the interest of the state and the people thereof for the state to reconstruct, remodel or replace existing school buildings which are educationally inadequate or which do not meet present-day structural safety requirements, and to acquire new school sites and buildings for the purpose of making them available to local school districts for the pupils of the public school system, such system being a matter of general concern inasmuch as the education of the children of the state is an obligation and function of the state

SEC 3 2 Section 17722 of the Education Code is repealed

SEC 3 3 Section 17722 is added to the Education Code, to read

17722 The board shall not approve any new school facilities for any applicant school district or county superintendent of schools until it has first made a determination that such applicant will utilize all existing facilities to the extent economically and practically feasible

SEC 3 4 Section 17726 of the Education Code is repealed

SEC 3 5 Section 17727 of the Education Code is repealed

SEC 3 6 Section 17728 of the Education Code is repealed

SEC 3 7 Section 17730 5 of the Education Code is amended to read

17730 5 Notwithstanding any provision to the contrary, no funds authorized by any act for the purpose of this chapter may be expended for any purpose without specific authorization from the board or its designated representatives.

SEC 3.8. Section 17730.6 is added to the Education Code, to read:

17730.6. From any moneys in the State School Facilities Aid Fund, the board shall make available to the Director of General Services such amounts as it determines necessary to provide the assistance, pursuant to this chapter, required by Section 15504 of the Government Code.

SEC 3.9. Section 17732 of the Education Code is amended to read:

17732 The board shall fix rents, for all projects acquired and is authorized to change such rents from time to time as may be needed provided such rents shall not in any year exceed the sum of the following (a) one dollar ($1.00), (b) any interest earned on funds in the county school lease-purchase fund for the district, (c) any unencumbered bond funds of the district, and (d) the net proceeds from the sale or lease of any school buildings or land no longer needed for school purposes.

SEC. 3.10 Section 17732.2 of the Education Code is repealed.

SEC 3.11 Section 17737 of the Education Code is repealed.

SEC. 3.12. Section 17739 of the Education Code is repealed.

SEC. 4. Section 39363 of the Education Code, as amended by Chapter 282 of the Statutes of 1979, is amended to read·

39363. The funds derived from the sale or from a lease with an option to purchase may be deposited in the general funds of the district for any general fund purpose if the school district governing board and the State Allocation Board have determined that the district has no anticipated need for additional sites or building construction for the five-year period following such sale or lease, and the district has no major deferred maintenance requirements

SEC 5 Section 42237 of the Education Code, as added by Chapter 282 of the Statutes of 1979, is amended to read:

42237 (a) For the 1978–79 fiscal year, the county superintendent of schools shall, for each school district in the county:

(1) Utilizing the second principal apportionment units of average daily attendance for the 1978–79 fiscal year and the adult and summer school units of average daily attendance for the 1977–78 fiscal year, recalculate the 1978–79 funding level pursuant to Section 2 of Chapter 292 of the Statutes of 1978, as amended by Chapter 332, Statutes of 1978 and Chapter 119, Statutes of 1979, excluding the adjustments authorized pursuant to former Sections 42239, 42241.7, 42243 6, 42245, and 46605, and 50 percent of the amount of adjustment authorized by Section 42950 as it read prior to amendment by Chapter 238 of the Statutes of 1979

(2) Deduct the following from the amount determined in paragraph (1)

(A) The amounts which the district received, but not to exceed

the amount expended in the 1978–79 fiscal year, for purposes of child development, developmental centers for handicapped pupils, and meals for needy pupils programs from funds provided pursuant to Chapter 292 of the Statutes of 1978, as amended by Chapter 332 of the Statutes of 1978, and Chapter 119 of the Statutes of 1979

(B) An amount equal to the 1978–79 school year adult average daily attendance generated in the adult education programs specified in Item 316.1 of the Budget Act of 1978 (Ch 359, Stats 1978) multiplied by the 1978–79 adult revenue limit computed pursuant to either subdivision (f) or (g) and subdivision (i) of Section 43001 of the Education Code reduced by the district's reduction factor calculated pursuant to Section 2 of Chapter 292 of the Statutes of 1978 as amended by Chapter 332, Statutes of 1978, and Chapter 119, Statutes of 1979

(3) Add to the amount determined in paragraph (2)·

(A) The state apportionments received by the district in fiscal year 1978–79 pursuant to Item 316 1 of the Budget Act of 1978 (Ch 359, Stats 1978), excluding that portion allocated for adults in subparagraph (A) of paragraph (4) of subdivision (c)

(B) The balances of funds on June 30, 1977, restricted for meals for needy pupils for districts which levied no tax pursuant to Section 49502 of the Education Code in the 1977–78 fiscal year

(C) One half of the amount of salary increases granted to classified employees of a school district in the fiscal years 1974–75 to 1979–80, inclusive, by the board of supervisors of a city and county

(D) Any revenue limit increase authorized pursuant to Section 42244 which was not authorized to be levied prior to the 1979–80 fiscal year

(4) Divide the amount determined in paragraph (3) by the sum of the 1978–79 second principal apportionment units of average daily attendance in the regular school year and in summer programs for graduating high school seniors That amount shall be known as the school district's revenue limit per unit of average daily attendance for the 1978–79 fiscal year

(5) The Superintendent of Public Instruction shall determine the statewide weighted mean revenue limit computed pursuant to paragraph (4) of this subdivision for the following groups of districts For the purpose of this paragraph, "ADA" is the district's regular average daily attendance

(A) Elementary districts with 100 or less units of ADA

(B) Elementary districts with more than 100 and less than 901 units of ADA

(C) High school districts with less than 301 units of ADA

(D) Unified districts with less than 1501 units of ADA

(E) Elementary districts with greater than 900 units of ADA

(F) High school districts with greater than 300 units of ADA

(G) Unified districts with greater than 1500 units of ADA

(b) In the 1979–80 fiscal year, the county superintendent shall adjust each school district's revenue limit computed pursuant to

subdivision (a) as follows:

(1) Divide the district's prior year revenue limit into the prior year's statewide weighted mean revenue limit for that type of district and multiply that result by the product of 0 086 and the amount determined in subparagraph (G) of paragraph (5) of subdivision (a)

(2) The amount determined in paragraph (1) shall be added to the district's 1978–79 fiscal year revenue limit computed pursuant to paragraph (4) of subdivision (a). That result shall be the district's revenue limit per unit of average daily attendance for the 1979–80 fiscal year

(c) The county superintendent shall determine the district's total revenue limit for the 1979–80 fiscal year by adding the following·

(1) The amount obtained by multiplying the revenue limit determined pursuant to subdivision (b) by the sum of the second principal apportionment regular average daily attendance, and the product of 0 6 multiplied by the summer average daily attendance for graduating high school seniors

(2) The amount determined pursuant to Sections 42239, 42241 7, 42243 6, 42245, and 46605

(3) The amounts for meals for needy pupils and for development centers for handicapped pupils determined in subparagraph (A) of paragraph (2) of subdivision (a) multiplied by 1 07, and adjusted for pupil participation.

(4) An amount for each unit of adult average daily attendance in the 1979–80 fiscal year for the programs specified in subdivision (b) of Section 41976 as follows·

(A) Determine for each district its 1978–79 fiscal year adult revenue limit per unit of average daily attendance computed pursuant to Sections 42244 and 43001.8 and subdivision (f) or (g) of Section 43001 as modified by the appropriate percentage in subdivision (c), (d), or (e) of Section 2 of Chapter 292 of the Statutes of 1978, as amended by Chapter 332 of the Statutes of 1978, as amended by Chapter 119 of the Statutes of 1979, plus the prorated amount allocated pursuant to Item 316 1 of the Budget Act of 1978 (Ch 359, Stats 1978) for adult programs

(B) For districts with an adult revenue limit as determined in subparagraph (A) which is less than the 1978–79 fiscal year statewide average adult revenue limit computed pursuant to subparagraph (A), the adult revenue limit for the 1979–80 fiscal year shall be the amount determined in subparagraph (A) multiplied by 1 07

(C) For districts with a revenue limit as determined in subparagraph (A) which is between the statewide average adult revenue limit computed pursuant to subparagraph (A) for the 1978–79 fiscal year and the product of 1 07 times that amount the adult revenue limit for 1979–80 fiscal year shall be 1 07 times the 1978–79 fiscal year statewide average adult revenue limit

(D) For districts with a revenue limit as determined in subparagraph (A) which is greater than 1 07 times the statewide

average adult revenue limit computed pursuant to subparagraph (A) the amount computed pursuant to subparagraph (A) for the 1979–80 fiscal year shall be the amount determined in subparagraph (A) except that for any units of adult average daily attendance in excess of that reported for the second principal apportionment of the 1978–79 fiscal year, the adult revenue limit shall be 1.07 multiplied by the 1978–79 fiscal year statewide average adult revenue limit.

(E) To the amount computed in subparagraph (B), (C), or (D) shall be added the adjustments, if any, made pursuant to Sections 42243 6, 42245, and 46605

(d) In no event shall the amount computed pursuant to this section be less than the product of 1.02 times the amount computed pursuant to Section 2 of Chapter 292 of the Statutes of 1978, as amended by Chapter 332 of the Statutes of 1978, and Chapter 119 of the Statutes of 1979, exclusive of funds expended for the purposes of child development programs.

(e) The Superintendent of Public Instruction shall apportion to each school district in the 1979–80 fiscal year the amount determined in this section less the sum of. (1) the district's property tax revenue received pursuant to Chapter 6 (commencing with Section 95) of Part 0 5 of the Revenue and Taxation Code; (2) the amount, if any, received pursuant to Part 18 5 (commencing with Section 38101) of the Revenue and Taxation Code, (3) the amount if any, received pursuant to Chapter 3 (commencing with Section 16140) of the Government Code; (4) prior year taxes and taxes on the unsecured roll; (5) fifty percent of the amount received pursuant to Section 41603.

SEC. 6 Section 42237 6 is added to the Education Code, to read

42237 6 A high school district providing education to 7th and 8th grade pupils may add to its revenue limit in subparagraph (A) of paragraph (3) of subdivision (a) of Section 42237 an amount computed as follows: (1) Compute the amount of state aid and revenue limit increase for the 1978–79 fiscal year pursuant to Section 41716 and 41716.5 using the unified district computational tax rates attributable to grades 7 to 12, inclusive, in Section 41716.5 in lieu of the high school district computational tax rates, (2) subtract the actual state aid received in the 1978–79 fiscal year and actual 1978–79 revenue limit increase pursuant to Sections 41716 and 41716 5 from the amount determined in (1) If the amount determined in (2) is greater than zero, that amount may be added to the district's revenue limit

SEC 7 Section 42238 of the Education Code, as added by Chapter 282 of the Statutes of 1979, is amended to read

42238 (a) For the 1980–81 fiscal year and each fiscal year thereafter the county superintendent of schools shall determine a revenue limit for each school district in the county pursuant to this section

(b) For the 1980–81 fiscal year, each district with a revenue limit per unit of average daily attendance computed for the 1979–80 fiscal

year pursuant to paragraph (2) of subdivision (b) of Section 42237, excluding any funds resulting from an adjustment pursuant to Section 42950 as it read prior to amendment by Chapter 238 of the Statutes of 1979, shall receive the maximum inflation adjustment if that revenue limit is less than the following amounts:

(1) Elementary districts with less than 101 units of average daily attendance, one thousand seven hundred dollars ($1,700).

(2) Elementary districts with more than 100 units of average daily attendance, one thousand three hundred fifty dollars ($1,350)

(3) High school districts with less than 301 units of average daily attendance, one thousand nine hundred dollars ($1,900)

(4) High school districts with more than 300 units of average daily attendance, one thousand seven hundred dollars ($1,700)

(5) Unified districts with less than 1,501 units of average daily attendance, one thousand five hundred twenty-five dollars ($1,525).

(6) Unified districts with more than 1,500 units of average daily attendance, one thousand five hundred dollars ($1,500).

For computation of revenue limits for the 1981–82 fiscal year and each fiscal year thereafter, the amounts specified in paragraphs (1) through (6) shall be cumulatively increased by the amount of the maximum inflation adjustment for the preceding fiscal year

(c) For the 1980–81 fiscal year, each district with a revenue limit per unit of average daily attendance computed for the 1979–80 fiscal year pursuant to paragraph (2) of subdivision (b) of Section 42237 shall receive the minimum inflation adjustment if that revenue limit is more than the following amounts:

(1) Elementary districts with less than 101 units of average daily attendance, two thousand two hundred dollars ($2,200).

(2) Elementary districts with more than 100 units of average daily attendance, one thousand eight hundred fifty dollars ($1,850).

(3) High school districts with less than 301 units of average daily attendance, two thousand four hundred dollars ($2,400)

(4) High school districts with more than 300 units of average daily attendance, two thousand two hundred dollars ($2,200).

(5) Unified districts with less than 1,501 units of average daily attendance, two thousand and twenty-five dollars ($2,025).

(6) Unified districts with more than 1,500 units of average daily attendance, two thousand dollars ($2,000)

For the computation of revenue limits for the 1981–82 fiscal year and each fiscal year thereafter, the amounts specified in paragraphs (1) through (6) shall be cumulatively increased by the amount of the difference between the maximum inflation adjustment prescribed in subdivision (d) for the preceding fiscal year and one hundred dollars ($100).

(d) The maximum inflation adjustment shall be one hundred fifty dollars ($150) for the 1980–81 fiscal year; one hundred thirty-nine dollars ($139) for the 1981–82 fiscal year, one hundred thirty dollars ($130) for the 1982–83 fiscal year, and, one hundred thirty-eight dollars ($138) for the 1983–84 fiscal year and each fiscal year

thereafter The minimum inflation adjustment in each fiscal year shall be the amount of the maximum inflation adjustment reduced by sixty-five dollars ($65).

(e) Utilizing the district revenue limit per unit of average daily attendance for the preceding fiscal year computed pursuant to paragraph (2) of subdivision (b) of Section 42237 or this section, as the case may be, the county superintendent of schools shall compute an inflation adjustment as follows:

(1) For districts with a revenue limit per unit of average daily attendance in the preceding fiscal year which was less than the amount specified in subdivision (b), the maximum inflation allowance plus an additional amount not to exceed twenty-five dollars ($25) if the district will qualify for the maximum inflation adjustment in the next succeeding fiscal year

(2) For districts with a revenue limit per unit of average daily attendance in the preceding fiscal year which was greater than the amount specified in subdivision (b), but less than the amount specified in subdivision (c), determine the difference between the prior year amount specified in subdivision (c) and the district's prior year revenue limit per unit of average daily attendance. Multiply that difference by 65 and divide that product by the difference between the prior year amounts specified in subdivisions (b) and (c) This result added to the minimum inflation adjustment specified in subdivision (d) shall be the inflation adjustment.

(3) For districts with a revenue limit per unit of average daily attendance in the preceding fiscal year which was equal to or greater than the amount specified in subdivision (c) the inflation adjustment shall be the minimum inflation adjustment specified in subdivision (d).

(f) The amount computed pursuant to subdivision (e) shall be added to the revenue limit per unit of average daily attendance computed pursuant to paragraph (2) of subdivision (b) of Section 42237, excluding any funds resulting from an adjustment pursuant to Section 42950 as it read prior to amendment by Chapter 238 of the Statutes of 1979, for the 1980–81 fiscal year, or the amount computed pursuant to this subdivision for the 1981–82 fiscal year and each fiscal year thereafter This amount shall be known as the school district revenue limit per unit of average daily attendance for the fiscal year for which it was computed.

(g) The county superintendent of schools shall determine the district's total revenue limit for the current year by adding the following:

(1) The amount obtained by multiplying the revenue limit determined pursuant to subdivision (d) by the sum of the second principal apportionment regular average daily attendance and the product of 0.6 times the sum of the summer average daily attendance for graduating high school seniors and pupils participating in summer school programs in grades 7 to 12, inclusive, who do not meet the district's adopted proficiency standards

(2) The amount determined pursuant to Sections 42239, 42241.7, and 42243 6

(3) The amounts computed in the preceding fiscal year for development centers for handicapped pupils and meals for needy pupils programs multiplied by 1.06, and adjusted for pupil participation

(4) The amount per unit of adult average daily attendance for the preceding fiscal year multiplied by the product of 1.06 and the number of units of adult average daily attendance for the programs specified in subdivision (b) of Section 41976; provided that in no event shall the amount per unit of adult average daily attendance exceed 1 06 times the prior year maximum

(h) In no event shall the amount computed pursuant to this section in the 1980–81 fiscal year be less than the product of 1.02 times the amount computed pursuant to subdivision (d) of Section 42237

(i) The Superintendent of Public Instruction shall apportion to each school district in the 1980–81 fiscal year and in each fiscal year thereafter, the amount determined in this section less the sum of·

(1) The district's property tax revenue received pursuant to Chapter 6 (commencing with Section 95) of Part 0 5 of the Revenue and Taxation Code

(2) The amount, if any, received pursuant to Part 18 5 (commencing with Section 38101) of the Revenue and Taxation Code

(3) The amount, if any, received pursuant to Chapter 3 (commencing with Section 16140) of the Government Code.

(4) Prior year taxes and taxes on the unsecured roll.

(5) Fifty percent of the amount received pursuant to Section 41603

SEC 8. Section 42239.5 of the Education Code, as added by Chapter 282 of the Statutes of 1979, is amended to read·

42239.5. Any gain or loss of average daily attendance used in the revenue limit calculation in Section 42237 or 42238 which is due to attendance in regional occupational centers or programs pursuant to Sections 52321 and 52324, attendance in adult programs by concurrently enrolled high school students, interdistrict attendance, and class-size penalties shall not be used in determining the amount allowed in Section 42239

SEC 9 Section 42240 of the Education Code, as added by Chapter 282 of the Statutes of 1979, is amended to read·

42240 From funds appropriated for such purposes, the Superintendent of Public Instruction shall apportion funds to school districts pursuant to this section in an amount not to exceed fourteen million six hundred thousand dollars ($14,600,000) in each fiscal year for the 1979–80 and 1980–81 fiscal years

The revenue limit of each school district with less than 2,501 units of average daily attendance for the second principal apportionment in the 1978–79 fiscal year and approved home to school transportation costs in excess of 3 percent of its general fund total

expense of education in the 1977–78 fiscal year shall be increased in the 1979–80 fiscal year and 1980–81 fiscal year by an amount not to exceed the difference between its approved home to school transportation costs in the 1977–78 fiscal year and 3 percent of the district general fund total expense of education in the 1977–78 fiscal year.

In the event that apportionments resulting from the revenue limit increase prescribed by this section exceed fourteen million six hundred thousand dollars ($14,600,000), the Superintendent of Public Instruction shall adjust on a pro rata basis such apportionments so that the total amount in each fiscal year does not exceed such amount.

This section shall remain in effect only until July 1, 1981, and as of such date is repealed, unless a later enacted statute, which is chaptered before July 1, 1981, deletes or extends such date.

SEC. 10. Section 42243.5 is added to the Education Code, to read:

42243.5. In the 1979–80 fiscal year only, the revenue limit of a school district shall be decreased as follows:

(a) The county superintendent of schools shall determine the amount of district contributions from local tax revenues pursuant to former Sections 59021, 59121, and 59221 for the 1972–73 fiscal year, plus or minus the 1978–79 fiscal year revenue limit adjustment as a result of Section 42243.5 as it read in that fiscal year.

(b) The county superintendent of schools shall subtract the amount computed in subdivision (a) from the school district's revenue limit computed pursuant to paragraph (4) of subdivision (a) of Section 42237.

SEC. 11. Section 42243 7 is added to the Education Code, to read:

42243.7 (a) For any unified school district which commenced operations on or after June 30, 1978, or any school district which receives approval from the Department of Education for a continuation education high school for the 1979–80 fiscal year, the Superintendent of Public Instruction shall compute an adjustment to the district revenue limit pursuant to this section.

(b) Determine the amount of foundation program which the district whould have been entitled to pursuant to subdivision (a) of Section 41711 if the district had operated during the 1977–78 fiscal year utilizing the number of units of average daily attendance attending high school in the district in the fiscal year for which the revenue limit is being computed.

(c) Determine the amount of foundation program which the district would have been entitled to pursuant to paragraph (1) of subdivision (b) of Section 41711 if the district had operated during the 1977–78 fiscal year utilizing the same number of units of average daily attendance used in subdivision (b) of this section.

(d) Subtract the amount determined pursuant to subdivision (c) from the amount computed pursuant to subdivision (b).

(e) The amount computed pursuant to subdivision (d), if greater than zero, shall be added to the revenue limit computed pursuant to

subdivision (c) of Section 42237 or subdivision (g) of Section 42238. If the amount in subdivision (d) is less than zero there is no adjustment.

SEC. 12. Chapter 11 (commencing with Section 42900) of Part 24 of the Education Code is repealed.

SEC 12.3 Chapter 11 (commencing with Section 42900) is added to Part 24 of the Education Code, to read·

CHAPTER 11. EDUCATION OF CHILDREN IN INSTITUTIONS

42900. Every person, association, corporation, or public agency which engages in referring to or placing children in licensed institutions, licensed foster homes, or hospitals operated by a county or a nonprofit tax exempt hospital shall report to the county superintendent of schools of the county where the school district providing education for children pursuant to Section 42901 is situated, within 30 days, any referral or admission of a child or children to such institution, home, or hospital

42901 (a) Whenever an elementary school, high school, or unified school district provides education, as described in subdivision (b) or (c), for children who reside in a regularly established licensed children's institution, licensed foster home, hospital operated by a county, or a nonprofit tax exempt hospital, located within the boundaries of the district, and such child resides there either pursuant to a commitment or placement under Chapter 2 (commencing with Section 200) of Part 1 of Division 2 of the Welfare and Institutions Code, or placement by the child's parent or guardian, the district shall be reimbursed pursuant to this chapter.

(b) Education in special schools and classes for pupils coming within the provisions of Section 56501, 56515, 56604, or 56700.

(c) Those special educational programs approved by the Superintendent of Public Instruction during the 1977–78 or 1978–79 fiscal year pursuant to Section 42904 as it read during those fiscal years

(d) For pupils described in subdivision (a) for which the school district is providing education in the regular schools and classes of the district and not in programs specified in subdivision (b) or (c), no reimbursement shall be received pursuant to this chapter.

(e) Programs operated in state hospitals or juvenile halls shall not be reimbursed pursuant to this chapter

42902. For the 1979–80 fiscal year and each fiscal year thereafter, each elementary school, high school or unified school district providing programs pursuant to subdivision (b) of Section 42901 for pupils specified in subdivision (a) of Section 42901, may add the following amount to its revenue limit for each unit of average daily attendance generated by such pupils·

The district's actual cost per special education unit of average daily attendance for the physically handicapped, mentally retarded, educationally handicapped or development centers for handicapped

pupils programs not to exceed the district's actual cost per unit of average daily attendance in such programs in the prior year as appropriate less any special education allowances received pursuant to Article 11 (commencing with Section 41880) of Chapter 5 and any revenue limit income received pursuant to Section 42237 or 42238 as a result of such pupils and any federal allowances for such pupils.

42903. For the 1979–80 fiscal year and each fiscal year thereafter, each district operating a program pursuant to subdivision (c) of Section 42901 may increase its revenue limit by an amount equal to the excess cost of providing a special educational program for pupils less any federal or state allowances for such special program. The sum of such excess cost per unit of average daily attendance plus any income from state or federal government for such purposes shall not exceed the average income needed to provide special education for such pupils as determined by the Superintendent of Public Instruction The amount determined by the superintendent for any school district which provided special educational programs for such pupils during the 1976–77 fiscal year shall not be less than the average level of support for such pupils during that fiscal year.

42904. Whenever a county superintendent of schools provides education in special schools and classes within the provisions of Chapter 3 (commencing with Section 56500), Chapter 5 (commencing with Section 56700), or Chapter 6 (commencing with Section 56800) of Part 30 for pupils described in subdivision (a) of Section 42901, the appropriate revenue limit specified in Section 2550 shall apply and no funding shall be provided pursuant to this chapter. In the case where the appropriate revenue limit pursuant to Section 2550 has not been established for a county superintendent, funding shall be provided pursuant to the formula specified in Section 42902

42905. (a) Apportionments required pursuant to Sections 42902 and 42903, not to exceed twelve million dollars ($12,000,000), shall be made from the allocation in paragraph (1) of subdivision (a) of Section 97 of Chapter 282 of the Statutes of 1979

(b) Apportionments required pursuant to Section 42904 shall be made from the allocation in paragraph (2) of subdivision (a) of Section 97 of Chapter 282 of the Statutes of 1979 as a part of the apportionments made pursuant to Section 2558.

(c) For the 1980–81 fiscal year and each fiscal year thereafter, apportionments required pursuant to this article shall be from funds allocated by Section 41301

42906 Notwithstanding any other provision of this chapter or of Article 3 (commencing with Section 16190) of Chapter 8 of Part 10, whenever the school district wherein the institution or family home is located does not have adequate special education facilities to provide for the education of physically handicapped or mentally retarded pupils, or educationally handicapped pupils described in Section 42901, if a program for such pupils is in operation, such school district shall apply pursuant to Section 16200 for such funds as may

be necessary to construct needed facilities for the education of such pupils The applicant school district shall accept such funds as are disbursed pursuant to the application whether or not the funds constitute the maximum amount applied for, and shall repay such funds in accordance with the provisions of Article 3 (commencing with Section 16190) of Chapter 8 of Part 10.

42909 This chapter shall remain in effect only until June 30, 1981.

SEC 12 5. Section 45452 of the Education Code, as added by Chapter 282 of the Statutes of 1979, is amended to read.

45452 When a city or county or city and county fails or refuses to adopt standards under which the city or county or city and county shall provide school crossing guards, the governing board of a school district which employs personnel to act as guards at pedestrian crossings to ensure the safety of elementary school children shall be reimbursed from funds including, but not limited to, those collected pursuant to Sections 42200 and 42201 of the Vehicle Code Standards, terms, and conditions under which school crossing guards are provided by the governing board of a school district shall be set forth in a written agreement between the governing board and a city or between the governing board and a county or between the governing board and a city and county.

SEC 13 Section 84700 of the Education Code, as added by Chapter 282 of the Statutes of 1979, is amended to read:

84700 For the 1979–80 fiscal year, the chancellor shall apportion state aid to community college districts, except those addressed by Section 84706, according to the following procedure

(a) The 1979–80 fiscal year revenues for each community college district shall be its base 1979–80 fiscal year revenues, as defined in Section 84701, plus or minus the average daily attendance adjustment based on incremental costs, as defined in Section 84702, plus the inflation adjustment specified in Section 84703; plus the urban district or small college assistance specified in Section 84704, if applicable, plus the capital outlay or lease/purchase assistance, if any, as specified in Section 84705

(b) The chancellor shall adjust the amounts determined pursuant to subdivision (a) to provide for prior year adjustments or adjustments which are required pursuant to Sections 84330, 84737 and 84904, as well as adjustments for the effects of annexation or transfer of territory occurring after June 30, 1978.

(c) The chancellor shall also adjust the amounts provided by this article so that

(1) After deducting the amount received pursuant to Section 84704 from the amounts provided by this article, each district receives at least 1 04 times its fiscal year 1978–79 revenues Fiscal year 1978–79 revenues shall be defined as those revenues received pursuant to Chapter 292 of the Statutes of 1978, as amended by Chapter 332 of the Statutes of 1978, plus tuition transfers received from other districts for average daily attendance generated in 1978–79, minus payments made to other districts for tuition transfers

for average daily attendance generated in 1978–79; minus revenues derived for 1978–79, pursuant to Section 84904 on account of Sections 84006 and 85100.

The provisions of this subdivision shall not apply to any district whose base 1979–80 fiscal year revenues are determined pursuant to Section 84706.

(2) After deducting the amount received pursuant to Section 84704 from the amounts provided by this article, no district receives more than the sum of 1.08 times its fiscal year 1978–79 revenues, as defined in paragraph (1) plus the inflation adjustment as computed pursuant to Section 84703.

(3) No district receives more than a 15 percent per unit increase, exclusive of funds received pursuant to Section 84705, over its 1978–79 revenues per unit of average daily attendance.

(d) From the 1979–80 fiscal year revenues of each community college district, as adjusted by subdivision (b) or (c), or both, the chancellor shall subtract local property tax revenues, and local tax revenues specified by law for the general operating support of community colleges, exclusive of bond interest and redemption. The remainder shall be the state general apportionment for each such district.

(e) The State Controller shall draw warrants on the State Treasury in favor of the county treasurer of each county containing a community college district at such times and in such amounts as determined by the chancellor; provided that no more than 75 percent of the state general apportionment provided for in this section shall be made prior to February 1, 1980

(f) On or before February 15, 1980, the chancellor shall publish, and shall provide to the Legislature, a report on revenues per unit of average daily attendance in the community colleges The report shall include comparisons on a district-by-district basis, as well as on a statewide basis, of revenues per unit of average daily attendance for fiscal years 1978–79 and 1979–80. The report shall also include information on the amounts of actual and estimated sources of revenue that comprise the base for the calculation of revenues per unit of average daily attendance.

(g) For purposes of this article, "average daily attendance" and "attendance ADA" shall mean the attendance of state residents attending within the district

(h) In the event that the appropriation provided in Section 84719 is insufficient to provide funding for community college districts in accordance with the provisions of this article, the following procedures shall be applied:

(1) If the revenues allocated by subdivision (1) of Section 84719 are insufficient to provide for the state general apportionment as calculated pursuant to this section, any unallocated revenues remaining in subdivisions (2) and (3) of Section 84719, which are in excess of the amounts necessary to meet the requirements of Section 84704, shall be reallocated for purposes of the state general

apportionment as contained in subdivision (1) of Section 84719. After such reallocation, if any, the amounts provided in subdivision (1) shall be allocated on a pro rata basis, so that all community college districts receive the same percentage of their state general apportionment that they are otherwise calculated to receive.

(2) If the revenues allocated by subdivision (2) of Section 84719 are insufficient to provide for the urban district assistance specified in subdivision (a) of Section 84704, the revenues shall be allocated on a pro rata basis to eligible districts.

(3) If the revenues allocated by subdivision (3) of Section 84719 are insufficient to provide for the small college assistance specified in subdivision (b) of Section 84704, the revenues shall be allocated on a pro rata basis to eligible districts.

SEC. 14. Section 84701 of the Education Code, as added by Chapter 282 of the Statutes of 1979, is amended to read:

84701. The base 1979–80 fiscal year revenues for each community college district shall be determined according to the following procedure:

(a) For each district which declined 7 percent or less in average daily attendance between fiscal years 1977–78 and 1978–79, the chancellor shall.

(1) Determine each such district's revenues for the 1977–78 fiscal year by combining its 1977–78 second principal net regular apportionment and state aid for the State Teachers' Retirement System, 1977–78 property tax revenues, 1977–78 income from counties, and tuition transfers received from other districts for average daily attendance generated in 1977–78. From this amount the chancellor shall subtract:

(A) Revenues derived for fiscal year 1977–78 from the capital outlay matching tax authorized by Section 85100.

(B) Revenues derived for fiscal year 1977–78 from bond interest and redemption

(C) Revenues derived for fiscal year 1977–78 from the tax authorized by Sections 84006, 81338, and 81341

(D) Payments made for fiscal year 1977–78 to other districts for tuition transfers

(E) Revenues derived for fiscal year 1977–78 pursuant to Section 4147.

(2) The chancellor shall divide the result in paragraph (1) by the average daily attendance for the district in fiscal year 1977–78, thereby computing revenues per unit of average daily attendance for fiscal year 1977–78.

(3) The chancellor shall multiply the 1977–78 revenues per unit of average daily attendance, as computed pursuant to paragraph (2), times the average daily attendance for the district in fiscal year 1978–79 The result shall be the district's base 1979–80 fiscal year revenues.

(b) For each district which declined more than 7 percent in average daily attendance between fiscal years 1977–78 and 1978–79,

the chancellor shall determine the district's revenues for fiscal year 1977–78 in the manner specified in paragraph (1) of subdivision (a), and multiply the result times 0.93. The product shall be the district's base 1979–80 fiscal year revenues.

SEC 15. Section 84702 of the Education Code, as added by Chapter 282 of the Statutes of 1979, is amended to read

84702 The base 1979–80 fiscal year revenues for each community college district shall be adjusted for changes in average daily attendance based on incremental costs according to the following procedure

(a) For each district which declined more than 7 percent in average daily attendance between fiscal years 1977–78 and 1978–79, the average daily attendance for fiscal year 1978–79 shall be defined as 0 93 times the district's average daily attendance for fiscal year 1977–78. For each district which declined 7 percent or less between fiscal years 1977–78 and 1978–79, the average daily attendance for fiscal year 1978–79 shall be the average daily attendance reported by the district for that fiscal year

(b) The chancellor shall determine the increase or decrease in the number of units of average daily attendance reported by each district between fiscal years 1978–79 and 1979–80, in accordance with the definitions specified in subdivision (a)

(c) The chancellor shall multiply the increase or decrease in such units of average daily attendance by the incremental cost rate For districts reporting 3,000 or more units of average daily attendance for fiscal year 1978–79, and which have decreased in average daily attendance since 1978–79, the incremental cost rate is defined as two-thirds of the district's revenues per unit of actual average daily attendance for 1978–79 Revenues for the 1978–79 fiscal year shall be those defined in paragraph (1) of subdivision (c) of Section 84700. For districts reporting fewer than 3,000 units of average daily attendance for fiscal year 1978–79, and for districts which have increased in average daily attendance since 1978–79, the incremental cost rate is defined as two-thirds of the statewide revenues per unit of actual average daily attendance for 1978–79

(d) For districts which have increased in the number of units of average daily attendance reported between fiscal years 1978–79 and 1979–80, the chancellor shall add the amount computed pursuant to subdivision (c) to the amount computed pursuant to Section 84701 For districts which have decreased in the number of units of average daily attendance reported between fiscal years 1978–79 and 1979–80, the chancellor shall subtract the result computed pursuant to subdivision (c) from the amount computed pursuant to Section 84701

(e) For purposes of this section, average daily attendance reported for fiscal year 1979-80 shall not include the attendance of students attending outside their district of residence in violation of a notice of restriction or in violation of an applicable inter-district attendance agreement The attendance of such students shall be

separately reported in a manner determined by the chancellor; and the state apportionment for such students shall be one hundred twenty-five dollars ($125) per unit of average daily attendance.

SEC. 16. Section 84703 of the Education Code, as added by Chapter 282 of the Statutes of 1979, is amended to read:

84703. (a) For districts reporting 3,000 or more units of average daily attendance for fiscal year 1977–78, the chancellor shall add to the amounts determined pursuant to Sections 84701 and 84702 the product of: 0.089 times the statewide revenues per unit of average daily attendance for fiscal year 1977–78; times the quotient of statewide revenues per unit of average daily attendance for fiscal year 1977–78 divided by district revenues per unit of average daily attendance for fiscal year 1977–78; times the average daily attendance for the district for fiscal year 1979–80

(b) For districts reporting fewer than 3,000 units of average daily attendance for fiscal year 1977–78, the chancellor shall add to the amounts determined pursuant to Sections 84701 and 84702 the product of 0.089 times the statewide revenues per unit of average daily attendance for fiscal year 1977–78; times the small district multiplier specified in former Section 84764 or 84765, except using 1977–78 attendance ADA, times the quotient of statewide revenues per unit of average daily attendance for fiscal year 1977–78 divided by district revenues per unit of average daily attendance for fiscal year 1977–78; times the average daily attendance for the district for fiscal year 1979–80.

(c) For purposes of this section, statewide revenues per unit of average daily attendance shall be the quotient of the total of all districts' base revenues, as computed pursuant to Section 84701, divided by the total statewide average daily attendance for fiscal year 1977–78.

SEC. 17. Section 84704 of the Education Code, as added by Chapter 282 of the Statutes of 1979, is amended to read

84704 (a) The chancellor shall increase district revenues computed pursuant to this article for each of those districts whose second principal apportionment average daily attendance for fiscal year 1977–78 exceeds 28,000, by an amount equal to fifteen dollars ($15) times the 1979–80 average daily attendance reported for each of those districts

(b) The chancellor shall adjust the district revenues computed pursuant to this article for any multi-college community college district which for the 1977–78 fiscal year included one or more small colleges of less than 3,000 units of average daily attendance, which are located more than 15 miles from the district office; provided that the colleges were in operation on or before July 1, 1977, and accredited by this time as separate institutions by the accrediting commission for community and junior colleges of the Western Association of Schools and Colleges, except that a college in any district that is eligible for the allowance allowed pursuant to Section 84704(a) will not be eligible for the allowance provided in this

subdivision.

For each such eligible community college district, the chancellor shall add to the district's revenues, computed pursuant to this article, one-half of the difference between:

(1) The revenue that would have resulted during 1977–78 by applying the small district formula, pursuant to Sections 84764 and 84765, except using attendance ADA, to those units of average daily attendance reported for the small college or colleges within that district; and

(2) The revenues that would have resulted by applying the district's base revenue, computed pursuant to Section 84701, per unit of average daily attendance during 1977–78 to those units of average daily attendance reported for the small college or colleges within that district.

If the amount computed pursuant to paragraph (1) is less than the amount computed pursuant to paragraph (2), there shall be no adjustment made pursuant to this subdivision.

SEC. 18. Section 84705 of the Education Code, as added by Chapter 282 of the Statutes of 1979, is amended to read:

84705. For fiscal year 1979–80, community college districts shall also receive an amount, as determined by the chancellor, not to exceed the sum of:

(a) Revenues derived for fiscal year 1978–79, pursuant to Section 84904, from the capital outlay matching tax authorized by Section 85100; provided that the purpose for which the tax was levied has not been fulfilled prior to July 1, 1979; and

(b) Revenues derived for fiscal year 1978–79, pursuant to Section 84904, from the lease/purchase tax authorized by Section 84006; provided that the purpose for which the tax was levied has not been fulfilled prior to July 1, 1979.

SEC. 19. Section 84719.5 is added to the Education Code, to read:

84719.5. The appropriation provided in Section 84719 shall be in lieu of the appropriation for the purposes of apportionments contained in Item 364 of the Budget Act of 1979 (Chapter 259 of the Statutes of 1979).

SEC 20. Section 84720 of the Education Code, as added by Chapter 282 of the Statutes of 1979, is amended to read:

84720. For the 1980–81 fiscal year, the chancellor shall apportion general state aid to community college districts according to the following procedure·

(a) The 1980–81 fiscal year revenues for each community college district shall be its base 1980–81 fiscal year revenues, as defined in Section 84721; plus or minus the average daily attendance adjustment based on incremental costs, as defined in Section 84722; plus the inflation adjustment specified in Section 84723; plus the capital outlay or lease purchase assistance, if any, as specified in Section 84724

(b) The chancellor shall adjust the amount determined pursuant to subdivision (a) to provide for prior year adjustments or

adjustments which are required pursuant to Sections 84330, 84737 and 84904, as well as adjustments for the effects of annexation for transfer of territory occurring after June 30, 1979

(c) For any district whose revenues computed pursuant to this article are less than 1.01 times the revenues received by the district for fiscal year 1978–79, as defined in paragraph (1) of subdivision (c) of Section 84700, the district shall receive 1.01 times its fiscal year 1978–79 revenues in lieu of amounts computed pursuant to this article.

(d) From the 1980–81 fiscal year revenues of each community college district, as adjusted pursuant to subdivisions (b) and (c), the chancellor shall subtract local property tax revenues and other local tax revenues specified by law for the general operating support of community colleges, exclusive of bond interest and redemption. The remainder shall be the state general apportionment for each such district.

(e) The State Controller shall draw warrants on the State Treasury in favor of the County Treasurer of each county containing a community college district at such times and in such amounts as determined by the chancellor; provided that no more than 75 percent of the state general apportionment provided for in this section shall be made prior to February 1, 1981.

(f) On or before February 15, 1981, the chancellor shall publish, and shall provide to the Legislature, a report on revenues per unit of average daily attendance in the community colleges. The report shall include comparisons on a district-by-district basis, as well as on a statewide basis, of revenues per unit of average daily attendance for fiscal years 1979–80 and 1980–81 The report shall also include information on the amounts of actual and estimated sources of revenue that comprise the basis for the calculation of revenues per unit of average daily attendance.

(g) For purposes of this article "average daily attendance" and "attendance ADA" shall mean the attendance of state residents attending within the district.

(h) If the revenues appropriated by Section 84728 are insufficient to provide for the state general apportionment as calculated pursuant to this section, the amounts appropriated by Section 84728 shall be allocated on a pro rata basis, so that all community college districts receive the same percentage of their state general apportionment that they are otherwise entitled to receive

SEC. 21. Section 84721 of the Education Code, as added by Chapter 282 of the Statutes of 1979, is amended to read

84721 The base 1980–81 fiscal year revenues for each community college district shall be the sum of those revenues received pursuant to Sections 84701 to 84704, inclusive, or Section 84706, whichever is applicable.

SEC 22 Section 84722 of the Education Code, as added by Chapter 282 of the Statutes of 1979, is amended to read

84722 The base 1980–81 fiscal year revenues for each community

college district shall be adjusted for changes in average daily attendance based on incremental costs according to the following procedure

(a) The chancellor shall determine the increase or decrease in the number of units of average daily attendance reported by each district between fiscal years 1979–80 and 1980–81.

(b) The chancellor shall multiply the increase or decrease in such units of average daily attendance by the incremental cost rate For districts reporting 3,000 or more units of average daily attendance for fiscal year 1980–81, and which have decreased in average daily attendance since 1979–80, the incremental cost rate is defined as two-thirds of the district's revenues per unit of average daily attendance for 1979–80 For districts reporting fewer than 3,000 units of average daily attendance for fiscal year 1980–81, and for districts which have increased in average daily attendance since 1979–80, the incremental cost rate is defined as two-thirds of the statewide revenues per unit of average daily attendance for 1979–80.

(c) For districts which have increased in the number of units of average daily attendance reported between fiscal years 1979–80 and 1980–81, the chancellor shall add the amount computed pursuant to subdivision (b) to the amount computed pursuant to Section 84721 For districts which have decreased in the number of units of average daily attendance reported between fiscal years 1979–80 and 1980–81, the chancellor shall subtract the result computed pursuant to subdivision (b) from the amount computed pursuant to Section 84721

(d) For purposes of this section, average daily attendance reported for fiscal year 1980–81 shall not include the attendance of students attending outside their district of residence in violation of a notice of restriction or in violation of an applicable interdistrict attendance agreement. The attendance of such students shall be separately reported in a manner determined by the chancellor, and the state apportionment for such students shall be one hundred twenty-five dollars ($125) per unit of average daily attendance.

SEC. 23 Section 84724 of the Education Code, as added by Chapter 282 of the Statutes of 1979, is amended to read

84724 For fiscal year 1980–81, community college districts shall also receive an amount, as determined by the chancellor, not to exceed the sum of

(a) Revenues derived for fiscal year 1978–79, pursuant to Section 84904, from the capital outlay matching tax authorized by Section 85100; provided that the purpose for which the tax was levied has not been fulfilled prior to July 1, 1980, and

(b) Revenues derived for fiscal year 1978–79 pursuant to Section 84904, from the tax authorized by Section 84006; provided that the purpose for which the tax was levied has not been fulfilled prior to July 1, 1980

SEC 24 Article 5 (commencing with Section 84801) is added to Chapter 5 of Part 50 of the Education Code, to read

Article 5. General Provisions

84801 For the purposes of this chapter, the governing board of each community college district shall report to the Chancellor of the California Community Colleges during each fiscal year the average daily attendance of the district for all full school months during (1) the period between July 1st and December 31st, inclusive, to be known as the "first period" report for the first principal apportionment, and (2) the period between July 1st and April 15th, inclusive, to be known as the "second period" report for the second principal apportionment If the average daily attendance in the regular day schools of a district for the period of time between July 1st and June 30th is greater or lesser than the average daily attendance in the regular day schools reported for the second period report, the appropriate increases and decreases in the several categories of attendance for which separate foundation programs are required to be computed shall be recomputed on the basis of the foundation program and assessed valuation of the district of the fiscal year in which such increases and decreases in average daily attendance were applicable and the appropriate increases and decreases in apportionments shall be added or withheld in the next succeeding fiscal year pursuant to Section 84330

Each report shall be prepared in accordance with instructions on forms prescribed and furnished by the Chancellor of the California Community Colleges and average daily attendance shall be computed in the following manner:

(a) With the exception of days of attendance in special day classes convened, or other instruction provided a student for days in a school year which are in excess of the number of days in the school year on which the regular day schools of the district are convened, if the average daily attendance in schools and classes maintained by community college districts other than regular day schools and classes for the period of time between July 1st and June 30th is greater or lesser than the average daily attendance in such schools and classes reported for the second period report, the separate state support which is provided for attendance in such schools and classes shall be recomputed on the basis of the fiscal year average daily attendance, and increases and decreases in apportionments shall be added or withheld in the next succeeding fiscal year pursuant to Section 84330.

(b) The average daily attendance of each community college shall be determined pursuant to the provisions of Article 2 (commencing with Section 84520) of Chapter 4 For community colleges under the provisions of this paragraph, the "first period" shall be the summer intersession school and the fall semester for semester system colleges, the summer and fall quarter for colleges on the three-quarter system, and the summer and fall quarters for colleges on the four-quarter system. The "second period" shall be the "academic year" which is any intersession school plus the first and second semester for

semester system colleges, any intersession school plus the first and second quarters for three-quarter-system colleges and the summer, fall, and winter quarters for four-quarter-system colleges.

The "academic year" for three- or four-quarter-system colleges is reported on the annual report and adjustments shall be made as set forth in the first paragraph of this section

(c) The average daily attendance in intersession schools and outdoor science and conservation education classes maintained in accordance with subdivision (a) or (b) of Section 78008 shall be reported on both the first period and second period reports. The hours of attendance shall be divided by 525 for all classes of less than four weeks duration For intersession schools of four weeks or more, average daily attendance shall be computed as provided in Section 84520.

(d) The days of attendance in classes for adults maintained after the last full school month of the second period of the preceding year and prior to the end of each reporting period shall be reported on each report.

84810. The Chancellor of the California Community Colleges shall exclude from the computation of state apportionments the units of average daily attendance of nonresident students and of inmates of any state penal institution for adults or any city, county, or city and county jail, road camp, or farm for adults; however, he shall allow any community college district, which has boundaries coterminous with those of a city and county, maintaining classes for immates of any state institution for adults or any city, county, or city and county jail, road camp, or farm for adults an amount equal to the actual current expenses of the community college district for such classes The amount so allowed to such a community college district for each unit of average daily attendance in such classes shall in no event exceed the amount of total state aid per unit of average daily attendance which the district would have received, had the average daily attendance in such classes not been excluded.

84811 The Chancellor of the California Community Colleges shall allow to each community college district an amount equal to the actual current expense of the district of maintaining adult education classes for prisoners in any county jail, or any county industrial farm or county or joint county road camp for the current fiscal year. The amount so allowed to a district for each unit of average daily attendance in such classes shall in no event exceed the total of the amounts allowed to the district as basic state aid and state equalization aid for each unit of average daily attendance of the district exclusive of the average daily attendance of the district in classes for adults

For purposes of this section, the Chancellor of the California Community Colleges shall, by rules and regulations, establish minimum standards for the conduct of the adult education classes, including, but not necessarily limited to, attendance requirements and requirements concerning records to be kept and reports to be

submitted

SEC 25 Article 6 (commencing with Section 84850) is added to Chapter 5 of Part 50 of the Education Code, to read:

Article 6. Handicapped Students

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 or she 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 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. 26 Article 8 (commencing with Section 84890) is added to Chapter 5 of Part 50 of the Education Code, to read:

Article 8 Community College Academic Calendar and Student Measurement

84890. There is a pilot program for more flexible and effective nontraditional calendar and course scheduling in the community colleges.

The pilot program shall be limited to the Cabrillo Community College District and six other community college districts to be selected by the Board of Governors of the California Community Colleges

The board of governors shall monitor and evaluate the costs and benefits of experimental, nontraditional calendars to be undertaken in the pilot districts and report its findings to the 1977–78 Regular Session of the Legislature One objective of this article is to study use of a full-time equivalent measure of enrollment that produces a count as similar as possible to the previous average daily attendance

count, while eliminating factors that theoretically convert enrollment to attendance Inasmuch as the nationally recognized measure of semester course credit is defined for a term of 16 weeks, a second objective of this article is to evaluate a minimum instructional year of 160 days for community colleges similar to that of other segments of higher education while retaining the 175-day academic year In addition, under provisions of this article, organization of instructional modules are no longer limited to the traditional quarter or semester modes Flexible calendar scheduling will, among other effects, facilitate articulation of community college students with other segments of higher education, allow programs and courses to be designed on the basis of need and subject content, and provide opportunity to smooth peak student course demand within an educationally and fiscally responsible framework.

This article applies only to community college districts included in the pilot program

In order to carry out the purposes of the pilot program the board of governors may waive the provisions of Sections 72252, 76302, 76310, 76311, 76312, 76320, 76321, 78008, 78200, 78206, 78460, 79002, 79028, 84370, 84372, 84520, 84522, 84524, 84525, 84526, 84528, 84531, 84532, 84533, 84550, 84701, 84706, 84760, and any other related sections as applied only to pilot districts

84891 The academic year for community colleges shall be no less than 175 workdays, of which a minimum of 160 days, exclusive of Saturdays and Sundays, shall be devoted to instruction or examination or both in scheduled courses Specific college calendars shall be determined by the district governing board

All college personnel under contract for the academic year are to be accountable, as determined by the district, for the 175 workdays, which include, but are not limited to, the following activities

(a) Course instruction and examination

(b) Student personnel services

(c) Learning resource services

(d) Community and public services

(e) Related activities, such as student advising, guidance and orientation, staff development and in-service training, course, curriculum, and learning resource development, department and division meetings, conferences and workshops, program development and evaluation, and institutional research

(f) The necessary supporting activities for the above

The governing board of a community college district may provide for community college courses on Saturday or Sunday, or both

These days may be counted toward the 160-day minimum required when, due to unforeseen circumstances, a college is closed by order of the President of the United States or the Governor of the State of California

Number and length of courses and sessions or terms scheduled during the academic year shall be determined by the governing board of the district

84892 Community colleges shall be permitted to conduct, in addition to courses and sessions or terms scheduled during the academic year, other sessions and courses, graded and ungraded, any time during the fiscal year for any length of time during any day or days of the week, including Saturdays and Sundays. All such courses shall qualify for state and local fiscal support

84893. The unit of student workload measurement shall be based upon contact hours of enrollment. The unit measure shall be student full-time equivalent contact hours of enrollment and, in graded courses, is derived by dividing the product of the mean average of active enrollment counts at specified census dates and the total contact hour value of each course by an appropriate divisor.

Contact hours of enrollment in ungraded courses (classes for adults) shall be divided by a divisor that produces a comparable unit of student workload measurement.

These divisors shall be determined by the Board of Governors of the California Community Colleges in cooperation with the Department of Finance.

For purposes of any other provision of this code, the unit of student workload measurement as defined under provisions of this section and set forth in Title 5 of the California Administrative Code shall be deemed to be average daily attendance for all community college purposes

(a) Contact hours of enrollment in graded, term or session-length courses during the academic year shall be based upon two census counts of students enrolled on the days nearest one-fifth and three-fifths of the way through the term or session.

(b) Contact hours of enrollment in graded courses scheduled for longer or shorter periods than regular terms or sessions of the academic year or at other times during the fiscal year shall be based upon two census counts of students enrolled on the course meeting days nearest one-fifth and three-fifths of the way through the course, provided that the first census would not occur earlier than the second meeting for courses scheduled to meet two or more times and that the second census would not be taken for courses meeting 12 times or less

For purposes of this subdivision and subdivision (a), the drop date for reporting students in active enrollment, as specified by rules and regulations adopted by the Board of Governors of the California Community Colleges, shall be no later than the day prior to the second census date

(c) Contact hours of enrollment in ungraded courses (classes for adults) shall be based upon a count of students present at each course meeting

(d) Contact hours of enrollment of adults shall be reported separately

(e) Contact hours of enrollment of all students not residents of a community college district shall be reported separately

(f) Contact hours of enrollment of all students not residents of

California shall be reported separately.

84894. One semester credit hour of community college work is approximately 48 hours of lecture, study, recitation, demonstration-discussion, and laboratory work, or any combination thereof, over any period of time.

84895. Provisions of this article shall be implemented at no gain or loss in district operating revenue per unit of student workload This may be accomplished without changing base revenue and state aid for individual districts in the year of implementation. To the extent that counts of the new units of student workload differ from average daily attendance only because of new measurement techniques, there may need to be proportionate changes in a district's revenue base per student and in the state foundation programs.

The Board of Governors of the California Community Colleges shall adopt rules and regulations setting forth definitions, procedures, and guidelines to implement this article.

84896. Notwithstanding any provision of this article, state apportionments to community colleges shall continue to be calculated on the basis of a 175-day academic year.

84897 This article shall remain in effect only until July 1, 1981, and as of such date is repealed unless a statute which is chaptered before July 1, 1981, deletes or extends such date

SEC 26.5 Section 100.4 is added to the Revenue and Taxation Code, to read

100 4 Sections 100 2 and 100.3 shall apply only if the jurisdiction estimates that revenues received by that jurisdiction in the next fiscal year will exceed the amount which such jurisdiction may appropriate in the next fiscal year in compliance with the Constitution prior to the reduction of any proceeds of taxes

SEC 27 Chapter 1203 of the Statutes of 1970 is repealed

SEC 27 5. Section 27 2 of Chapter 259 of the Statutes of 1979 is amended to read

27.2 The Department of Finance shall reduce amounts included for personal services in any General Fund appropriation item, or in any category thereof, in this act, except items 1 to 16, inclusive; items 26 to 30, inclusive; any General Fund salary increase item; and any item of appropriation for the University of California, the California State University and Colleges, the Hastings College of Law, and the California Maritime Academy, in order to achieve a statewide salary savings which is equivalent of a $25,224,000 salary savings in the 1979–80 fiscal year

The Department of Finance shall certify to the State Controller the amount of such salary savings in this act by item and category, and the State Controller shall revert such sums to the unappropriated surplus of the General Fund The purpose of this section is to achieve a salary savings in the 1979–80 budget year and is not intended to be a permanent workforce reduction

SEC 28 Section 97 of Chapter 282 of the Statutes of 1979 is

amended to read:

Sec. 97. There is hereby appropriated to the State Controller the sum of five billion seven hundred seventy million eight hundred seventy-three thousand five hundred fifty dollars ($5,770,873,550) for the following purposes·

(a) For transfer by the State Controller during the 1979–80 fiscal year to Section A of the State School Fund, in lieu of the amount which would be otherwise appropriated for transfer from the General Fund in the State Treasury to Section A of the State School Fund for the 1979–80 fiscal year pursuant to Section 14002, 14003, 14004, 14006, 14007, and 41304 of the Education Code, and Item 338 of the Budget Act of 1979 (Ch. 259, Stats. 1979), an amount of such appropriation as needed, in addition to the sums accruing to Section A of the State School Fund from other sources for funding pursuant to this act and subdivisions (a) and (b) of Section 14054, Section 41841 5, Articles 10 (commencing with Sectin 41850), 11 (commencing with Section 41880), and 12 (commencing with Section 41900) of Chapter 5 of Part 24, and Chapter 8 (commencing with Section 52200) of Part 28 of the Education Code, to be allocated as follows·

(1) For the purposes of Section 42237 and 42237.5 of the Education Code, five billion two hundred forty-four million seven hundred thousand dollars ($5,244,700,000).

(2) For the purposes of Section 2558 of the Education Code, one hundred eighty-three million two hundred thousand dollars ($183,200,000)

(3) For all apportionments pursuant to Article 11 (commencing with Section 41880) of Chapter 5 of Part 24 of, and Section 56039 of, the Education Code, two hundred forty-eight million three hundred thousand dollars ($248,300,000)

(4) For the purposes of Chapter 8 (commencing with Section 52200) of Part 28 of the Education Code, fourteen million five hundred seventy-three thousand five hundred fifty dollars ($14,573,550)

(5) For the purposes of Article 12 (commencing with Section 41900) of Chapter 5 of Part 24 of the Education Code, nineteen million eight hundred thousand dollars ($19,800,000). Provided, that if legislation is chaptered on or before September 1, 1979, which repeals the requirement that persons of a specified age must successfully complete a driver training course in order to be eligible to be issued a driver's license or instruction permit, funds appropriated by this item for the purpose of Article 12 (commencing with Section 41900) of Chapter 5 of Part 24 of the Education Code shall not be expended for such purpose and shall revert to the General Fund

(6) For the purposes of Article 10 (commencing with Section 41850) of Chapter 5 of Part 24 of the Education Code, sixty million three hundred thousand dollars ($60,300,000)

(b) Funds appropriated by this section shall be subject to

following provisos

(1) Provided, that no more than one million seven thousand dollars ($1,007,000) from paragraph (1) of subdivision (a) shall be used for funding pursuant to Section 41841 5 of the Education Code

(2) Provided further, that no more than one hundred forty-five million one hundred forty-seven thousand dollars ($145,147,000) from paragraph (1) of subdivision (a) shall be apportioned for adult education funding pursuant to paragraph (4) of subdivision (c) of Section 42237

(3) Provided further, that any surplus from paragraph (1) of subdivision (a) shall be used to offset any deficit in paragraph (2) of subdivision (a) or any surplus from paragraph (2) of subdivision (a) shall be used to offset any deficit in paragraph (1) of subdivision (a)

(4) Provided further, that any surplus in paragraph (3) of subdivision (a) up to a limit of thirty million dollars ($30,000,000) shall be transferred to augment Item 323 of the Budget Act of 1979 (Ch 259, Stats 1979)

(5) Provided further, that each school district and county superintendent of schools receiving funds appropriated by this section shall maintain a 1979–80 average daily attendance of 90 percent and an expenditure level of at least 97 percent of the 1977–78 expenditure level in adult programs in elementary and secondary basic skills in mathematics, history, science, government, and language arts and courses specifically required for the completion of a high school diploma by the local governing board, adult programs in English as a second language, adult programs in citizenship for immigrants, adult programs for substantially handicapped persons, adult programs for apprentices, adult vocational programs with high employment potential, adult programs for survival skills for older adults in health, consumer resources and entitlements and managing money for self-maintenance, and adult programs in parenting including parent cooperative preschools, classes in child growth and development, and parent/child relationships, and classes in parenting, provided further, that the Department of Education shall notify districts of programs to be mandated no later than August 15, 1979

(6) Provided further, that if the Superintendent of Public Instruction has determined that a district or a county superintendent of schools did not maintain the required level of service in each program for the 1978–79 school year as specified in Item 316 1 of the Budget Act of 1978 (Chapter 359 of the Statutes of 1978) and has withheld 1978–79 apportionments accordingly, the 1979–80 apportionments pursuant to this section shall be recalculated so that the 1979–80 apportionments shall restore the funding withheld in 1978–79 which exceeded four times the expenditure level for those students not served at the required average daily attendance and expenditure level

(7) Provided further, that if the Superintendent of Public Instruction determines that a district or county superintendent of

schools has not maintained proportionate level of service in each component of each category of program for 1979–80 required by this section, he shall reduce such district's or county superintendent's entitlement from Section A of the State School Fund by an amount equal to four times the amount which he determines that district or county superintendent of schools would have expended to maintain the level of service which was not actually maintained.

(8) Provided further, that the level of service of any program for 1979–80 required by this section waived for a school district or county superintendent of schools by the Superintendent of Public Instruction upon certification from the school district or county superintendent of schools that the local demand for the program was less that the required level of service or where local shifts in population have reduced demands significantly.

(9) Provided further, that for purposes of adult programs in this section, substantially handicapped persons are those who have handicaps which are likely to continue indefinitely or for a prolonged period and whose handicap results in substantial functional limitations in one or more of the following activities: self-care, receptive or expression language, learning, mobility, self-direction, capacity for independent living, or economic self-sufficiency

(10) Provided further, that each school district and county superintendent of schools receiving funds appropriated by this section shall maintain a 1979–80 average daily attendance of 90 percent and an expenditure level of at least 97 percent of the 1977–78 expenditure level in summer school programs for substantially handicapped students

(11) Provided further, that for the purposes of extended year programs in this section, substantially handicapped persons are identified as individuals with exceptional needs who, because of intensive educational needs, are placed in special classes or centers pursuant to any of the following sections of the Education Code 1850(a), excluding remedial classes; 1850(c); 56332(a)(1); 56511(a); 56516, 56519; 56600.2(a), 56601(b); 56601(c), 56702(a); 56800 et seq.; and individuals with exceptional needs who are not placed in special classes or centers but whose individualized education plan specifies an extended year (summer) program

(12) Provided further, that in those instances in which a school district or county superintendent of schools did not conduct the programs in 1977–78 which are listed in the immediately preceding paragraphs, but for which local demand exists in the 1979–80 fiscal year, the school district or county superintendent of schools shall meet such demands and shall offer at least a 20 instructional day program for each student, and shall receive an allocation of funds from this section for such purposes

(13) Provided further, that no district shall receive apportionments from the funds appropriated by this section for support of the mentally gifted minor program for a greater number of students in 1979–80 than the number for which it received

apportionments in 1978–79, except under the following conditions: (1) if less than 2 percent of a district's culturally disadvantaged students are enrolled in the mentally gifted minor program, such district may enroll in the program such culturally disadvantaged students who qualify for admission to the program up to the specified 2 percent level, or (2) if at least 2 percent of a district's culturally disadvantaged students are enrolled in the mentally gifted minor program, or, should fewer than 2 percent of such culturally disadvantaged students qualify for admission, as many such culturally disadvantaged students as are qualified for admission are enrolled in the mentally gifted minor program, and such district has less than 3 percent of its total students enrolled in such program, such district may enroll students who qualify for admission to the program, regardless of cultural disadvantage, up to the specified 3 percent level.

(14) Provided further, that any school district and county superintendent of schools receiving funds appropriated by this section shall offer in the summer of 1979 and the summer of 1980 summer school programs for high school seniors in need of courses required for graduation prior to September

(15) Provided further, that all school districts, county offices of education, and community college districts shall, upon request, make facilities available, at cost, for the operation of migrant summer school programs and, if the Superintendent of Public Instruction determines that requests from legitimate prospective users of such facilities were denied without due cause, the Superintendent of Public Instruction shall assess a penalty of five thousand dollars ($5,000) or four times the operation cost of the prospective user in alternative facilities, for the period of time requested, whichever is the greater. The penalty amount shall be returned to Section A of the State School Fund

SEC 29. Paragraph (12) of subdivision (b) of Section 97 of Chapter 282 of the Statutes of 1979 shall not apply to schools which are operating a continuous school program pursuant to Chapter 5 (commencing with Section 37600) of Part 22 of the Education Code

SEC. 30. Notwithstanding any other provision of law, if a community college district levied and used revenue from a child development permissive tax during the 1977–78 fiscal year, such district shall make available to its child development program for the 1979–80 fiscal year an amount of revenue which is equal to the same percentage of its 1977–78 fiscal year funding level, that the total funding level of the district in the 1979–80 fiscal year bears to the district's 1977–78 fiscal year funding level

SEC 31 The sum of fourteen thousand five hundred dollars ($14,500) is hereby appropriated from the General Fund to the Department of Education for transfer to and in augmentation of Item 307 of Chapter 259 of the Statutes of 1979, for the purposes of paying the annual dues of the Education Commission of the States.

SEC 32 There is hereby appropriated from the General Fund to

Section A of the State School Fund the sum of one million two hundred thousand dollars ($1,200,000) for the purpose of making apportionments pursuant to Section 42237 6 of the Education Code.

SEC. 33. The sum of three hundred sixty-nine thousand twelve dollars ($369,012) is hereby appropriated from the Professional Engineers' Fund to the State Board of Registration for Professional Engineers for transfer to and in augmentation of Item 97 of the Budget Act of 1979 (Chapter 259, Statutes of 1979), provided that one hundred seven thousand four hundred twenty dollars ($107,420) shall be used for the costs of conducting administrative hearings mandated by Section 11504 of the Government Code on appeals from the denial of applications for registration as professional engineers in title protection programs

SEC 34 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 apply to the 1979–80 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 1036

An act to add Sections 23412 and 24405 to the Education Code, and to add Sections 21223 and 21223 5 to, and to add and repeal Sections 20750 31 and 20750 96 of, the Government Code, relating to public retirement systems, and making an appropriation therefor

[Approved by Governor September 26, 1979 Filed with Secretary of State September 26, 1979]

The people of the State of California do enact as follows

SECTION 1 It is the intent of the Legislature that retired members of the State Teachers' Retirement System and retired school and state members of the Public Employees' Retirement System, receive equal cost-of-living adjustments in their retirement benefits

The Legislature finds that retired members of the State Teachers' Retirement System and retired school members of the Public Employees' Retirement System have not received cost-of-living adjustments equal to those of retired state members of the Public Employees' Retirement System

SEC 2 Section 23412 is added to the Education Code, to read

23412 Effective January 1, 1980, the school districts and other employing agencies in the state, in addition to all other contributions required by this chapter, on account of liability for benefits pursuant to Section 24405, shall contribute monthly to the Teachers' Retirement Fund 0 307 percent of the total of the salaries upon which

members' contributions are based

SEC 3 Section 24405 is added to the Education Code, to read

24405 The monthly allowances payable by the system to retirants, disabilitants, and beneficiaries are increased as of January 1, 1980, for those persons receiving allowances with respect to members who retired or died prior to June 30, 1973, to the amount that results when the initial allowance that was received by such members is multiplied by the percentage set forth opposite the year of retirement or death in the following schedule

Period During Which Retirement or Death Occurred	*Percentage*
On or before June 30, 1958	180 4
12 months ending June 30, 1959	175 8
12 months ending June 30, 1960	172.2
12 months ending June 30, 1961	169.8
12 months ending June 30, 1962	167 8
12 months ending June 30, 1963	165 5
12 months ending June 30, 1964	163.0
12 months ending June 30, 1965	159 8
12 months ending June 30, 1966	156 7
12 months ending June 30, 1967	153 1
12 months ending June 30, 1968	147.5
12 months ending June 30, 1969	141 6
12 months ending June 30, 1970	134 5
12 months ending June 30, 1971	128 7
12 months ending June 30, 1972	124.5
12 months ending June 30, 1973	119 6

For those retirants, disabilitants, and beneficiaries receiving an allowance with an effective date prior to July 1, 1965, the initial allowance, for purposes of this section, shall be deemed to be the allowance payable on July 1, 1965, however, for purposes of determining the allowance payable under this section, the percentage corresponding to the actual year of retirement shall be applied

SEC 4 Section 20750 31 is added to the Government Code, to read

20750 31 Beginning on January 1, 1980, the state's contribution to the retirement fund provided by any and all other provisions of this chapter is increased by 0 104 percent of the compensation paid to state miscellaneous members, 0 125 percent of the compensation paid to state patrol members, and 0 071 percent of the compensation paid state safety members

This section shall remain in effect only until January 1, 1996, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1996, deletes or extends such date

SEC 5 Section 20750 96 is added to the Government Code, to read

20750 96 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 effective January 1, 1980, by a sum equal to 0.084 percent of the compensation paid to such members

This section shall remain in effect only until January 1, 1996, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1996, deletes or extends such date

SEC 6 Section 21223 is added to the Government Code, to read:

21223. In addition to the increase in allowance authorized and granted pursuant to provisions of Section 21222, and notwithstanding the limitation on such increases imposed by this article, effective January 1, 1980, or the date this section becomes applicable to the contracting agency, the monthly allowance paid with respect to a state or local member, other than a school member, who retired or died prior to January 1, 1975, shall be increased by the percentage set forth opposite the year of retirement or death in the following schedule

Period During Which Retirement or Death Occurred	*Percentage*
12 months ending Dec 31, 1967	1.51
12 months ending Dec 31, 1968	1 26
12 months ending Dec 31, 1969	1 86
12 months ending Dec. 31, 1970	2 55
6 months ending June 30, 1971	1.91
6 months ending Dec 31, 1971	7.05
12 months ending Dec 31, 1972	6 76
12 months ending Dec 31, 1973	4 45
6 months ending June 30, 1974	0.47
6 months ending Dec 31, 1974	1.31

The percentage shall be applied to the allowance payable on January 1, 1980, or the date this section becomes applicable to the contracting agency, and the allowance as so increased shall be paid for time on and after the date and until the first day of April immediately following the date of application The base allowance shall be the allowance as increased under this section The base year for annual adjustments of allowances increased by this section shall be the calendar year preceding the year of increase if the increase date is after April 1st of any calendar year, and the second calendar year preceding the year of increase if the increase date is on or before April 1st of any calendar year

This section shall not apply to 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 or, in the case of contracts made after the

effective date, by express provision in such contract making the contracting agency subject to the provisions of this section.

SEC. 7. Section 21223 5 is added to the Government Code, to read·

21223 5. In addition to the increase in allowance authorized and granted pursuant to the provisions of Section 21222 and notwithstanding the limitation on such increases imposed by this article, effective January 1, 1980, the monthly allowance paid with respect to a school member or local member employed by a school district or a county superintendent of schools who retired or died prior to July 1, 1975, shall be increased by the percentage set forth opposite the year of retirement or death in the following schedule.

Period During Which Retirement or Death Occurred	*Percentage*
12 months ending Dec. 31, 1966	0.62
12 months ending Dec 31, 1967	3.21
12 months ending Dec. 31, 1968	2 97
12 months ending Dec. 31, 1969	3.57
12 months ending Dec. 31, 1970	4.26
6 months ending June 30, 1971	3.62
6 months ending Dec 31, 1971	8.86
12 months ending Dec 31, 1972	8.57
12 months ending Dec 31, 1973	6.22
6 months ending June 30, 1974	2.16
6 months ending Dec. 31, 1974	3.00

The allowance as so increased shall be paid for time on and after January 1, 1980, and until April 1, 1980 The base allowance shall be the allowance as so increased and the base year shall be the calendar year of 1979 for annual adjustments of allowances increased under this section for time commencing on April 1, 1980

SEC 8. The sum of eight million four hundred eighty-five thousand dollars ($8,485,000) is hereby appropriated from the General Fund 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

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CHAPTER 1037

An act to amend Sections 21200, 21201, 21202, 21203, 21205, 21206, 21207, and 21208 of, to add Sections 21000 5, 21000 7, 21051, 21206.7, and 21206 8 to, the Financial Code, relating to pawnbrokers

[Approved by Governor September 26, 1979 Filed with Secretary of State September 26, 1979]

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

SECTION 1 Section 21000 7 is added to the Financial Code, to read

21000 7 As used in this division "receiving goods as security for a loan" does not include a good faith purchase of goods

SEC 2 Section 21051 is added to the Financial Code, to read·

21051 (a) The following sections of this division do not apply to any loan of a bona fide principal amount of ten thousand dollars ($10,000) or more if the provisions of this section are not used for the purpose of evading this division Sections 21200, 21200 3, and 21200 5

(b) In determining whether a loan is a loan of the principal amount of ten thousand dollars ($10,000), the provisions of Section 22054 shall apply

SEC 3 Section 21200 of the Financial Code is amended to read·

21200 Except as provided in Section 21200 5, no pawnbroker shall charge or receive compensation at a rate exceeding the sum of the following

(a) Two and one-half percent (2½%) per month on that portion of the unpaid principal balance of any loan up to, including, but not in excess of two hundred twenty-five dollars ($225)

(b) Two percent (2%) per month on that portion of the unpaid principal balance of the loan in excess of two hundred twenty-five dollars ($225) up to, including, but not exceeding six hundred twenty-five dollars ($625)

(c) One and one-half percent (1½%) per month on that part of the unpaid principal balance in excess of six hundred twenty-five dollars ($625) up to and including, but not in excess of, one thousand six hundred fifty dollars ($1,650)

(d) One percent (1%) per month on any remainder of such unpaid principal balance in excess of one thousand six hundred fifty dollars ($1,650)

(e) A charge not exceeding seventy-five cents ($0 75) a month on any loan not exceeding nine dollars and ninety-nine cents ($9 99)

(f) A charge not exceeding one dollar ($1) a month on any loan of ten dollars ($10) or more when the monthly charge permitted by this section would otherwise be less than such minimum charge

SEC 4 Section 21201 of the Financial Code is amended to read

21201 Every loan made by a pawnbroker for which goods are received in pledge as security shall be evidenced by a written contract a copy of which shall be furnished to the borrower The loan contract shall set forth the loan period and the date on which the loan is due and payable, and shall clearly inform the borrower of his right to redeem the pledge during the redemption period

Every pawnbroker shall retain in his possession, after the date on which the loan became due and payable, clothing and furs pledged to him for a period of four months, and every other article pledged to him for a period of six months During such periods the borrower may redeem the articles upon payment of the loan and interest

charges.

If any pledged article is not redeemed during the four- or six-month redemption period as provided herein, the pawnbroker shall notify the borrower either by registered mail, or by certified mail, or by regular mail for which a certificate of mailing is issued by the United States Post Office addressed to his last known address of the termination of the redemption period, and extending the right of redemption for a period of 10 days from date of mailing of such notice. If any pledged article is not redeemed within such 10-day period, the pawnbroker shall become vested with all right, title, and interest of the pledgor, or his assigns, to the pledged article, to hold and dispose of as his own property. Any other provision of law relating to the foreclosure and sale of pledges shall not be applicable to any pledge the title to which is transferred in accordance with this section

SEC. 5 Section 21202 of the Financial Code is amended to read

21202 Every pawnbroker shall enter at the time of the transaction, in records of loans and pledges kept by him for that purpose, the date, duration, amount, and rate of interest or charges of every loan made by him, a reasonably accurate description of the property pledged, the name and residence address of the pledgor Every pawnbroker shall deliver to the pledgor a written copy of such entry Such written copy need not include the name and address of the pledgor

SEC 6 Section 21203 of the Financial Code is amended to read

21203 Every pawnbroker shall keep an account in writing of all unredeemed pledge sales made by him

SEC 7 Section 21205 of the Financial Code is amended to read

21205 If a pawnbroker sells pledged property, he shall, on demand, refund to the pledgor any amount received from the sale in excess of the sum of the following.

(a) The balance of the loan

(b) Four percent (4%) of the balance of the loan for expenses of the sale

(c) The interest due on the loan, including interest or charges to the time of demand or the time of sale, whichever is earlier

(d) The provisions of this section shall not be applicable if the pledged property is sold wholesale or in bulk for resale

SEC 8 Section 21206 of the Financial Code is amended to read

21206 Every pawnbroker shall produce his records of loans and pledges, account of sales of pledged property, and all pledged property, for inspection by the following persons

(a) Any officer holding a warrant authorizing him to search for personal property

(b) Any person appointed by the sheriff of any county or appointed by the head of the police department of any city

(c) Any officer holding a court order directing him to examine such records, account of sales, or pledged property

SEC 9 Section 21206 7 is added to the Financial Code, to read

21206 7. Whenever any property is taken from a pawnbroker by a peace officer which is alleged to be stolen property, the police officer shall give the pawnbroker a receipt for the property which shall contain a description of the property, the reason for seizure, and the names of the pawnbroker and the officer.

SEC. 10 Section 21206.8 is added to the Financial Code, to read:

21206 8 (a) Notwithstanding the provisions of Chapter 12 (commencing with Section 1407) of Title 10 of Part 2 of the Penal Code, whenever property alleged to have been stolen or embezzled is taken from a pawnbroker, the peace officer, magistrate, court, clerk, or other person having custody of the property shall not deliver the property to any person claiming ownership unless the provisions of this section are complied with.

(b) (1) If any person makes a claim of ownership, the person having custody of the property shall notify the pawnbroker

(2) If the pawnbroker makes no claim with respect to the property within 10 days of such notification, the property may be disposed of as otherwise provided by law.

(c) If property alleged to have been stolen or embezzled is taken from a pawnbroker, prior to any disposal of the property pursuant to Section 1411 of the Penal Code, the notice to be given to the owner and owner of a security interest pursuant to Section 1411 shall be given to the pawnbroker. Such property shall not be disposed of pursuant to Section 1411 until three months after such notice has been given

(d) A pawnbroker shall not be liable to any person for any property seized from the pawnbroker on account of the pawnbroker's inability to return the property to that person because of the seizure.

SEC. 11 Section 21207 of the Financial Code is amended to read:

21207 No pawnbroker shall receive anything in pledge from any person under the age of 16 years

SEC. 12 Section 21208 of the Financial Code is amended to read:

21208 Every pawnbroker shall report daily or on the first working day after receipt or purchase, all descriptions of all property received in pledge 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 that a city or county may prescribe other periods of time within which a pawnbroker subject to its jurisdiction shall make such reports; provided, further, 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 report 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. 13. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because the duties, obligations, or responsibilities imposed on local agencies or school districts by this act are such that related costs are incurred as part of their normal operating procedures. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code

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CHAPTER 1038

An act to amend Section 41718 7 of the Education Code, relating to school finance, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 26, 1979 Filed with Secretary of State September 26, 1979]

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

SECTION 1 Section 41718 7 of the Education Code is amended to read.

41718 7. (a) In the event two school districts meet the criteria specified by this section, the Superintendent of Public Instruction shall compute the allowances pursuant to Section 41718.5 as if the districts were a single unified district. Payments shall be made separately to the two districts.

(b) This section shall apply only to districts which meet all of the following criteria:

(1) Both districts are governed by a common board of education, except for districts which began joint administration on July 1, 1962.

(2) One superintendent is responsible for the operation of both districts

(3) The salary schedule and salary policies for both classified and certificated employees is the same regardless of district of assignment

(4) Negotiated contracts under the provisions of Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code are commonly effective to unit members regardless of district of assignment.

(c) Notwithstanding any other provision of law to the contrary, districts receiving state aid pursuant to this section shall have their 1977–78 fiscal year recomputed revenue limits and 1978–79 fiscal year revenue limits computed pursuant to subdivision (b) of Section 41718.6

SEC. 2. Notwithstanding any other provision of law, any school district qualifying under the provisions of Section 41718.7 of the Education Code may have its 1978–79 revenue limit recomputed pursuant to subdivision (b) of Section 41718.6 of the Education Code. The applicability of this section shall be limited to those districts which qualify under the provisions of Section 41718.7 of the Education Code during the 1979–80 fiscal year

SEC. 3. The sum of one hundred thousand dollars ($100,000) is hereby transferred from the General Fund to Section A of the State School Fund for apportionment pursuant to Section 41310 of the Education Code to the Rescue Union School District during the 1979–80 school year. Any apportionments in which the district would otherwise be entitled in the 1980–81, 1981–82, and 1982–83 school years shall be reduced by one-third of such amount in each such year together with amounts representing interest at a rate based on the most current investment rate of the Pooled Money Investment Account as of the date of disbursement of funds to the district.

SEC 4 Due to the unique circumstances concerning the school district subject to the provisions of Section 3 of this act, the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution

SEC. 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 funding inequities created by current law may be corrected at the earliest possible time and in order to permit the apportionment authorized by this act to be made available to the affected district at the beginning of the 1979–80 school year, it is necessary that this act take effect immediately

CHAPTER 1039

An act to amend Section 42201 of the Vehicle Code, relating to school crossing guards, and declaring the urgency thereof, to take effect immediately

[Approved by Governor September 26, 1979 Filed with Secretary of State September 26, 1979]

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

SECTION 1 Section 42201 of the Vehicle Code is amended to read.

42201 (a) Of the total amount of fines and forfeitures received by a county under subsection (a) of subdivision (1) of Section 1463 of the Penal Code, that proportion which is represented by fines and forfeitures collected from any person charged with a misdemeanor under this code following arrest by any officer employed by the state or by the county shall be paid into the treasury of the county and deposited in the road fund of the county, provided, however, that the board of supervisors of the county may, by resolution, provide that not more than 50 percent thereof be transferred into the General Fund of the county

(b) The board of supervisors of a county may enter into a contract with the Department of the California Highway Patrol for the purpose of providing adequate protection for school pupils who are required to cross heavily traveled streets, highways, and roadways in the unincorporated areas of the county When requested, the Department of the California Highway Patrol may provide such service and the county shall reimburse the state for salaries and wages of crossing guards furnished by the Department of the California Highway Patrol pursuant to such contract, including any necessary retirement and general administrative costs and expenses in connection therewith, and may pay the costs thereof from amounts deposited in the road fund pursuant to this section.

(c) Fines and forfeitures received by a county under Section 1463 of the Penal Code may be used to pay the compensation of school crossing guards and necessary equipment costs and administrative costs

(d) When requested by any county which had in effect on June 30, 1979, a contract with the Department of the California Highway Patrol, to provide protection for school pupils at school crossings, the department upon request of a county shall continue to administer such school crossing program until June 30, 1980 The county shall reimburse the Department of the California Highway Patrol for general administrative costs and expenses in connection therewith, except that, effective January 1, 1980, the crossing guards shall be furnished to the California Highway Patrol and such crossing guards shall be employees of the county, the county superintendent of

schools, the affected school districts, or both the superintendent and the affected school districts, at the option of the board of supervisors of the county. Any salaries and wages of crossing guards, including necessary retirement and equipment costs and any administrative costs shall be paid or reimbursed by the county from amounts deposited in the road fund pursuant to this section.

(e) The board of supervisors may adopt standards for the provision of school crossing guards. The board has final authority over the total cost of the school crossing guard program of any agency to be paid or reimbursed from amounts deposited in the road fund pursuant to this section. The board of supervisors may specify that a designated county officer, employee, or commissioner is to hire school crossing guards, or, in the alternative, the board may specify that any school district crossing guard program in unincorporated areas shall be maintained by the school districts desiring the program.

SEC. 2. It is the intent of the Legislature that the California Highway Patrol no longer be required to administer county school crossing guard programs beyond June 30, 1980, and that all school crossing guards currently employed by the state pursuant to a contract between a county and the California Highway Patrol become employees effective January 1, 1980.

SEC 3. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because self-financing authority is provided in this act to cover 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 or because revenue is provided in Section 42201 of the Vehicle Code to cover these costs It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of the Revenue and Taxation Code.

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 Department of the California Highway Patrol administers the school crossing guard program through an appropriation from the General Fund Expenses are subsequently reimbursed by the contracting counties. No appropriation for salaries and wages of crossing guards furnished by the Department of the California Highway Patrol has been included in the 1979–80 budget and it is, therefore, necessary that this act take effect immediately.

CHAPTER 1040

An act relating to the San Mateo Harbor District, and making an appropriation therefor.

[Approved by Governor September 26, 1979 Filed with Secretary of State September 26, 1979]

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 Harbors and Watercraft Revolving Fund to the Department of Boating and Waterways for the purposes of making a loan to the San Mateo County Harbor District to be used for the purposes of designing, constructing, or otherwise developing the Pillar Point Harbor Project, the Oyster Point Harbor Project, or both such projects Such loan shall be subject to the provisions of Section 71 4 of the Harbors and Navigation Code. The gross revenues of Pillar Point Harbor shall be security for repayment of loan moneys used for the Pillar Point Harbor Project, and the gross revenues of Oyster Point Harbor shall be security for repayment of loan moneys used for the Oyster Point Harbor Project Loan terms shall include, but not be limited to, the following provisions requiring the governing body of the harbor district to:

(a) Punctually pay all installments of principal and interest on money owed to the state.

(b) Continuously operate in an efficient and economical manner all small craft harbor facilities acquired, constructed, improved, or completed in full or in part as a result of transfers or loans by the state

(c) Make all repairs, renewals, and replacements necessary to the efficient operation of the small craft harbor facilities, and keep such facilities in good repair at all times

(d) Preserve and protect the security interest of the state by procuring insurance on such facilities in an amount and of a type approved by the Department of Boating and Waterways

(e) Periodically fix, prescribe, and collect fees, rentals, and other charges for services and facilities of the small craft harbor facilities sufficient to produce gross revenues adequate for payment of the following in the order set forth:

(1) All installments of principal and interest on money owed the state as they come due.

(2) All expenses of operation, maintenance, and repair of the small craft harbor facilities

(3) Such additional sums as may be required by the Department of Boating and Waterways for any sinking fund, reserve fund, or other special fund established for the further security of the loan or transfer, or as a depreciation or other charge in connection with the

small craft harbor facilities.

(f) Repay loans with regard to the revenue-producing features, as determined by the Department of Boating and Waterways, constructed under the loan over a period not to exceed 30 years.

(g) Repay loans with regard to the non-revenue-producing features, as determined by the Department of Boating and Waterways, constructed under the loan over a period not to exceed 50 years

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CHAPTER 1041

An act to amend Sections 6013 5 and 6140 of, and to add and repeal Section 6140.3 of, the Business and Professions Code, relating to attorneys

[Approved by Governor September 26, 1979 Filed with Secretary of State September 26, 1979]

The people of the State of California do enact as follows

SECTION 1 Section 6013 5 of the Business and Professions Code is amended to read

6013 5. Notwithstanding any other provision of law, six members of the board shall be members of the public who have never been members of the State Bar or admitted to practice before any court in the United States They shall be appointed through 1982 by the Governor, subject to the confirmation of the Senate.

Each of such members shall serve for a term of three years, commencing at the conclusion of the annual meeting next succeeding his appointment, except that for the initial term after enactment of this section, two shall serve for one year, two for two years, and the other two for three years, as determined by lot.

In 1983 one public member shall be appointed by the Senate Committee on Rules and one by the Speaker of the Assembly, subject to the confirmation of the Senate.

For each of the years, 1984 and 1985, two public members shall be appointed by the Governor, subject to the confirmation of the Senate

Each respective appointing authority shall fill any vacancy in and make any reappointment to each respective office.

SEC 2 Section 6140 of the Business and Professions Code is amended to read

6140. (a) The board shall fix the annual membership fee as follows·

(1) For active members who have been admitted to the practice of law in this state for 10 years or longer, at a sum not exceeding one hundred twenty-five dollars ($125)

(2) For active members who have been admitted to the practice

of law in this state for less than 10 years but more than five years preceding the first day of February of the year for which the fee is payable, at a sum not exceeding one hundred ten dollars ($110)

(3) For active members who have been admitted to the practice of law in this state for less than five years but more than two years preceding the first day of February of the year for which the fee is payable, at a sum not exceeding eighty dollars ($80)

(4) For active members who have been admitted to the practice of law in this state for less than two years preceding the first day of February of the year for which the fee is payable, at a sum not exceeding fifty dollars ($50).

(b) For the years commencing January 1, 1973, and ending December 31, 1981, the board may increase the annual membership fee fixed pursuant to subdivision (a) by an additional amount not exceeding ten dollars ($10) in any or all of such years, such additional amount in any year to be applied only to the cost of land and buildings to be used to conduct the operations of the State Bar, including furniture, furnishings, equipment, architects' fees, construction and financing costs, landscaping and other expenditures incident to the acquisition, construction, furnishing and equipping of such land and buildings, the payment of interest on and the repayment of moneys borrowed for such purposes, and the reimbursement of the State Bar's treasury expended for such purposes

(c) Except as otherwise fixed by the board, the annual membership fee for active members is payable on or before the first day of February of each year.

(d) This section shall remain in effect only until January 1, 1981, and as of that date is repealed

SEC. 3. Section 6140.3 of the Business and Professions Code is repealed.

SEC 3. Section 6140 3 is added to the Business and Professions Code, to read:

6140.3 (a) It is the intent of the Legislature that the State Bar be invested with that authority which would most effectively enable it to accomplish its purposes and that the State Bar conduct its activities in a manner that is efficient, frugal, and in accordance with sound management practices To effectuate such intent there is hereby created a Special Legislative Investigating Committee on the State Bar to review and make recommendations regarding the scope, efficacy, and economy of the State Bar's activities. Such committee shall have the following composition, powers, and duties:

(1) The committee shall consist of six voting members, including the Chairman of the Senate Committee on Judiciary, two other Members of the Senate to be appointed by the Senate Committee on Rules, the Chairman of the Assembly Committee on Judiciary, and two other Members of the Assembly to be appointed by the Speaker of the Assembly, and three nonvoting members, to be appointed by the Board of Governors of the State Bar

(2) The committee shall have and exercise all of the rights, duties and powers conferred upon investigating committees 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.

(b) The Legislative Analyst shall conduct a study of, and submit to the committee, no later than March 1, 1980, a report on, the State Bar with respect to its management practices, the effectiveness of its programs, and any other subject related to its operational efficiency.

(c) The committee shall review the report of the Legislative Analyst and shall consider and make recommendations to the Legislature, the Supreme Court, and the Board of Governors of the State Bar, regarding the following matters: the appropriate level of annual membership fees; whether the Board of Governors of the State Bar should have the authority to set the level of annual membership fees without legislative approval, subject to a referendum of the members of the State Bar; whether the types of activities to be financed by annual membership fees should be limited or expanded, and, if so, to which types of activities; what economies should the State Bar undertake with respect to those programs financed by annual membership fees; and other related matters deemed appropriate by the special committee.

(d) This section shall remain in effect only until January 1, 1981, and as of that date is repealed.

CHAPTER 1042

An act to amend Sections 50097, 50660, 50661, 50662, and 50663 of, to add Sections 50667.5, 50669, 50670, and 51350.5 to, and to add Chapter 9 (commencing with Section 50735) and Chapter 10 (commencing with Section 50775) to Part 2 of, Division 31 of the Health and Safety Code, relating to housing, and making an appropriation therefor.

[Approved by Governor September 26, 1979 Filed with Secretary of State September 26, 1979]

I am deleting the $100 million appropriation contained in Section 17 of Senate Bill No 229

An identical appropriation is contained in a companion measure which I intend to approve

With the deletion, I approve Senate Bill No 229.

EDMUND G BROWN JR., Governor

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

SECTION 1 The Legislature finds and declares that safe, decent and sanitary housing which is affordable is a basic need Adequate housing is of primary importance to the health, safety and well-being of the residents of this state for all of the following reasons:

(a) The homes, rental units, and neighborhoods in which residents live shape them as individuals, contribute to their

self-image, and significantly influence their future roles in society.

(b) Housing units affect the physical and mental health of residents; unsanitary, overcrowded, unsuitable units increase crime, and spread disease and infestation.

(c) Housing patterns profoundly affect the state's economy, general well-being, social structure and patterns of development.

(d) A healthy housing market offers the freedom of meaningful choice to all residents; a healthy housing market is necessary to alleviate high unemployment and to achieve a healthy state economy.

The Legislature finds and declares that the state's housing problems are substantial, complex, and now of crisis proportions. There is a great lack of housing available in the state to moderate and lower income people, the elderly, and the handicapped as a result of decay and blight and poorly conceptualized and administered programs. This housing shortage is a threat to the health and well-being of both the individuals affected and the welfare of the state as a whole

SEC. 2 The Legislature finds and declares that the greatest need for housing is experienced by residents at the lower end of the economic scale. Many moderate- and low-income households with children cannot normally find decent, safe, and suitable housing at prices they can afford. The need is not, and apparently cannot be, met by either the private market or by present government-sponsored programs.

Tenants comprise 45 percent of the state's households, but renter income is dramatically lower than homeowner income. More than half of the renter households earn less than eleven thousand dollars ($11,000) annually. Forty-three percent of the state's renters can afford no more than two hundred dollars ($200) a month for rent and utilities and 31 percent of the state's renters can afford no more than one hundred fifty dollars ($150) a month for rent and utilities. The units available at these rents are a small fraction of the number needed by low-income households.

SEC. 3. The Legislature finds and declares that the tremendous disparity between the supply and demand for lower rent units, and the inability of the private market and present governmental programs to meet the need, mandates that the state launch a program which addresses the most urgent needs.

SEC. 4 In order to reduce such housing shortages, it is necessary to implement a public program incorporating the following elements and goals:

(a) A simple rental housing construction program that will utilize available funds in the most efficient and effective model in order to produce the maximum number of housing units

(b) The minimum feasible amount of funding should be used for interest charges, administrative and management costs Maximum feasible use should be made of below market interest rate loans from the California Housing Finance Agency and other public housing

finance entities

(c) A program to serve state residents unable to compete in the present market for safe, decent and suitable housing

(d) A program to encourage the new construction of rental units.

(e) A program to assist low- and moderate-income families to become owners of condominium and cooperative dwelling units and mobilehome park spaces.

(f) A basic program which can be enhanced by the use of state or local surplus lands, additional existing subsidy programs, or other methods of lowering costs presently included in development

(g) A program of housing rehabilitation assistance to low-income and moderate-income families to finance room additions to avoid overcrowding and to permit loans in connection with federally assisted code enforcement.

SEC. 5. The Legislature finds and declares that it is to the economic benefit of the state and a public purpose to encourage the availability of adequate housing for persons and families of low-income or moderate-income and to develop viable urban and rural communities by providing decent housing, enhanced living environments, and increased economic opportunities for persons and families of low or moderate income.

SEC. 6 Section 50097 of the Health and Safety Code is amended to read

50097 "Rehabilitation standards" means applicable state or local building or housing standards adopted pursuant to the State Housing Law, Part 1 5 (commencing with Section 17910) of Division 13, or continued in effect pursuant thereto

For the purposes of Chapter 6 5 (commencing with Section 50660) of Part 2, "rehabilitation standards" includes room additions necessary to prevent overcrowding of low-income or moderate-income households.

SEC. 7 Section 50660 of the Health and Safety Code is amended to read·

50660. The Legislature finds and declares that the rehabilitation of existing housing is necessary to the continued viability of neighborhoods, the elimination of health and safety hazards, the prevention of the overcrowding and the continued availability of a dwindling stock of low-cost housing Economic conditions have not provided sufficient incentive to home improvement and elimination of substandard conditions, and financial assistance in the form of deferred-payment rehabilitation loans is necessary for those owners of residential real property who would otherwise be unable to obtain sufficient public or private financing to bring their properties into compliance with rehabilitation standards. Deferred-payment loans provide a means of financing rehabilitation which the owner could not otherwise afford Such assistance is particularly necessary where local agencies are undertaking concentrated or systematic enforcement programs to require compliance with rehabilitation standards, and where persons or families of low or moderate income

are affected.

SEC. 8 Section 50661 of the Health and Safety Code is amended to read.

50661. There is hereby created in the State Treasury the Housing Rehabilitation Loan Fund. All interest or other increment resulting from the investment of moneys in the Housing Rehabilitation Loan Fund shall be deposited in such fund, notwithstanding Section 16305 7 of the Government Code. All money in such fund is continuously appropriated to the department (a) for making deferred-payment rehabilitation loans for financing all or a portion of the cost of rehabilitating existing housing to meet rehabilitation standards as provided in this chapter; (b) for making deferred-payment loans as provided in Sections 50669 and 50670; (c) for related administrative expenses of the department; and (d) for related administrative costs of nonprofit corporations and local public entities contracting with the department pursuant to Section 50663 in an amount, if any, as determined by the department, to enable such entities and corporations to implement a program pursuant to this chapter

SEC 9. Section 50662 of the Health and Safety Code is amended to read·

50662 The department shall adopt regulations establishing terms upon which deferred-payment rehabilitation loans may be made. The amount of a deferred-payment rehabilitation loan shall in no case exceed the costs of meeting rehabilitation standards. The amount, when combined with other financing provided, shall in no case exceed the combined costs of meeting rehabilitation standards and refinancing existing indebtedness Except for loans made to local agencies pursuant to Section 50664, deferred-payment rehabilitation loans shall bear interest at the rate of 3 percent per annum on the unpaid principal balance In the discretion of the department, which may differentiate among the types of programs specified in Section 50663, such interest shall either be payable periodically as it accrues during the term of the loan or payment of interest shall be deferred until payment of the principal is due However, regulations of the department may provide for waiver of interest payments when a local public entity or nonprofit corporation contracting pursuant to Section 50663 remits to the department in advance on behalf of the borrower a sum equal to not less than 15 percent of the original principal balance, which may be in lieu of interest The regulations of the department may also provide for payment of interest as accrued, in circumstances determined appropriate by the department to serve the purposes of this chapter In the case of a deferred-payment rehabilitation loan to an elderly person who is the owner of an owner-occupied one-to-four family residence, the note and deed of trust securing the loan shall require payment of the obligation upon transfer of the property In the case of a deferred-payment rehabilitation loan to a nonelderly person who is the owner of an owner-occupied one-to-four family residence,

payment shall be required after five years or upon transfer of the property, whichever first occurs. However, the loan may be renewed for additional five-year terms so long as the property is not transferred and the owner is unable to refinance the obligation when the debt comes due. In the case of a deferred-payment rehabilitation loan to an owner of a residence other than an owner-occupied one-to-four family residence, payment shall be required after five years, but the loan may be renewed for up to three additional five-year terms so long as persons of low income residing in the residence will benefit. The department shall establish standards and determine eligibility for renewal.

SEC. 10. Section 50663 of the Health and Safety Code is amended to read:

50663. The department may contract with a local public entity or nonprofit corporation to provide any portion of uncommitted funds in the Housing Rehabilitation Loan Fund for making deferred-payment rehabilitation loans through such local public entity or nonprofit corporation in aid of a (a) rehabilitation loan program conducted in a concentrated rehabilitation area designated pursuant to Section 51302; (b) residential rehabilitation financing program conducted pursuant to Part 13 (commencing with Section 37910) of Division 24; (c) systematic enforcement program for which the California Housing Finance Agency has allocated funds for mortgage loans pursuant to Section 51311; (d) code enforcement agency repairing substandard dwellings following the owner's failure to commence work following a final notice or order from the enforcement agency; (e) program conducted by the agency in a mortgage assistance area, provided such area is located in a rural area; or (f) rehabilitation or code enforcement program being undertaken by a local public entity or nonprofit corporation in an area in which federal funds are being used or will be used in conjunction with the program established pursuant to this chapter. Eligibility for such loans shall be governed by the provisions of Sections 50664, 50665, 50666, 50667, and 50667.5.

SEC. 11. Section 50667.5 is added to the Health and Safety Code, to read:

50667.5. In areas in which a local public entity or nonprofit corporation is undertaking a rehabilitation or code enforcement program for which federal funds are being used or will be used in conjunction with the program established pursuant to this chapter, a person or family of low income who is the owner of an owner-occupied one-unit to four-unit dwelling may receive a deferred payment rehabilitation loan for the excess of the cost of meeting rehabilitation standards over the amount of financing or assistance the local public entity or nonprofit corporation is able to provide without exceeding the owner's ability to afford the monthly payments required. Owners of rental housing in such areas may receive deferred payment loans if necessary to avoid increases in monthly debt service which would result in rent increases causing

permanent displacement of persons of low income residing in such housing and if the owner enters into an agreement with the local public entity or nonprofit corporation which provides for the regulation of rents and limitations on profit to assure that the purposes of this chapter are carried out Such agreement shall be binding on any successor in interest of the sponsor. The department may adopt regulations which govern the terms of such agreements. Owners of rental housing in such areas may also receive deferred-payment rehabilitation loans in the amount necessary to avoid such increases in monthly debt service as would make it economically infeasible to accept subsidies available to provide affordable rents to persons of low income if the owner agrees to accept such subsidies.

SEC. 12. Section 50669 is added to the Health and Safety Code, to read:

50669 As used in Section 50670:

(a) "Deferred-payment loan" means a loan for acquisition and rehabilitation of a rental housing development which (1) has a term of not more than 25 years, but which shall not in any event exceed the useful life of the rental housing development for which such loan is made, as determined by the department, whichever is less, and (2) is repaid in a single payment upon refinancing of such development at the end of the term of the loan. Such loans shall bear interest at the rate of 3 percent per annum on the unpaid principal balance, provided however, that the department may reduce or eliminate interest payments on a loan for any year or alternatively defer interest payments until the deferred-payment loan is repaid, if in the exercise of sound discretion, the department determines such action is necessary to provide affordable rents to elderly or handicapped households of very low and low income.

(b) "Rental housing development" means a residential structure containing five or more rental dwelling units, provided that each unit is equipped with a kitchen and bathroom

SEC. 13. Section 50670 is added to the Health and Safety Code, to read:

50670 (a) The Department shall establish a Demonstration Housing Rehabilitation Program for the Elderly and Handicapped, under which it may make deferred-payment loans to sponsors for the rehabilitation or the acquisition and rehabilitation of rental housing developments to be occupied by elderly or handicapped households of very low and low income The department may make such loans in an amount necessary to acquire and rehabilitate a rental housing development and to provide affordable rents, when considered in conjunction with other financing on or assistance to such development, for elderly or handicapped households of very low and low income for the term of the regulatory agreement pursuant to subdivision (d) In no event may the amount of the loan exceed 90 percent of the combined amount of the fair market value of the rental housing development and the cost of rehabilitation work to be

undertaken, provided, however, that with respect to a non-profit sponsor, the department may loan up to 100 percent of such combined amount.

(b) In making a loan pursuant to this section, the department may disburse funds in a manner and in accordance with a schedule which ensures the economic feasibility of the rental housing development and the completion of the rehabilitation work and which protects the interests of the state.

(c) Prior to making a loan commitment pursuant to this section, the department shall do the following:

(1) Inspect the rental housing development to be assisted pursuant to this section to determine the economic feasibility of rehabilitating such development.

(2) Approve a plan submitted by the sponsor which includes a plan for occupancy of the development, a description of the nature and costs of rehabilitation to be undertaken, and projections as to rental levels in such development

(d) Prior to disbursement of any funds pursuant to this section, the department shall enter into a regulatory agreement with the sponsor which provides for the limitation on profits in the operation of the rental housing development, sets standards for tenant selection to ensure occupancy by elderly or handicapped households of very low and low income for the term of such agreeement, governs the terms of occupancy agreements, and contains other provisions necessary to carry out the purposes of this section Upon recordation of the agreement in the office of the county recorder in the county in which the real property subject to such agreement is located, the agreement shall be binding upon the sponsor and successors in interest for the original term of the loan, as determined by the department, but for a period of not more than 25 years

(e) The department shall fix and alter, from time to time, a schedule of rents on each development as may be necessary to provide residents of the rental housing development with affordable rents, to the extent consistent with the financial integrity of such development. No sponsor shall increase the rent on any unit without the prior permission of the department which shall be given only if the sponsor affirmatively demonstrates that such increase is required to defray necessary operating costs or to avoid jeopardizing the fiscal integrity of the housing development However, in the event that the department does not act upon a request for a rent increase within 60 days from documented receipt of the request, such increase shall be deemed approved

(f) The department may annually inspect rental housing developments assisted pursuant to this section to ensure compliance with the terms of the regulatory agreement and may require such audits, financial statements, and other documents as are necessary to ensure compliance with the terms of the regulatory agreement and to ensure occupancy by elderly or handicapped households of very low and low income

(g) In conjunction with rental housing developments rehabilitated pursuant to Section 50669 and this section, the department shall make displacement payments in the amount of one thousand dollars ($1,000) to persons and families of low or moderate income displaced as a result of such rehabilitation, provided that eligible households who will reside in the rental housing development subsequent to rehabilitation shall instead be provided with temporary housing during that period of the rehabilitation which requires temporary displacement of such tenants. The amount of monthly assistance provided to eligible households temporarily displaced shall not exceed the difference between monthly rents paid by such households in the rental housing development prior to rehabilitation and the rents in units located by the department during the period of rehabilitation.

Eligible households displaced as a result of rehabilitation shall be accorded first priority in occupying units in the rental housing development subsequent to rehabilitation.

SEC. 14. Chapter 9 (commencing with Section 50735) is added to Part 2 of Division 31 of the Health and Safety Code, to read:

CHAPTER 9 RENTAL HOUSING CONSTRUCTION PROGRAM

Article 1 Definitions and General Provisions

50735 The following definitions shall apply to all activities conducted pursuant to this chapter. Except as otherwise provided in this article or unless the context otherwise requires, the definitions contained in Chapter 2 (commencing with Section 50050) of Part 1 of this division shall also apply to this chapter.

(a) "Assisted unit" means a unit which is affordable to an eligible household as a result of a payment made by the department pursuant to Article 2 (commencing with Section 50745), 3 (commencing with Section 50755), or 4 (commencing with Section 50765) or as a result of establishment of, or assistance from, an annuity trust fund or both.

(b) "Below-market interest financing" means a loan made by a local finance entity for construction or mortgage financing pursuant to this chapter at an interest rate no greater than 1½ percent higher than the most recent interest rate charged by the California Housing Finance Agency on the agency's loans for construction or mortgage financing of a housing development.

(c) "Development costs" means the aggregate of all costs incurred in connection with construction of a rental housing development pursuant to this chapter, including (1) the cost of land acquisition, whether by purchase or lease, (2) the cost of construction, (3) the cost of architectural, legal, and accounting fees incurred in connection with the construction of the rental housing development, (4) the cost of related offsite improvements, such as sewers, utilities, and streets, and (5) the cost of necessary and related on-site improvements

(d) "Eligible households" means households of low, and very low income

(e) "Local finance entity" means a redevelopment agency, housing authority, city, county, or city and county which, in connection with the program established pursuant to this chapter, provides or utilizes financing at below-market interest for development of rental housing developments eligible for assistance under this chapter.

(f) "Rental housing development" means a development of five or more rental units, provided that such development consists of no less than two rental units in any single structure.

(g) "Rural area" means any open country or any place, town, village, or city which by itself and taken together with any other places, towns, villages, or cities that it is part of or associated with (1) has a population not exceeding 10,000 or (2) has a population not exceeding 20,000 and is contained within a nonmetropolitan area. "Rural area" additionally includes any open country, place, town, village, or city located within a Standard Metropolitan Statistical Area if the population thereof does not exceed 20,000 and the area is not part of, or associated with, an urban area and is rural in character This definition may be changed by the department to conform to changes in federal programs.

(h) "Sponsor" means any individual, joint venture, partnership, limited partnership, trust, corporation, cooperative, local public entity, duly constituted governing body of an Indian reservation or rancheria, or other legal entity, or any combination thereof, certified by the department, or a local finance entity as qualified to own or construct a rental housing development assisted pursuant to this chapter A sponsor may be organized for profit or limited profit or be nonprofit.

50736 (a) Not less than 30 percent of the units in each rental housing development consisting of ten or more units which receives any funds pursuant to this chapter shall be reserved for eligible households and not less than 20 percent of all the units in each rental housing development shall be reserved for very low income households.

(b) Of assisted units, not less than two-thirds shall be reserved for very low income households and the balance for low-income households

(c) Elderly or handicapped households shall be allocated not less than 20 percent, nor more than 30 percent, of the units assisted pursuant to this chapter.

(d) The department shall ensure that not less than 20 percent of all units assisted pursuant to this chapter shall be allocated to rural areas

50737 The department shall adopt rules and regulations, 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, for the administration of this chapter The rules and

regulations shall give priority in the allocation of funds available for the purposes of this chapter to the following:

(a) Rental housing developments which are of the lowest possible cost, given local market conditions.

(b) Rental housing developments which incorporate innovative design and construction techniques and higher densities that will result in lower costs while retaining quality.

(c) Rental housing developments which complement the implementation of a local housing program of increased housing supply for persons and families of low or moderate income.

(d) Rental housing developments for which the housing sponsor, whether public or private, has contributed funds, services, or land or for which Community Development Block Grant Funds have been allocated under Title I of Federal Public Law 93-383 for site acquisition, development costs, or construction costs

(e) Rental housing developments in which units assisted pursuant to this chapter will be those with minimum basic amenities and appropriate minimum square footages, number of rooms, and room sizes as appropriate for individual households

50737.5 Funds available for the purposes of this chapter shall be allocated by the department throughout the state in accordance with identified housing needs

50738 The department may make payments pursuant to Article 2 (commencing with Section 50745), 3 (commencing with Section 50755), or 4 (commencing with Section 50765) or establish an annuity trust fund, or both, only if such payments or trust fund assistance result in affordable rents in assisted units for eligible households, provided, however that the department may utilize no more than 10 percent of the moneys in the Rental Housing Construction Incentive Fund as necessary to ensure the economic feasibility and enable construction of rental developments.

50739 At the time the department makes a payment pursuant to Article 2 (commencing with Section 50745), 3 (commencing with Section 50755), or 4 (commencing with Section 50765) or establishes an annuity trust fund in connection with a rental housing development, or both, a written agreement between the department and the agency or local finance entity shall be executed, designating the number of units to be made available on a priority basis within such housing development to very low income households, to persons and families of low or moderate income, and to other households If the number of units occupied by very low or low income households in any housing development ever falls below the number agreed to by the department and agency or local finance entity then units which become available for occupancy shall be made available on a priority basis to very low or low income households, as required, until the number of units so occupied equals at least the number specified in the agreement The department may, from time to time, review agreements designating the allocation of units and, subject to agreement with the agency or local

finance entity and housing sponsor, may increase the number of units to be made available to very low income households if consistent with maintenance of the financial integrity of the rental housing development.

50740. (a) The Rental Housing Construction Incentive Fund is hereby established in the State Treasury. All money in the fund is hereby continuously appropriated to the Department of Housing and Community Development for purposes of this chapter. All interest or other increment resulting from investment or deposit of moneys in the fund shall be deposited in the fund, notwithstanding Section 16305.7 of the Government Code Moneys in the fund shall not be subject to transfer to any other fund pursuant to any provision of Part 2 (commencing with Section 16300) of Division 4 of Title 2 of the Government Code, excepting the Surplus Money Investment Fund

(b) Not less than 40 percent of the moneys in the fund shall be used pursuant to this chapter to assist rental housing developments financed or assisted by the agency, unless the department determines that allocation of such moneys to assist rental housing developments financed by local finance entities would result in assisted units being provided earlier than could be provided by the agency

50741. Only rental housing developments on which construction is commenced on or after six months from the effective date of this chapter shall be eligible for assistance under this chapter.

50742 For purposes of acting as a local finance entity pursuant to this chapter, a city, county or city and county may, pursuant to an enabling ordinance of its legislative body, issue revenue bonds to provide below-market interest financing of a rental housing development. The proceeds of local revenue bonds issued pursuant to this section shall be used solely to finance rental housing developments containing assisted units for any and all costs of administering such finance program and of complying with mandated reserve requirements Any interest or other increment received by a local finance entity acting under the authority of this section from the investment or reinvestment of the proceeds of such revenue bonds, any payments of principal or interest on financing provided by the local finance entity or part of such program, and any other revenues received by the local finance entity in connection with, or for purposes of, such program shall be held and applied solely for the purposes of such program

Article 2 Rental Construction Incentive Program

50745 (a) Upon application by the agency or a local finance entity, the department may contract with the agency or local finance entity to pay all or a portion of the development costs incurred by a sponsor in connection with the construction of a rental housing development which is financed, or otherwise assisted pursuant to

subdivision (b), by the agency, local finance entity, or a federal agency.

(b) In lieu of providing financing of a rental housing development at below-market interest, a local finance entity to be eligible for assistance under this article, may utilize other types of subsidies including, but not limited to, federal funds, as authorized by law, which reduce by an equivalent amount the rental levels of a rental housing development

(c) Pursuant to such a contract the agency or local finance entity shall, in accordance with criteria established by the department, (1) ensure the feasibility of the proposed rental housing development to be financed and assisted pursuant to this chapter, (2) supervise the design and construction of the rental housing development to be financed by it and assisted pursuant to this chapter, and (3) supervise the management of such rental housing development while the financing thereof remains outstanding and unpaid or for a period of 40 years, whichever is greater The department shall adopt criteria to ensure that a local finance entity has the capability of performing such functions prior to entering a contract pursuant to this section

50746 Each contract pursuant to Section 50745 shall be recorded in the office of the county recorder of the county in which the rental housing development is located, and shall be indexed by the recorder in the grantor index to the name of the sponsor and in the grantee index to the name of the State of California The contract shall contain at least the following provisions

(a) The amount and terms of payments to be provided under this article, including specific items to be covered by such payments

(b) A description of the way in which the payments will be used to provide affordable rents to eligible households occupying dwelling units within the rental housing development

(c) A description of the rental housing development, projected rent levels for all units, and the number of units to be occupied by eligible households

(d) Requirements for payment of prevailing wage rates on construction

(e) A requirement for a periodic report by the agency or local finance entity which shall include, at a minimum, information on the fiscal condition of the rental housing development, the maintenance of such development, and the number of units occupied by eligible households

(f) The terms of the regulatory agreement to be entered into between the sponsor and the agency or local finance entity pursuant to Section 50749

(g) A lien on the rental housing development in favor of the State of California, for the purpose of securing performance of the agreement Such lien shall include a legal description of the assisted real property which is subject to the lien and shall specify the duration of the lien upon the assisted real property

(h) Standards which govern selection of tenants by housing sponsors to ensure occupancy by eligible households consistent with the requirements of Sections 50736 and 50739 and the terms of occupancy agreements to be used in rental housing developments.

(i) Provisions sufficient to ensure that dwelling units reserved for occupancy by eligible households in the rental housing development remain available for such occupancy for a period of not less than 40 years.

(j) Provisions which specify the timing and manner in which payments are made by the department so as to ensure the economic feasibility of the rental housing development and to protect the interests of the state

(k) A provision making the covenants and conditions of the contract binding upon successors in interest of the sponsor.

(*l*) When the sponsor is not a nonprofit housing sponsor or a local public entity, a provision limiting distribution of the sponsor's earnings to an annual amount no greater than 6 percent of the sponsor's actual investment (excluding unaccrued liabilities of the sponsor) in the rental housing development.

(m) Any other provisions necessary to carry out the purposes and to exercise the powers granted by this chapter.

50747. The development cost payments provided by the department pursuant to this article shall not exceed 100 percent of the development costs of a rental housing development, and shall not exceed the amount required, when considered with any subsidy or assistance provided by the agency, local finance entity or housing sponsor, including below-market interest financing, to ensure the economic feasibility of restricting occupancy of the rental housing development in accordance with Sections 50736 and 50739. The department may defray all or a portion of development costs as they are incurred, or in accordance with a schedule developed pursuant to subdivision (j) of Section 50746

50748 (a) The department may establish annuity trust funds to be administered by the agency or the local finance entity for the purpose of reducing rent levels to ensure occupancy by eligible households pursuant to Sections 50736 and 50739 Such annuity trust funds shall be structured so that the principal and interest accumulated thereon is not depleted prior to the expiration of the regulatory agreement required by Section 50749.

(b) Payments made by the department pursuant to this section shall not constitute a subsidy under subdivision (b) of Section 50745.

(c) The department shall require annual reports on each annuity trust fund and such audits as may be required to ensure the proper operation of each trust fund The department shall review all complaints received concerning such trust funds and shall have all powers necessary to assure the lawful application of such funds

(d) When funds in an annuity trust fund are not necessary to ensure that eligible households in a rental housing development assisted under this chapter are paying affordable rents, the

department may (1) require that such funds revert to the Rental Housing Construction Incentive Fund or (2) authorize use of such funds to reduce rents to an affordable level for additional eligible households in the rental development.

(e) Not less than 20 percent of the funds appropriated for the purposes of this chapter shall be utilized pursuant to this section, provided however, that funds reverted pursuant to subdivision (d) shall be used for any purposes authorized by this chapter.

(f) Such annuity trust funds shall also be available to assist rental housing developments under Articles 2 (commencing with Section 50745), 3 (commencing with Section 50755), or 4 (commencing with Section 50765) of this chapter.

50749 Any rental housing development assisted pursuant to this article shall be governed by a regulatory agreement between the sponsor and the agency or local finance entity The regulatory agreements shall contain at least all of the following.

(a) Restrictions on occupancy of dwelling units within the rental housing development, as necessary to meet the requirements of Sections 50736 and 50739

(b) A requirement that prevailing wage rates be paid with respect to construction of the rental housing development, and that all contractors and subcontractors use affirmative action in hiring

(c) The authorization for the agency or local finance entity to fix and alter, from time to time, a schedule of rents such as may be necessary to provide residents of the rental housing development with affordable rents, to the extent consistent with the maintenance of the financial integrity of the rental housing development

With respect to rental housing developments financed by the agency, no housing sponsor may increase rents except in accordance with the provisions of Section 51200 With respect to units under the supervision of a local finance entity, no housing sponsor shall increase the rent without the prior permission of such entity which shall be given only if the sponsor affirmatively demonstrates that such increase is required to defray necessary operating costs or to avoid jeopardizing the fiscal integrity of the rental housing development Prior to the time any rent increase is effective, the housing sponsor shall notify every affected tenant, in writing, of informal meetings with the housing sponsor to review the proposed rent increase Each tenant, upon request, shall be provided the information submitted to the local housing finance entity pursuant to this subdivision

Notwithstanding Section 51200 with respect to rental housing developments assisted under this article, if the agency or local finance entity does not act upon a request for a rent increase within 60 days from documented receipt of the request, such increase shall be deemed approved

Prior notice of any rent increase shall be given in writing as required by Section 1946 of the Civil Code

(d) Provisions implementing standards governing selection of tenants by housing sponsors to ensure occupancy by eligible

households consistent with the requirements of Sections 50736 and 50739 and to assure that dwelling units reserved for occupancy by eligible households continue to be occupied by eligible households.

(e) Provisions implementing the terms of occupancy agreements.

(f) Provisions necessary for the administration and protection of annuity trust funds established pursuant to Section 50748.

(h) Any other provisions necessary to carry out the purposes and to exercise the powers granted by this chapter.

The regulatory agreement shall remain in effect so long as any financing for the rental housing development provided by the agency or local finance entity remains outstanding, but in any event not less than 40 years The regulatory agreement shall be enforceable by the department, the agency or local finance entity or by any intended beneficiary of housing assisted under this chapter as against the sponsor or any successor in interest of the sponsor.

50750 Upon consent of the legislative body of the city or county in which a rental housing development is or will be located, the department may contract with a local finance entity located in a rural area to ensure that the terms of the regulatory agreement between such entity and a sponsor entered into pursuant to Section 50749 are carried out.

Article 3 Housing Authority Contracts

50755. The department may contract with local housing authorities. Funds provided pursuant to such contracts shall be used by such agencies to obtain a right of occupancy for eligible households in some or all of the units in a rental housing development In order to maximize the number of units for which a right of occupancy is obtained, the price paid by the local housing authority in obtaining such right shall not exceed the costs of developing the unit exclusive of the interest costs of long-term financing The local housing authority may be authorized by the department to pay the entire amount of the sale price as soon as the unit is available for occupancy

Any contract executed pursuant to this article which provides for a right of occupancy in favor of a local housing authority shall be recorded in the office of the county recorder of the county in which such real property is located Such contract shall particularly describe the real property subject to such right of occupancy, designate the specific rental units or proportion of the rental housing development subject to such right of occupancy and specify the period for which such right of occupancy extends

50756 Each contract pursuant to Section 50755 shall be recorded in the office of the county recorder of the county in which the rental housing development is located, and shall be indexed by the recorder in the grantor index to the name of the sponsor and in the grantee index to the name of the State of California The contract shall contain the following provisions

(a) The amount and terms of payments to be provided under this article

(b) A description of the way in which the payments will be used to provide affordable rents to eligible households occupying dwelling units within the rental housing development

(c) A description of the rental housing development, projected rent levels for all units, and the number of units to be occupied by eligible households

(d) A requirement for periodic reports by the local housing authority, which shall at a minimum include information on the fiscal condition of the rental housing development, the maintenance of such development, and the number of units occupied by eligible households

(e) The terms of the regulatory agreement to be entered into between the sponsor and the local housing authority pursuant to Section 50757

(f) Standards which govern selection of tenants by housing sponsors to ensure occupancy by eligible households consistent with the requirements of Sections 50736 and 50739 and the terms of occupancy agreements to be used in rental housing developments

(g) Provisions sufficient to ensure that dwelling units reserved for occupancy by eligible households remain available for such occupancy for a period of not less than 40 years

(h) Provisions which specify the timing and manner in which payments are made by the department so as to ensure the economic feasibility of the rental housing development and to protect the interests of the state

(i) Any other provisions necessary to carry out the purposes and to exercise the powers granted by this chapter

50757 Any rental housing development assisted pursuant to this article shall be governed by a regulatory agreement between the sponsor and the local housing authority The regulatory agreements shall contain all of the following.

(a) Restrictions on occupancy of the dwelling units within the rental housing development, as necessary to meet the requirements of Sections 50736 and 50739

(b) A requirement that all contractors and subcontractors use affirmative action in hiring.

50758 With respect to units for which a local housing authority has obtained a right of occupancy, the local housing authority may manage such units or may contract for management of such units with the housing sponsor or other persons designated by the local housing authority, with the approval of the department

50759 With respect to housing units developed pursuant to Section 50755, the local housing authority shall do the following

(a) Fix and alter from time to time a schedule of rents as may be necessary to permit occupancy of such units by eligible households The rents on such units shall not exceed the costs of maintenance, management and operation property taxes, and where applicable

utilities. No housing sponsor shall increase the rent without the prior permission of the housing authority which shall be given only if the sponsor affirmatively demonstrates that such increase is required to defray necessary operating costs or to avoid jeopardizing the fiscal integrity of the rental housing development.

Prior to the time any rent increase is effective the housing sponsor or housing authority shall notify every affected tenant, in writing, of, informal meetings with the housing sponsor or housing authority to review the proposed rent increase. Each tenant, upon request, shall be provided the information submitted to the local housing authority pursuant to this subdivision. In the event that the local housing authority does not act upon a request for a rent increase within 60 days from documented receipt of the request, such increase shall be deemed approved. Prior notice of any rent increase shall be given in writing as required by Section 1946 of the Civil Code.

(b) Determine standards for, and ensure fair procedures for the selection of tenants by housing sponsors or other management designated pursuant to Section 50758.

(c) Regulate the terms of tenant occupancy agreements.

50760. With respect to units developed pursuant to this article, the local housing authority may and at the direction of the department shall do any of the following.

(a) Through its agents or employees enter upon and inspect the lands, buildings, and equipment of the rental housing development, including books and records, at any time before, during, or after construction of units assisted pursuant to this section. Entry or inspection of any occupied unit shall be subject to the provisions of Section 1954 of the Civil Code.

(b) Supervise the operation and maintenance of any housing assisted pursuant to this section and order such repairs as may be necessary to protect the public interest or the health, safety, or welfare of occupants of the housing

Article 4 Contracts for Development and Construction by Local Housing Authorities

50765 The department may contract with local housing authorities and provide funds which shall be used by such authorities to develop and construct rental housing developments to be operated by such housing authorities and to be rented to eligible households

50766 Each contract pursuant to Section 50765 shall contain at least the following provisions

(a) The amount and terms of payments to be provided under this article, including specific items to be covered by such payments

(b) A description of the way in which the payments will be used to provide affordable rents to eligible households occupying dwelling units within the rental housing development

(c) A description of the rental housing development, projected

rent levels for all units and the number of units to be occupied by eligible households

(d) Restrictions on occupancy of dwelling units within the rental housing development, as necessary to meet the requirements of Sections 50736 and 50739

(e) A requirement that prevailing wage rates be paid with respect to construction of the rental housing development, and that all contractors and subcontractors use affirmative action in hiring

(f) A requirement for periodic reports by the housing authority, which shall at a minimum include information on the fiscal condition of the rental housing development, the maintenance of such development, and the number of units occupied by eligible households

50767. With respect to rental housing developments developed and constructed pursuant to Section 50765, the local housing authority shall, with the approval of the department·

(a) Fix and alter from time to time a schedule of rents as may be necessary to permit occupancy of such units by eligible households The rents on such units shall not exceed the costs of maintenance, operation, property taxes, and where applicable, utilities No housing authority shall increase the rent without the prior permission of the department which shall be given only if the authority affirmatively demonstrates that such increase is required to defray necessary operating costs or to avoid jeopardizing the fiscal integrity of the rental housing development

Prior to the time any rent increase is effective the housing authority shall notify every affected tenant, in writing, of, informal meetings with the housing authority to review the proposed rent increase. Each tenant, upon request, shall be provided the information submitted to the department pursuant to this subdivision

Prior notice of any rent increase shall be given in writing as required by Section 1946 of the Civil Code.

(b) Regulate the terms of tenant occupancy agreements.

50768 The department shall monitor the operation at the rental housing development constructed pursuant to this article, to ensure compliance with grant conditions, contract obligations, and the provisions of this chapter and regulations adopted pursuant to this chapter.

Article 5 Reserve Fund

50770. Four percent of the funds appropriated for the purposes of this chapter shall be set aside in a Management Reserve Account in the Rental Housing Construction Incentive Fund, which is hereby created. All interest or other increment resulting from investment or deposit of moneys in such fund shall be deposited in the account.

The department may expend moneys in such account to defray cost increases in maintenance, taxes, utility, or management costs, or

charges for common areas and service so that, to the extent feasible, the rental charges to eligible households remain affordable The department may provide assistance from the fund to a rental housing development if the sponsor affirmatively demonstrates that assistance is necessary to avoid jeopardizing the fiscal integrity of the rental housing development while maintaining affordable rents and if the department determines that assistance is necessary to offset unavoidable increases in costs

SEC 15 Chapter 10 (commencing with Section 50775) is added to Part 2 of Division 31 of the Health and Safety Code, to read

CHAPTER 10. HOMEOWNERSHIP ASSISTANCE

50775 The department may provide financial assistance, in accordance with this chapter, to households residing in rental housing, or a mobilehome park in which such households rent spaces, which is to be converted to condominium ownership or ownership by a stock cooperative corporation, as defined in Section 11003 2 of the Business and Professions Code, for the purpose of assisting such households in acquiring their dwelling unit or a share in the stock cooperative corporation which entitles such households to occupancy of their dwelling unit. The department may also provide financial assistance for the purpose of assisting households to purchase a mobilehome, as defined in Section 18008, which is located outside a mobilehome park, as defined in Section 18214, and which is affixed to a permanent foundation. Such financial assistance shall not exceed 49 percent of the purchase price paid by the household for the dwelling unit, mobilehome, or share in the stock cooperative, and in no event shall such assistance be used to reduce the purchaser's downpayment below 3 percent of the total purchase price. The department may establish maximum purchase prices for such units, mobilehomes, or shares Eligibility for such financial assistance shall be limited to households (1) which have incomes no greater than the median for the county, (2) which do not own a residence and have not owned any real property for at least three years, (3) which have not previously received any assistance pursuant to this chapter, and (4) which, without financial assistance pursuant to this section, would be unable to acquire their dwelling unit, mobilehome, or a share in a stock cooperative.

As used in this section and Section 50776, "dwelling unit" includes a space in a mobilehome park, as defined in Section 18214

50776 Financial assistance pursuant to Section 50775 may be provided directly by the department or through a mortgage lender certified by the department to participate in the program authorized by Section 50775 Such a mortgage lender may be a bank or trust company, mortgage banker, federal or state chartered savings and loan association, governmental agency, or other financial institution, including credit unions, deemed capable by the department, pursuant to regulations adopted in accordance with the provisions of

Chapter 4 5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code, of providing services or mortgage loans in conjunction with dwelling units, mobilehomes, or shares in stock cooperatives for which such financial assistance is provided

The department or mortgage lender shall enter into a contract with each recipient of financial assistance under Section 50775, requiring the recipient, upon sale of the dwelling unit, mobilehome, or share in a stock cooperative for which the assistance was provided, to pay to the department from the portion of the proceeds of the sale, an amount proportionate to the percentage of the initial purchase price which was paid with financial assistance provided under Section 50775 However, if the recipient has made improvements to the dwelling unit or mobilehome, as the case may be, the cost of such improvements shall be added to the purchase price in determining relative financial participation for purposes of apportioning the proceeds of the sale Improvements which may be added to the purchase price for this purpose shall be defined by regulations of the department, adopted in accordance with the provisions of Chapter 4 5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code, and shall be limited to substantial repairs, renovations, or additions undertaken with respect to the dwelling unit or mobilehome assisted, which increase the value of the dwelling unit, or which bring such dwelling unit or mobilehome into conformance with local or state building or housing standards.

Any contract pursuant to this section may permit the recipient of financial assistance to terminate the contract upon payment to the department of the amount which would be owed the department if the dwelling unit, mobilehome or share in a stock cooperative were sold at fair market value at the time of such repayment.

Contracts pursuant to this section shall require payment of the full amount of property taxes, insurance, and costs of normal maintenance by the household receiving assistance pursuant to Section 50775 Every contract required by this section shall be secured by a deed of trust upon the dwelling unit or mobilehome for which the assistance is provided, or if the financial assistance is for purchase of a share in a stock cooperative association, any security interest determined adequate by the department to protect the interests of the state. Such deeds of trust or other security devices shall be recorded in the office of the county recorder of the county in which the dwelling unit is located

50777 The department may provide financial assistance to stock cooperative corporations, as defined in Section 11003 2 of the Business and Professions Code, to enable such a corporation to purchase a mobilehome park on behalf of its shareholders or members, who are or will be occupants of the mobilehome park and who are persons or families with incomes not in excess of the median income for the county

In addition, the department may provide financial assistance to

persons or families with incomes not in excess of the median income for the county to enable such persons or families to purchase a share in a stock cooperative corporation which owns a mobilehome park. The department may establish a maximum purchase price for such shares. Upon sale of a share in such a stock cooperative corporation, the shareholder receiving assistance pursuant to this section shall pay to the department from the the proceeds of the sale of such share, an amount proportionate to the percentage of the initial purchase price which was paid with financial assistance provided by the department pursuant to this section, as adjusted for improvements made by the corporation or shareholder

Such financial assistance shall be provided pursuant to a contract which requires, among other things, restrictions on occupancy, maintenance and payment of the full amount of taxes and insurance by the shareholders. Every contract required by this section shall be secured by a deed of trust upon the mobilehome park for which assistance is provided, or if the financial assistance is for purchase of a share in a mobilehome park stock cooperative association, any security interest determined adequate by the department to protect the interests of the state Such deeds of trust shall be recorded in the office of the county recorder of the county in which such mobilehome park is located.

50778 The Homeownership Assistance Fund is hereby created in the State Treasury and is continually appropriated to the department for purposes of this chapter Any moneys received by the department pursuant to this chapter shall be deposited in such fund. All interest or other increment resulting from investment or deposit of moneys in the fund shall be deposited in the fund, notwithstanding Section 16305 7 of the Government Code. Moneys in the fund shall not be subject to transfer to any other fund pursuant to any provisions of Part 2 (commencing with Section 16300) of Division 4 of Title 2 of the Government Code, excepting the Surplus Money Investment Fund.

Not less than 50 percent of the moneys in the fund shall be used to assist in the purchase of dwelling units or shares in stock cooperatives by persons and families whose incomes do not exceed 80 percent of the median income for the county in which such persons or families reside.

Funds available for the purpose of this chapter shall be allocated by the department throughout the state in accordance with identified housing needs.

SEC 16 Section 51350 5 is added to the Health and Safety Code, to read·

51350 5 The limitation set forth in Section 51350 on the amount of the agency's bonds which may be concurrently outstanding, including any changes, expansions of, or additions to, such limitations, shall not apply to (a) bonds issued to finance construction of rental housing developments assisted pursuant to Chapter 9 (commencing with Section 50735) of Part 2 of this division, or (b)

bonds issued to refund or renew such bonds, to the extent of the outstanding principal indebtedness of the previously issued bonds and any redemption premium thereon, and any interest accrued or to accrue to the date of redemption of such bonds. Bonds specified in this section shall not be included or considered when applying the limitation on amount of bonds specified in subdivision (c) of Section 51350 or in any other provisions of law which may be enacted to provide additional bonding authority to the agency and which certain dollar limitations respecting the amount of bonds issued or outstanding

SEC. 17 The sum of one hundred million dollars ($100,000,000) is hereby appropriated from the general fund to the Department of Housing and Community Development for expenditure in accordance with the following schedule:

(a) For transfer to the Rental Housing Construction Incentive Fund, Section 50740 of the Health and Safety Code	$82,000,000
(b) For transfer to the Homeownership Assistance Fund, Section 50778 of the Health and Safety Code	7,500,000
(c) For the purposes of Chapter 6 5 (commencing with Section 50660), Part 2, Division 31, of the Health and Safety Code	10,000,000
(d) For the transfer to the department to defray costs of administering the provisions of this act	500,000

CHAPTER 1043

An act to amend Sections 50097, 50660, 50661, 50662, and 50663 of, to add Sections 50667 5, 50669, and 50670, and 51350.5 to, and to add Chapter 9 (commencing with Section 50735) and Chapter 10 (commencing with Section 50775) to Part 2 of Division 31 of, the Health and Safety Code, relating to housing, and making an appropriation therefor.

[Approved by Governor September 26, 1979 Filed with Secretary of State September 26, 1979]

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

SECTION 1 The Legislature finds and declares that safe, decent, and sanitary housing which is affordable is a basic need Adequate housing is of primary importance to the health, safety and well-being of the residents of this state for all of the following reasons.

(a) The homes, rental units, and neighborhoods in which residents live shape them as individuals, contribute to their

self-image, and significantly influence their future roles in society

(b) Housing units affect the physical and mental health of residents; unsanitary, overcrowded, unsuitable units increase crime, and spread disease and infestation.

(c) Housing patterns profoundly affect the state's economy, general well-being, social structure and patterns of development.

(d) A healthy housing market offers the freedom of meaningful choice to all residents; a healthy housing market is necessary to alleviate high unemployment and to achieve a healthy state economy

The Legislature finds and declares that the state's housing problems are substantial, complex, and now of crisis proportions. There is a great lack of housing available in the state to moderate and lower income people, the elderly, and the handicapped as a result of decay and blight and poorly conceptualized and administered programs. This housing shortage is a threat to the health and well-being of both the individuals affected and the welfare of the state as a whole

SEC. 2 The Legislature finds and declares that the greatest need for housing is experienced by residents at the lower end of the economic scale Many moderate- and low-income households with children cannot normally find decent, safe, and suitable housing at prices they can afford The need is not, and apparently cannot be, met by either the private market or by present government-sponsored programs.

Tenants comprise 45 percent of the state's households, but renter income is dramatically lower than homeowner income More than half of the renter households earn less than eleven thousand dollars ($11,000) annually Forty-three percent of the state's renters can afford no more than two hundred dollars ($200) a month for rent and utilities and 31 percent of the state's renters can afford no more than one hundred fifty dollars ($150) a month for rent and utilities The units available at these rents are a small fraction of the number needed by low-income households

SEC 3 The Legislature finds and declares that the tremendous disparity between the supply and demand for lower rent units, and the inability of the private market and present governmental programs to meet the need, mandates that the state launch a program which addresses the most urgent needs

SEC. 4 In order to reduce such housing shortages, it is necessary to implement a public program incorporating the following elements and goals

(a) A simple rental housing construction program that will utilize available funds in the most efficient and effective model in order to produce the maximum number of housing units

(b) The minimum feasible amount of funding should be used for interest charges, administrative and management costs Maximum feasible use should be made of below market interest rate loans from the California Housing Finance Agency and other public housing

finance entities.

(c) A program to serve state residents unable to compete in the present market for safe, decent and suitable housing.

(d) A program to encourage the new construction of rental units.

(e) A program to assist low-income and moderate-income families to become owners of condominium and cooperative dwelling units and mobilehome park spaces

(f) A basic program which can be enhanced by the use of state or local surplus lands, additional existing subsidy programs, or other methods of lowering costs presently included in development

(g) A program of housing rehabilitation assistance to low- and moderate-income families to finance room additions to avoid overcrowding and to permit loans in connection with federally assisted code enforcement

SEC 5 The Legislature finds and declares that it is to the economic benefit of the state and a public purpose to encourage the availability of adequate housing for persons and families of low-income or moderate-income and to develop viable urban and rural communities by providing decent housing, enhanced living environments, and increased economic opportunities for persons and families of low or moderate income.

SEC. 6 Section 50097 of the Health and Safety Code is amended to read.

50097. "Rehabilitation standards" means applicable state or local building or housing standards adopted pursuant to the State Housing Law, Part 1.5 (commencing with Section 17910) of Division 13, or continued in effect pursuant thereto

For the purposes of Chapter 6.5 (commencing with Section 50660) of Part 2, "rehabilitation standards" includes room additions necessary to prevent overcrowding of low-income or moderate-income households.

SEC 7 Section 50660 of the Health and Safety Code is amended to read·

50660 The Legislature finds and declares that the rehabilitation of existing housing is necessary to the continued viability of neighborhoods, the elimination of health and safety hazards, the prevention of the overcrowding and the continued availability of a dwindling stock of low-cost housing Economic conditions have not provided sufficient incentive to home improvement and elimination of substandard conditions, and financial assistance in the form of deferred-payment rehabilitation loans is necessary for those owners of residential real property who would otherwise be unable to obtain sufficient public or private financing to bring their properties into compliance with rehabilitation standards. Deferred-payment loans provide a means of financing rehabilitation which the owner could not otherwise afford Such assistance is particularly necessary where local agencies are undertaking concentrated or systematic enforcement programs to require compliance with rehabilitation standards, and where persons or families of low or moderate income

are affected

SEC 8 Section 50661 of the Health and Safety Code is amended to read

50661 There is hereby created in the State Treasury the Housing Rehabilitation Loan Fund. All interest or other increment resulting from the investment of moneys in the Housing Rehabilitation Loan Fund shall be deposited in such fund, notwithstanding Section 16305 7 of the Government Code. All money in such fund is continuously appropriated to the department (a) for making deferred-payment rehabilitation loans for financing all or a portion of the cost of rehabilitating existing housing to meet rehabilitation standards as provided in this chapter; (b) for making deferred-payment loans as provided in Sections 50669 and 50670; (c) for related administrative expenses of the department; and (d) for related administrative costs of nonprofit corporations and local public entities contracting with the department pursuant to Section 50663 in an amount, if any, as determined by the department, to enable such entities and corporations to implement a program pursuant to this chapter

SEC. 9. Section 50662 of the Health and Safety Code is amended to read

50662 The department shall adopt regulations establishing terms upon which deferred-payment rehabilitation loans may be made The amount of a deferred-payment rehabilitation loan shall in no case exceed the costs of meeting rehabilitation standards. The amount, when combined with other financing provided, shall in no case exceed the combined costs of meeting rehabilitation standards and refinancing existing indebtedness. Except for loans made to local agencies pursuant to Section 50664, deferred-payment rehabilitation loans shall bear interest at the rate of 3 percent per annum on the unpaid principal balance. In the discretion of the department, which may differentiate among the types of programs specified in Section 50663, such interest shall either be payable periodically as it accrues during the term of the loan or payment of interest shall be deferred until payment of the principal is due. However, regulations of the department may provide for waiver of interest payments when a local public entity or nonprofit corporation contracting pursuant to Section 50663 remits to the department in advance on behalf of the borrower a sum equal to not less than 15 percent of the original principal balance, which may be in lieu of interest The regulations of the department may also provide for payment of interest as accrued, in circumstances determined appropriate by the department to serve the purposes of this chapter In the case of a deferred-payment rehabilitation loan to an elderly person who is the owner of an owner-occupied one-to-four family residence, the note and deed of trust securing the loan shall require payment of the obligation upon transfer of the property. In the case of a deferred-payment rehabilitation loan to a nonelderly person who is the owner of an owner-occupied one-to-four family residence,

payment shall be required after five years or upon transfer of the property, whichever first occurs However, the loan may be renewed for additional five-year terms so long as the property is not transferred and the owner is unable to refinance the obligation when the debt comes due In the case of a deferred-payment rehabilitation loan to an owner of a residence other than an owner-occupied one-to-four family residence, payment shall be required after five years, but the loan may be renewed for up to three additional five-year terms so long as persons of low income residing in the residence will benefit The department shall establish standards and determine eligibility for renewal

SEC 10 Section 50663 of the Health and Safety Code is amended to read

50663 The department may contract with a local public entity or nonprofit corporation to provide any portion of uncommitted funds in the Housing Rehabilitation Loan Fund for making deferred-payment rehabilitation loans through such local public entity or nonprofit corporation in aid of a (a) rehabilitation loan program conducted in a concentrated rehabilitation area designated pursuant to Section 51302, (b) residential rehabilitation financing program conducted pursuant to Part 13 (commencing with Section 37910) of Division 24, (c) systematic enforcement program for which the California Housing Finance Agency has allocated funds for mortgage loans pursuant to Section 51311, (d) code enforcement agency repairing substandard dwellings following the owner's failure to commence work following a final notice or order from the enforcement agency, (e) program conducted by the agency in a mortgage assistance area, provided such area is located in a rural area, or (f) rehabilitation or code enforcement program being undertaken by a local public entity or nonprofit corporation in an area in which federal funds are being used or will be used in conjunction with the program established pursuant to this chapter Eligibility for such loans shall be governed by the provisions of Sections 50664, 50665, 50666, 50667, and 50667.5

SEC 11 Section 50667 5 is added to the Health and Safety Code, to read

50667 5 In areas in which a local public entity or nonprofit corporation is undertaking a rehabilitation or code enforcement program for which federal funds are being used or will be used in conjunction with the program established pursuant to this chapter, a person or family of low income who is the owner of an owner-occupied one-unit to four-unit dwelling may receive a deferred payment rehabilitation loan for the excess of the cost of meeting rehabilitation standards over the amount of financing or assistance the local public entity or nonprofit corporation is able to provide without exceeding the owner's ability to afford the monthly payments required Owners of rental housing in such areas may receive deferred payment loans if necessary to avoid increases in monthly debt service which would result in rent increases causing

permanent displacement of persons of low income residing in such housing and if the owner enters into an agreement with the local public entity or nonprofit corporation which provides for the regulation of rents and limitations on profit to assure that the purposes of this chapter are carried out. Such agreement shall be binding on any successor in interest of the sponsor. The department may adopt regulations which govern the terms of such agreements Owners of rental housing in such areas may also receive deferred-payment rehabilitation loans in the amount necessary to avoid such increases in monthly debt service as would make it economically infeasible to accept subsidies available to provide affordable rents to persons of low income if the owner agrees to accept such subsidies.

SEC. 12 Section 50669 is added to the Health and Safety Code, to read.

50669 As used in Section 50670·

(a) "Deferred-payment loan" means a loan for acquisition and rehabilitation of a rental housing development which (1) has a term of not more than 25 years, but which shall not in any event exceed the useful life of the rental housing development for which such loan is made, as determined by the department, whichever is less, and (2) is repaid in a single payment upon refinancing of such development at the end of the term of the loan. Such loans shall bear interest at the rate of 3 percent per annum on the unpaid principal balance, provided however, that the department may reduce or eliminate interest payments on a loan for any year or alternatively defer interest payments until the deferred payment loan is repaid, if in the exercise of sound discretion, the department determines such action is necessary to provide affordable rents to elderly or handicapped households of very low and low income.

(b) "Rental housing development" means a residential structure containing five or more rental dwelling units, provided that each unit is equipped with a kitchen and bathroom

SEC. 13 Section 50670 is added to the Health and Safety Code, to read·

50670 (a) The department shall establish a Demonstration Housing Rehabilitation Program for the Elderly and Handicapped, under which it may make deferred-payment loans to sponsors for the rehabilitation or the acquisition and rehabilitation of rental housing developments to be occupied by elderly or handicapped households of very low and low income. The department may make such loans in an amount necessary to acquire and rehabilitate a rental housing development and to provide affordable rents, when considered in conjunction with other financing on or assistance to such development, for elderly or handicapped households of very low and low income for the term of the regulatory agreement pursuant to subdivision (d) In no event may the amount of the loan exceed 90 percent of the combined amount of the fair market value of the rental housing development and the cost of rehabilitation work to be

undertaken, provided, however, that with respect to a nonprofit sponsor, the department may loan up to 100 percent of such combined amount

(b) In making a loan pursuant to this section, the department may disburse funds in a manner and in accordance with a schedule which ensures the economic feasibility of the rental housing development and the completion of the rehabilitation work and which protects the interests of the state

(c) Prior to making a loan commitment pursuant to this section, the department shall do the following

(1) Inspect the rental housing development to be assisted pursuant to this section to determine the economic feasibility of rehabilitating such development.

(2) Approve a plan submitted by the sponsor which includes a plan for occupancy of the development, a description of the nature and costs of rehabilitation to be undertaken, and projections as to rental levels in such development.

(d) Prior to disbursement of any funds pursuant to this section, the department shall enter into a regulatory agreement with the sponsor which provides for the limitation on profits in the operation of the rental housing development, sets standards for tenant selection to ensure occupancy by elderly or handicapped households of very low and low income for the term of such agreeement, governs the terms of occupancy agreements, and contains other provisions necessary to carry out the purposes of this section. Upon recordation of the agreement in the office of the county recorder in the county in which the real property subject to such agreement is located, the agreement shall be binding upon the sponsor and successors in interest for the original term of the loan, as determined by the department, but for a period of not more than 25 years

(e) The department shall fix and alter, from time to time, a schedule of rents on each development as may be necessary to provide residents of the rental housing development with affordable rents, to the extent consistent with the financial integrity of such development No sponsor shall increase the rent on any unit without the prior permission of the department which shall be given only if the sponsor affirmatively demonstrates that such increase is required to defray necessary operating costs or to avoid jeopardizing the fiscal integrity of the housing development However, in the event that the department does not act upon a request for a rent increase within 60 days from documented receipt of the request, such increase shall be deemed approved

(f) The department may annually inspect rental housing developments assisted pursuant to this section to ensure compliance with the terms of the regulatory agreement and may require such audits, financial statements, and other documents as are necessary to ensure compliance with the terms of the regulatory agreement and to ensure occupancy by elderly or handicapped households of very low and low income

(g) In conjunction with rental housing developments rehabilitated pursuant to Section 50669 and this section, the department shall make displacement payments in the amount of one thousand dollars ($1,000) to persons and families of low or moderate income displaced as a result of such rehabilitation, provided that eligible households who will reside in the rental housing development subsequent to rehabilitation shall instead be provided with temporary housing during that period of the rehabilitation which requires temporary displacement of such tenants. The amount of monthly assistance provided to eligible households temporarily displaced shall not exceed the difference betwen monthly rents paid by such households in the rental housing development prior to rehabilitation and the rents in units located by the department during the period of rehabilitation.

Eligible households displaced as a result of rehabilitation shall be accorded first priority in occupying units in the rental housing development subsequent to rehabilitation

SEC 14. Chapter 9 (commencing with Section 50735) is added to Part 2 of Division 31 of the Health and Safety Code, to read.

CHAPTER 9. RENTAL HOUSING CONSTRUCTION PROGRAM

Article 1 Definitions and General Provisions

50735 The following definitions shall apply to all activities conducted pursuant to this chapter Except as otherwise provided in this article or unless the context otherwise requires, the definitions contained in Chapter 2 (commencing with Section 50050) of Part 1 of this division shall also apply to this chapter

(a) "Assisted unit" means a unit which is affordable to an eligible household as a result of a payment made by the department pursuant to Article 2 (commencing with Section 50745), 3 (commencing with Section 50755), or 4 (commencing with Section 50765) or as a result of establishment of, or assistance from, an annuity trust fund or both

(b) "Below-market interest financing" means a loan made by a local finance entity for construction or mortgage financing pursuant to this chapter at an interest rate no greater than 1½ percent higher than the most recent interest rate charged by the California Housing Finance Agency on the agency's loans for construction or mortgage financing of a housing development

(c) "Development costs" means the aggregate of all costs incurred in connection with construction of a rental housing development pursuant to this chapter, including (1) the cost of land acquisition, whether by purchase or lease, (2) the cost of construction, (3) the cost of architectural, legal, and accounting fees incurred in connection with the construction of the rental housing development, (4) the cost of related offsite improvements, such as sewers, utilities, and streets, and (5) the cost of necessary and related onsite improvements

(d) "Eligible households" means households of low, and very low income

(e) "Local finance entity" means a redevelopment agency, housing authority, city, county, or city and county which, in connection with the program established pursuant to this chapter, provides or utilizes financing at below-market interest for development of rental housing developments eligible for assistance under this chapter

(f) "Rental housing development" means a development of five or more rental units, provided that such development consists of no less than two rental units in any single structure.

(g) "Rural area" means any open country or any place, town, village, or city which by itself and taken together with any other places, towns, villages, or cities that it is part of or associated with (1) has a population not exceeding 10,000 or (2) has a population not exceeding 20,000 and is contained within a nonmetropolitan area. "Rural area" additionally includes any open country, place, town, village, or city located within a Standard Metropolitan Statistical Area if the population thereof does not exceed 20,000 and the area is not part of, or associated with, an urban area and is rural in character This definition may be changed by the department to conform to changes in federal programs.

(h) "Sponsor" means any individual, joint venture, partnership, limited partnership, trust, corporation, cooperative, local public entity, duly constituted governing body of an Indian reservation or rancheria, or other legal entity, or any combination thereof, certified by the department, or a local finance entity as qualified to own or construct a rental housing development assisted pursuant to this chapter A sponsor may be organized for profit or limited profit or be nonprofit

50736 (a) Not less than 30 percent of the units in each rental housing development consisting of ten or more units which receives any funds pursuant to this chapter shall be reserved for eligible households and not less than 20 percent of all the units in each rental housing development shall be reserved for very low income households

(b) Of assisted units, not less than two-thirds shall be reserved for very low income households and the balance for low-income households.

(c) Elderly or handicapped households shall be allocated not less than 20 percent, nor more than 30 percent, of the units assisted pursuant to this chapter.

(d) The department shall ensure that not less than 20 percent of all units assisted pursuant to this chapter shall be allocated to rural areas

50737 The department shall adopt rules and regulations, 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, for the administration of this chapter The rules and

regulations shall give priority in the allocation of funds available for the purposes of this chapter to the following:

(a) Rental housing developments which are of the lowest possible cost, given local market conditions

(b) Rental housing developments which incorporate innovative design and construction techniques and higher densities that will result in lower costs while retaining quality.

(c) Rental housing developments which complement the implementation of a local housing program of increased housing supply for persons and families of low or moderate income.

(d) Rental housing developments for which the housing sponsor, whether public or private, has contributed funds, services, or land or for which Community Development Block Grant Funds have been allocated under Title I of Federal Public Law 93-383 for site acquisition, development costs, or construction costs.

(e) Rental housing developments in which units assisted pursuant to this chapter will be those with minimum basic amenities and appropriate minimum square footages, number of rooms, and room sizes as appropriate for individual households.

50737.5 Funds available for the purposes of this chapter shall be allocated by the department throughout the state in accordance with identified housing needs.

50738 The department may make payments pursuant to Article 2 (commencing with Section 50745), 3 (commencing with Section 50755), or 4 (commencing with Section 50765) or establish an annuity trust fund, or both, only if such payments or trust fund assistance result in affordable rents in assisted units for eligible households; provided, however that the department may utilize no more than 10 percent of the moneys in the Rental Housing Construction Incentive Fund as necessary to ensure the economic feasibility and enable construction of rental developments.

50739 At the time the department makes a payment pursuant to Article 2 (commencing with Section 50745), 3 (commencing with Section 50755), or 4 (commencing with Section 50765) or establishes an annuity trust fund in connection with a rental housing development, or both, a written agreement between the department and the agency or local finance entity shall be executed, designating the number of units to be made available on a priority basis within such housing development to very low income households, to persons and families of low or moderate income, and to other households If the number of units occupied by very low or low income households in any housing development ever falls below the number agreed to by the department and agency or local finance entity then units which become available for occupancy shall be made available on a priority basis to very low or low income households, as required, until the number of units so occupied equals at least the number specified in the agreement The department may, from time to time, review agreements designating the allocation of units and, subject to agreement with the agency or local

finance entity and housing sponsor, may increase the number of units to be made available to very low income households if consistent with maintenance of the financial integrity of the rental housing development.

50740 (a) The Rental Housing Construction Incentive Fund is hereby established in the State Treasury. All money in the fund is hereby continuously appropriated to the Department of Housing and Community Development for purposes of this chapter. All interest or other increment resulting from investment or deposit of moneys in the fund shall be deposited in the fund, notwithstanding Section 16305 7 of the Government Code Moneys in the fund shall not be subject to transfer to any other fund pursuant to any provision of Part 2 (commencing with Section 16300) of Division 4 of Title 2 of the Government Code, excepting the Surplus Money Investment Fund

(b) Not less than 40 percent of the moneys in the fund shall be used pursuant to this chapter to assist rental housing developments financed by the agency, unless the department determines that allocation of such moneys to assist rental housing developments financed or assisted by local finance entities would result in assisted units being provided earlier than could be provided by the agency.

50741. Only rental housing developments on which construction is commenced on or after six months from the effective date of this chapter shall be eligible for assistance under this chapter

50742 For purposes of acting as a local finance entity pursuant to this chapter, a city, county, or city and county may, pursuant to an enabling ordinance of its legislative body, issue revenue bonds to provide below-market interest financing of a rental housing development The proceeds of local revenue bonds issued pursuant to this section shall be used solely to finance rental housing developments containing assisted units, for any and all costs of administering such finance program and for complying with mandated reserve requirements. Any interest or other increment received by a local finance entity acting under the authority of this section from the investment or reinvestment of the proceeds of such revenue bonds, any payments of principal or interest on financing provided by the local finance entity or part of such program, and any other revenues received by the local finance entity in connection with, or for purposes of, such program shall be held and applied solely for the purposes of such program.

Article 2 Rental Construction Incentive Program

50745 (a) Upon application by the agency or a local finance entity, the department may contract with the agency or local finance entity to pay all or a portion of the development costs incurred by a sponsor in connection with the construction of a rental housing development which is financed, or otherwise assisted pursuant to subdivision (b), by the agency, local finance entity, or a federal

agency

(b) In lieu of providing financing of a rental housing development at below-market interest, a local finance entity to be eligible for assistance under this article, may utilize other types of subsidies including, but not limited to, federal funds, as authorized by law, which reduce by an equivalent amount the rental levels of a rental housing development

(c) Pursuant to such a contract the agency or local finance entity shall, in accordance with criteria established by the department, (1) ensure the feasibility of the proposed rental housing development to be financed and assisted pursuant to this chapter, (2) supervise the design and construction of the rental housing development to be financed by it and assisted pursuant to this chapter, and (3) supervise the management of such rental housing development while the financing thereof remains outstanding and unpaid or for a period of 40 years, whichever is greater. The department shall adopt criteria to ensure that a local finance entity has the capability of performing such functions prior to entering a contract pursuant to this section

50746 Each contract pursuant to Section 50745 shall be recorded in the office of the county recorder of the county in which the rental housing development is located, and shall be indexed by the recorder in the grantor index to the name of the sponsor and in the grantee index to the name of the State of California The contract shall contain at least the following provisions.

(a) The amount and terms of payments to be provided under this article, including specific items to be covered by such payments

(b) A description of the way in which the payments will be used to provide affordable rents to eligible households occupying dwelling units within the rental housing development

(c) A description of the rental housing development, projected rent levels for all units, and the number of units to be occupied by eligible households

(d) Requirements for payment of prevailing wage rates on construction

(e) A requirement for a periodic report by the agency or local finance entity which shall include, at a minimum, information on the fiscal condition of the rental housing development, the maintenance of such development, and the number of units occupied by eligible households

(f) The terms of the regulatory agreement to be entered into between the sponsor and the agency or local finance entity pursuant to Section 50749

(g) A lien on the rental housing development in favor of the State of California, for the purpose of securing performance of the agreement Such lien shall include a legal description of the assisted real property which is subject to the lien and shall specify the duration of the lien upon the assisted real property

(h) Standards which govern selection of tenants by housing sponsors to ensure occupancy by eligible households consistent with

the requirements of Sections 50736 and 50739 and the terms of occupancy agreements to be used in rental housing developments.

(i) Provisions sufficient to ensure that dwelling units reserved for occupancy by eligible households in the rental housing development remain available for such occupancy for a period of not less than 40 years

(j) Provisions which specify the timing and manner in which payments are made by the department so as to ensure the economic feasibility of the rental housing development and to protect the interests of the state

(k) A provision making the covenants and conditions of the contract binding upon successors in interest of the sponsor

(*l*) When the sponsor is not a nonprofit housing sponsor or a local public entity, a provision limiting distribution of the sponsor's earnings to an annual amount no greater than 6 percent of the sponsor's actual investment (excluding unaccrued liabilities of the sponsor) in the rental housing development.

(m) Any other provisions necessary to carry out the purposes and to exercise the powers granted by this chapter

50747 The development cost payments provided by the department pursuant to this article shall not exceed 100 percent of the development costs of a rental housing development, and shall not exceed the amount required, when considered with any subsidy or assistance provided by the agency, local finance entity or housing sponsor, including below-market interest financing, to ensure the economic feasibility of restricting occupancy of the rental housing development in accordance with Sections 50736 and 50739 The department may defray all or a portion of development costs as they are incurred, or in accordance with a schedule developed pursuant to subdivision (j) of Section 50746

50748 (a) The department may establish annuity trust funds to be administered by the agency or the local finance entity for the purpose of reducing rent levels to ensure occupancy by eligible households pursuant to Sections 50736 and 50739 Such annuity trust funds shall be structured so that the principal and interest accumulated thereon is not depleted prior to the expiration of the regulatory agreement required by Section 50749

(b) Payments made by the department pursuant to this section shall not constitute a subsidy under subdivision (b) of Section 50745

(c) The department shall require annual reports on each annuity trust fund and such audits as may be required to ensure the proper operation of each trust fund The department shall review all complaints received concerning such trust funds and shall have all powers necessary to assure the lawful application of such funds.

(d) When funds in an annuity trust fund are not necessary to ensure that eligible households in a rental housing development assisted under this chapter are paying affordable rents, the department may (1) require that such funds revert to the Rental Housing Construction Incentive Fund or (2) authorize use of such

funds to reduce rents to an affordable level for additional eligible households in the rental development

(e) Not less than 20 percent of the funds appropriated for the purposes of this chapter shall be utilized pursuant to this section, provided however, that funds reverted pursuant to subdivision (d) shall be used for any purposes authorized by this chapter

(f) Such annuity trust funds shall also be available to assist rental housing developments under Articles 2 (commencing with Section 50745), 3 (commencing with Section 50755), or 4 (commencing with Section 50765) of this chapter

50749 Any rental housing development assisted pursuant to this article shall be governed by a regulatory agreement between the sponsor and the agency or local finance entity. The regulatory agreements shall contain at least all of the following:

(a) Restrictions on occupancy of dwelling units within the rental housing development, as necessary to meet the requirements of Sections 50736 and 50739

(b) A requirement that prevailing wage rates be paid with respect to construction of the rental housing development, and that all contractors and subcontractors use affirmative action in hiring.

(c) The authorization for the agency or local finance entity to fix and alter, from time to time, a schedule of rents such as may be necessary to provide residents of the rental housing development with affordable rents, to the extent consistent with the maintenance of the financial integrity of the rental housing development

With respect to rental housing developments financed by the agency, no housing sponsor may increase rents except in accordance with the provisions of Section 51200 With respect to units under the supervision of a local finance entity, no housing sponsor shall increase the rent without the prior permission of such entity which shall be given only if the sponsor affirmatively demonstrates that such increase is required to defray necessary operating costs or to avoid jeopardizing the fiscal integrity of the rental housing development Prior to the time any rent increase is effective, the housing sponsor shall notify every affected tenant, in writing, of informal meetings with the housing sponsor to review the proposed rent increase. Each tenant, upon request, shall be provided the information submitted to the local housing finance entity pursuant to this subdivision

Notwithstanding Section 51200 with respect to rental housing developments assisted under this article, if the agency or local finance entity does not act upon a request for a rent increase within 60 days from documented receipt of the request, such increase shall be deemed approved

Prior notice of any rent increase shall be given in writing as required by Section 1946 of the Civil Code

(d) Provisions implementing standards governing selection of tenants by housing sponsors to ensure occupancy by eligible households consistent with the requirements of Sections 50736 and 50739 and to assure that dwelling units reserved for occupancy by

eligible households continue to be occupied by eligible households.

(e) Provisions implementing the terms of occupancy agreements.

(f) Provisions necessary for the administration and protection of annuity trust funds established pursuant to Section 50748.

(g) Any other provisions necessary to carry out the purposes and to exercise the powers granted by this chapter.

The regulatory agreement shall remain in effect so long as any financing for the rental housing development provided by the agency or local finance entity remains outstanding, but in any event not less than 40 years The regulatory agreement shall be enforceable by the department, the agency or local finance entity or by any intended beneficiary of housing assisted under this chapter as against the sponsor or any successor in interest of the sponsor.

50750 Upon consent of the legislative body of the city or county in which a rental housing development is or will be located, the department may contract with a local finance entity located in a rural area to ensure that the terms of the regulatory agreement between such entity and a sponsor entered into pursuant to Section 50749 are carried out

Article 3 Housing Authority Contracts

50755 The department may contract with local housing authorities Funds provided pursuant to such contracts shall be used by such agencies to obtain a right of occupancy for eligible households in some or all of the units in a rental housing development In order to maximize the number of units for which a right of occupancy is obtained, the price paid by the local housing authority in obtaining such right shall not exceed the costs of developing the unit exclusive of the interest costs of long-term financing The local housing authority may be authorized by the department to pay the entire amount of the sale price as soon as the unit is available for occupancy

Any contract executed pursuant to this article which provides for a right of occupancy in favor of a local housing authority shall be recorded in the office of the county recorder of the county in which such real property is located Such contract shall particularly describe the real property subject to such right of occupancy, designate the specific rental units or proportion of the rental housing development subject to such right of occupancy and specify the period for which such right of occupancy extends

50756 Each contract pursuant to Section 50755 shall be recorded in the office of the county recorder of the county in which the rental housing development is located, and shall be indexed by the recorder in the grantor index to the name of the sponsor and in the grantee index to the name of the State of California The contract shall contain the following provisions

(a) The amount and terms of payments to be provided under this article

(b) A description of the way in which the payments will be used to provide affordable rents to eligible households occupying dwelling units within the rental housing development.

(c) A description of the rental housing development, projected rent levels for all units, and the number of units to be occupied by eligible households.

(d) A requirement for periodic reports by the local housing authority, which shall at a minimum include information on the fiscal condition of the rental housing development, the maintenance of such development, and the number of units occupied by eligible households

(e) The terms of the regulatory agreement to be entered into between the sponsor and the local housing authority pursuant to Section 50757

(f) Standards which govern selection of tenants by housing sponsors to ensure occupancy by eligible households consistent with the requirements of Sections 50736 and 50739 and the terms of occupancy agreements to be used in rental housing developments

(g) Provisions sufficient to ensure that dwelling units reserved for occupancy by eligible households remain available for such occupancy for a period of not less than 40 years

(h) Provisions which specify the timing and manner in which payments are made by the department so as to ensure the economic feasibility of the rental housing development and to protect the interests of the state

(i) Any other provisions necessary to carry out the purposes and to exercise the powers granted by this chapter

50757 Any rental housing development assisted pursuant to this article shall be governed by a regulatory agreement between the sponsor and the local housing authority The regulatory agreements shall contain all of the following

(a) Restrictions on occupancy of the dwelling units within the rental housing development, as necessary to meet the requirements of Sections 50736 and 50739

(b) A requirement that all contractors and subcontractors use affirmative action in hiring.

50758 With respect to units for which a local housing authority has obtained a right of occupancy, the local housing authority may manage such units or may contract for management of such units with the housing sponsor or other persons designated by the local housing authority, with the approval of the department

50759 With respect to housing units developed pursuant to Section 50755, the local housing authority shall do the following:

(a) Fix and alter from time to time a schedule of rents as may be necessary to permit occupancy of such units by eligible households The rents on such units shall not exceed the costs of maintenance, management and operation, property taxes, and where applicable, utilities No housing sponsor shall increase the rent without the prior permission of the housing authority which shall be given only if the

sponsor affirmatively demonstrates that such increase is required to defray necessary operating costs or to avoid jeopardizing the fiscal integrity of the rental housing development.

Prior to the time any rent increase is effective the housing sponsor or housing authority shall notify every affected tenant, in writing, of, informal meetings with the housing sponsor or housing authority to review the proposed rent increase. Each tenant, upon request, shall be provided the information submitted to the local housing authority pursuant to this subdivision. In the event that the local housing authority does not act upon a request for a rent increase within 60 days from documented receipt of the request, such increase shall be deemed approved Prior notice of any rent increase shall be given in writing as required by Section 1946 of the Civil Code.

(b) Determine standards for, and ensure fair procedures for the selection of tenants by housing sponsors or other management designated pursuant to Section 50758.

(c) Regulate the terms of tenant occupancy agreements

50760 With respect to units developed pursuant to this article, the local housing authority may and at the direction of the department shall do any of the following:

(a) Through its agents or employees enter upon and inspect the lands, buildings, and equipment of the rental housing development, including books and records, at any time before, during, or after construction of units assisted pursuant to this section Entry or inspection of any occupied unit shall be subject to the provisions of Section 1954 of the Civil Code.

(b) Supervise the operation and maintenance of any housing assisted pursuant to this section and order such repairs as may be necessary to protect the public interest or the health, safety, or welfare of occupants of the housing

Article 4 Contracts for Development and Construction by Local Housing Authorities

50765 The department may contract with local housing authorities and provide funds which shall be used by such authorities to develop and construct rental housing developments to be operated by such housing authorities and to be rented to eligible households

50766 Each contract pursuant to Section 50765 shall contain at least the following provisions:

(a) The amount and terms of payments to be provided under this article, including specific items to be covered by such payments.

(b) A description of the way in which the payments will be used to provide affordable rents to eligible households occupying dwelling units within the rental housing development.

(c) A description of the rental housing development, projected rent levels for all units and the number of units to be occupied by eligible households

(d) Restrictions on occupancy of dwelling units within the rental housing development, as necessary to meet the requirements of Sections 50736 and 50739

(e) A requirement that prevailing wage rates be paid with respect to construction of the rental housing development, and that all contractors and subcontractors use affirmative action in hiring

(f) A requirement for periodic reports by the housing authority, which shall at a minimum include information on the fiscal condition of the rental housing development, the maintenance of such development, and the number of units occupied by eligible households

50767 With respect to rental housing developments developed and constructed pursuant to Section 50765, the local housing authority shall, with the approval of the department.

(a) Fix and alter from time to time a schedule of rents as may be necessary to permit occupancy of such units by eligible households The rents on such units shall not exceed the costs of maintenance, operation, property taxes, and where applicable, utilities. No housing authority shall increase the rent without the prior permission of the department which shall be given only if the authority affirmatively demonstrates that such increase is required to defray necessary operating costs or to avoid jeopardizing the fiscal integrity of the rental housing development

Prior to the time any rent increase is effective the housing authority shall notify every affected tenant, in writing, of, informal meetings with the housing authority to review the proposed rent increase Each tenant, upon request, shall be provided the information submitted to the department pursuant to this subdivision

Prior notice of any rent increase shall be given in writing as required by Section 1946 of the Civil Code

(b) Regulate the terms of tenant occupancy agreements

50768 The department shall monitor the operation at the rental housing development constructed pursuant to this article, to ensure compliance with grant conditions, contract obligations, and the provisions of this chapter and regulations adopted pursuant to this chapter

Article 5 Reserve Fund

50770 Four percent of the funds appropriated for the purposes of this chapter shall be set aside in a Management Reserve Account in the Rental Housing Construction Incentive Fund, which is hereby created All interest or other increment resulting from investment or deposit of moneys in such fund shall be deposited in the account

The department may expend moneys in such account to defray cost increases in maintenance, taxes, utility, or management costs, or charges for common areas and service so that, to the extent feasible, the rental charges to eligible households remain affordable The

department may provide assistance from the fund to a rental housing development if the sponsor affirmatively demonstrates that assistance is necessary to avoid jeopardizing the fiscal integrity of the rental housing development while maintaining affordable rents and if the department determines that assistance is necessary to offset unavoidable increases in costs.

SEC 15 Chapter 10 (commencing with Section 50775) is added to Part 2 of Division 31 of the Health and Safety Code, to read.

CHAPTER 10 HOMEOWNERSHIP ASSISTANCE

50775 The department may provide financial assistance, in accordance with this chapter, to households residing in rental housing, or a mobilehome park in which such households rent spaces, which is to be converted to condominium ownership or ownership by a stock cooperative corporation, as defined in Section 11003.2 of the Business and Professions Code, for the purpose of assisting such households in acquiring their dwelling unit or a share in the stock cooperative corporation which entitles such households to occupancy of their dwelling unit. The department may also provide financial assistance for the purpose of assisting households to purchase a mobilehome, as defined in Section 18008, which is located outside a mobilehome park, as defined in Section 18214, and which is affixed to a permanent foundation. Such financial assistance shall not exceed 49 percent of the purchase price paid by the household for the dwelling unit, mobilehome, or share in the stock cooperative, and in no event shall such assistance be used to reduce the purchaser's downpayment below 3 percent of the total purchase price The department may establish maximum purchase prices for such units, mobilehomes, or shares Eligibility for such financial assistance shall be limited to households (1) which have incomes no greater than the median for the county, (2) which do not own a residence and have not owned any real property for at least three years, (3) which have not previously received any assistance pursuant to this chapter and (4) which, without financial assistance pursuant to this section, would be unable to acquire their dwelling unit, mobilehome, or a share in a stock cooperative

As used in this section and Section 50776, "dwelling unit" includes a space in a mobilehome park, as defined in Section 18214.

50776 Financial assistance pursuant to Section 50775 may be provided directly by the department or through a mortgage lender certified by the department to participate in the program authorized by Section 50775 Such a mortgage lender may be a bank or trust company, mortgage banker, federal or state chartered savings and loan association, governmental agency, or other financial institution, including credit unions, deemed capable by the department, pursuant to regulations adopted in accordance with the provisions of Chapter 4 5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code, of providing services or

mortgage loans in conjunction with dwelling units, mobilehomes, or shares in stock cooperatives for which such financial assistance is provided

The department or mortgage lender shall enter into a contract with each recipient of financial assistance under Section 50775, requiring the recipient, upon sale of the dwelling unit, mobilehome, or share in a stock cooperative for which the assistance was provided, to pay to the department from the portion of the proceeds of the sale, an amount proportionate to the percentage of the initial purchase price which was paid with financial assistance provided under Section 50775 However, if the recipient has made improvements to the dwelling unit or mobilehome, as the case may be, the cost of such improvements shall be added to the purchase price in determining relative financial participation for purposes of apportioning the proceeds of the sale Improvements which may be added to the purchase price for this purpose shall be defined by regulations of the department, adopted in accordance with the provisions of Chapter 4 5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code, and shall be limited to substantial repairs, renovations, or additions undertaken with respect to the dwelling unit or mobilehome assisted, which increase the value of the dwelling unit or mobilehome, or which bring such dwelling unit or mobilehome into conformance with local or state building or housing standards

Any contract pursuant to this section may permit the recipient of financial assistance to terminate the contract upon payment to the department of the amount which would be owed the department if the dwelling unit, mobilehome or share in a stock cooperative were sold at fair market value at the time of such repayment

Contracts pursuant to this section shall require payment of the full amount of property taxes, insurance, and costs of normal maintenance by the household receiving assistance pursuant to Section 50775 Every contract required by this section shall be secured by a deed of trust upon the dwelling unit or mobilehome for which the assistance is provided, or if the financial assistance is for purchase of a share in a stock cooperative association, any security interest determined adequate by the department to protect the interests of the state Such deeds of trust or other security devices shall be recorded in the office of the county recorder of the county in which the dwelling unit is located

50777 The department may provide financial assistance to stock cooperative corporations, as defined in Section 11003 2 of the Business and Professions Code, to enable such a corporation to purchase a mobilehome park on behalf of its shareholders or members, who are or will be occupants of the mobilehome park and who are persons or families with incomes not in excess of the median income for the county

In addition, the department may provide financial assistance to persons or families with incomes not in excess of the median income

for the county to enable such persons or families to purchase a share in a stock cooperative corporation which owns a mobilehome park The department may establish a maximum purchase price for such shares Upon sale of a share in such a stock cooperative corporation, the shareholder receiving assistance pursuant to this section shall pay to the department from the the proceeds of the sale of such share, an amount proportionate to the percentage of the initial purchase price which was paid with financial assistance provided by the department pursuant to this section, as adjusted for improvements made by the corporation or shareholder

Such financial assistance shall be provided pursuant to a contract which requires, among other things, restrictions on occupancy, maintenance and payment of the full amount of taxes and insurance by the shareholders Every contract required by this section shall be secured by a deed of trust upon the mobilehome park for which assistance is provided, or if the financial assistance is for purchase of a share in a mobilehome park stock cooperative association, any security interest determined adequate by the department to protect the interests of the state Such deeds of trust shall be recorded in the office of the county recorder of the county in which such mobilehome park is located

50778 The Homeownership Assistance Fund is hereby created in the State Treasury and is continually appropriated to the department for purposes of this chapter. Any moneys received by the department pursuant to this chapter shall be deposited in such fund All interest or other increment resulting from investment or deposit of moneys in the fund shall be deposited in the fund, notwithstanding Section 16305 7 of the Government Code. Moneys in the fund shall not be subject to transfer to any other fund pursuant to any provisions of Part 2 (commencing with Section 16300) of Division 4 of Title 2 of the Government Code, excepting the Surplus Money Investment Fund

Not less than 50 percent of the moneys in the fund shall be used to assist in the purchase of dwelling units or shares in stock cooperatives by persons and families whose incomes do not exceed 80 percent of the median income for the county in which such persons or families reside

Funds available for the purpose of this chapter shall be allocated by the department throughout the state in accordance with identified housing needs

SEC 16 Section 51350 5 is added to the Health and Safety Code, to read

51350 5 The limitation set forth in Section 51350 on the amount of the agency's bonds which may be concurrently outstanding including any changes, expansions of, or additions to such limitations, shall not apply to (a) bonds issued to finance construction of rental housing developments assisted pursuant to Chapter 9 (commencing with Section 50735) of Part 2 of this division, or (b) bonds issued to refund or renew such bonds to the extent of the

outstanding principal indebtedness of the previously issued bonds and any redemption premium thereon, and any interest accrued or to accrue to the date of redemption of such bonds Bonds specified in this section shall not be included or considered when applying the limitation on amount of bonds specified in subdivision (c) of Section 51350 or in any other provisions of law which may be enacted to provide additional bonding authority to the agency and which certain dollar limitations respecting the amount of bonds issued or outstanding

SEC. 17 The sum of one hundred million dollars ($100,000,000) is hereby appropriated from the general fund to the Department of Housing and Community Development for expenditure in accordance with the following schedule·

(a) For transfer to the Rental Housing Construction Incentive Fund, Section 50740 of the Health and Safety Code	$82,000,000
(b) For transfer to the Homeownership Assistance Fund, Section 50778 of the Health and Safety Code	7,500,000
(c) For the purposes of Chapter 6.5 (commencing with Section 50660), Part 2, Division 31, of the Health and Safety Code	10,000,000
(d) For the transfer to the department to defray costs of administering the provisions of this act	500,000

CHAPTER 1044

An act to add Chapter 8 (commencing with Section 50700) to Part 2 of Division 31 of the Health and Safety Code, relating to housing, and making an appropriation therefor

[Approved by Governor September 26, 1979 Filed with Secretary of State September 26, 1979]

The people of the State of California do enact as follows

SECTION 1. Chapter 8 (commencing with Section 50700) is added to Part 2 of Division 31 of the Health and Safety Code, to read.

CHAPTER 8 LAND PURCHASE FUND

50700 As used in this chapter

(a) "Eligible sponsors" means local governmental agencies or nonprofit corporations, including cooperative housing corporations

(b) "Land purchase costs" means the costs of, and associated with, obtaining an option on or purchasing suitable land for a low-income

housing development, including transfer of title, appraisals, payment of property taxes, surveys, and necessary maintenance of the land

(c) "Low-income person" means a person or family household whose annual income is no more than 80 percent of the median income for a household of a similar size in the same area

(d) "Rural area" means any open country or any place, town, village, or city which by itself and taken together with any other places, towns, villages, or cities that it is part of or associated with (1) has a population not exceeding 10,000 or (2) has a population not exceeding 20,000 and is contained within a nonmetropolitan area "Rural area" additionally includes any open country, place, town, village, or city located within a Standard Metropolitan Statistical Area if the population thereof does not exceed 20,000 and the area is not part of, or associated with, an urban area and is rural in character This definition may be changed by the department to conform to changes in federal programs

50701 There is hereby created in the State Treasury the Land Purchase Fund All money in the Land Purchase Fund is continuously appropriated to the department for the purpose of making loans to eligible sponsors of assisted housing for land purchase costs incurred by them in connection with the provision of housing for low-income persons in rural areas

50702 The department may make loans to eligible sponsors to enable such sponsors to exercise options or to purchase land on which no option can be obtained even though the sponsor is not able at the time to proceed to the development of assisted housing on the purchased site, which shall be in a rural area All such loans shall be secured by a first deed of trust on the purchased land to the benefit of the state, or in the case of Indian Trust Land a mortgage on a leasehold interest in the land shall be acceptable

In the event the eligible sponsor is unable to proceed to the development of assisted housing on the purchased site within three years of its acquisition, the sponsor shall convey the site to the department, which shall transfer the site to the Department of General Services The Department of General Services, subject to the approval of the State Public Works Board, shall offer such land for sale for a consideration authorized by law at a price which is no less than the current market value The net proceeds from any such sale shall be paid into the Land Purchase Fund established pursuant to Section 50701

50703 In order to assure the immediate availability of money to secure suitable sites in rural areas for development of assisted housing, the department may also make loans to eligible sponsors which meet standards of experience in the development of assisted housing prescribed by the department The loans shall be made pursuant to an agreement with such sponsors for a maximum term of 12 months, renewable by the department for a maximum of two additional terms of 12 months each The loans shall be deposited in a special interest-bearing account and be available, with the prior

approval of the department, to such sponsors for the exclusive purpose of obtaining options on, or purchasing sites suitable for, assisted housing in rural areas

50704 The department may not commit more than 20 percent of the total moneys appropriated to the Land Purchase Fund to any single sponsor at any one time.

All options acquired under this chapter shall be made assignable to the department to secure the loan. Land purchased with the proceeds of loans made pursuant to this chapter shall be secured by a first deed of trust to the benefit of the state, or in the case of Indian Trust Land a mortgage on the leasehold interest

50705 (a) Except as provided in subdivision (b), all loans made pursuant to this chapter shall bear interest The rate of interest for any loan shall be computed annually, and shall be the same as the average rate returned by the investment of state funds through the Pooled Money Investment Board for the five fiscal years immediately preceding the year in which the loan payment is made.

(b) The department may reduce or eliminate interest on loans made pursuant to this chapter if, in the exercise of sound discretion, the department determines such action is necessary for the provision of decent housing to very low income households. If the department eliminates interest on a loan pursuant to this subdivision, it shall charge a loan origination fee of not more than 2 percent of the loan amount.

(c) All moneys received in repayment of such loans, including interest, and any other moneys received by the department pursuant to this chapter shall be deposited in the Land Purchase Fund

All interest, dividends, and other pecuniary gains resulting from investment or deposit of moneys appropriated to the Land Purchase Fund shall accrue to such fund, notwithstanding Section 16305.7 of the Government Code

50706 The department shall report annually to the Legislature and the Governor on the administration of the Land Purchase Fund. Such report shall include, but need not be limited to, (1) the location, size, and cost of land and option rights purchased, (2) the loans made to eligible sponsors for obtaining options or purchase of land and the use of these moneys, and (3) recommendations, as needed, to improve operations of the Land Purchase Fund.

SEC. 2. The sum of one million dollars ($1,000,000) is appropriated from the General Fund for deposit in the Land Purchase Fund and shall be allocated for expenditure in accordance with the following schedule:

(a) For the purpose of making loans pursuant to Chapter 8 (commencing with Section 50700) of Part 2 of Division 31 of the Health and Safety Code	$975,000
(b) For costs incurred by the Department of Housing and Community Development in administering Chapter 8 (commencing with Section 50700) of	

Part 2 of Division 31 of the Health and Safety Code . $25,000

CHAPTER 1045

An act to amend Sections 50101, 50532, 50662, 50663, 50667.5, 50668, 50669, 50670, 50735, 50736, 50737, 50738, 50739, 50745, 50746, 50748, 50749, 50750, 50759, 50767, 50770, 50775, 50777, and 50778 of, and to add Sections 50519, 50743, and 50779 to, the Health and Safety Code, to add Section 17162 to the Revenue and Taxation Code, to add Section 11159 to the Welfare and Institutions Code, and to amend Sections 1, 2, and 4 of Assembly Bill 333 of the 1979–80 Regular Session of the Legislature, relating to housing

[Approved by Governor September 26, 1979. Filed with Secretary of State September 26, 1979.]

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

SECTION 1. Section 50101 of the Health and Safety Code is amended to read:

50101. "Rural area" means any open country or any place, town, village, or city which by itself and taken together with any other places, towns, villages, or cities that it is part of or associated with (a) has a population not exceeding 10,000, or (b) has a population not exceeding 20,000 and is contained within a nonmetropolitan area. "Rural area" additionally includes any open country, place, town, village, or city located within a Standard Metropolitan Statistical Area if the population thereof does not exceed 20,000 and the area is not part of, or associated with, an urban area and is rural in character. This definition may be changed by the department or the agency, as the case may be, to conform to changes in federal programs.

SEC. 2. Section 50519 is added to the Health and Safety Code, to read:

50519. (a) The Legislature finds and declares that the need for decent housing among individuals of very low and low income is great, and that residential hotels are often the only form of housing affordable to these individuals. Many residential hotels are in poor condition and in need of rehabilitation, and many are being demolished or converted to other uses. The state can play an important role in preserving the existence and improving the quality of this housing resource through sponsoring demonstration projects which will enable local sponsors to acquire, rehabilitate, maintain or otherwise protect and improve residential hotels as a housing resource for persons of very low and low income. The demonstration projects should be undertaken and designed in such a manner as to

demonstrate the feasibility of innovative methods of protecting and improving residential hotels and of improving their habitability while assuring their continued availability to persons of very low and low income.

(b) The following definitions govern the construction of this section

(1) "Residential hotel" means any building containing six or more guestrooms intended or designed to be used, or which are used, rented, or hired out, to be occupied, or which are occupied, for sleeping purposes by guests, which is also the primary residence of such guests, but does not mean any hotel which is primarily used by transient guests who do not occupy such hotel as their primary residence

(2) "Sponsor" means a local government or nonprofit housing sponsor.

(3) "Persons of low income" shall have the same meaning as persons of low income as defined in Section 50093 of the Health and Safety Code

(c) The department, in conjunction with the State Fire Marshal, shall develop a model code for the rehabilitation of residential hotels. The department shall adopt such code on or before January 1, 1981 Such code need not be adopted by any city, county, or city and county However, such entities may adopt all or part of such code as an alternative to the requirements of the State Housing Law, Part 1 5 (commencing with Section 17910) of Division 13, as that law applies to residential hotels

The purpose of such standards shall be to protect the health, safety, and welfare of the occupants of such hotels, to allow the economically feasible rehabilitation of such hotels, and to assure to the extent possible the preservation of such hotels as housing for very low and low-income persons.

(d) The agency shall develop a program of financing and loan insurance for the purpose of assisting the rehabilitation and acquisition of residential hotels serving the housing needs of very low and low income persons by appropriate sponsors, and shall implement such a program on or before January 1, 1981

In the event that the agency is unable to implement such a program, it shall report to the Legislature on or before July 1, 1981, the reasons for its inability to implement such a program, and recommend methods by which the agency could implement such a program

(e) The department shall contract, subject to the availability of federal funds, with selected sponsors to acquire, rehabilitate, maintain, or otherwise protect and improve residential hotels as housing for persons of low income Such contracts may provide for grants or loans at an interest rate which the department determines will facilitate the present and future use of residential hotels as housing for persons of very low and low income Subject to the availability of funds, the department shall contract for the

preservation and improvement of at least one residential hotel in a rural area Subject to restrictions on funds received, the department shall give first priority to hotels financed or acquired with assistance from the agency pursuant to subdivision (d)

(f) In connection with contracts let pursuant to subdivision (e), the department shall fix, and may alter from time to time, a schedule of rents as may be necessary to assure affordable rents for persons of low income in residential hotels assisted by funds made available under subdivision (e), and to the extent consistent with the maintenance of the financial integrity of the sponsor of the project and with the requirements for repayment of any funds loaned as established by the department No local government or nonprofit housing sponsor receiving funds through the provisions of subdivision (e) shall alter rents without the prior permission of the department, which permission shall be given only if the sponsor demonstrates that such an alteration is necessary to defray necessary operating costs and to avoid jeopardizing the fiscal integrity of the sponsor or to maintain affordable rents to the residents in such project If the department does not act upon a request for a rent increase within 60 days, such increase shall be deemed approved In connection with contracts authorized by subdivision (e), the department may determine standards for the selection by sponsors of the tenants for units in projects funded by contracts pursuant to subdivision (e). The authority of the department to fix and alter rents pursuant to this subdivision shall apply only to units within residential hotels which receive assistance pursuant to subdivision (e).

(g) On or before January 1, 1983, the department shall conduct an evaluation of the various projects funded pursuant to subdivision (e), and of the various methods of preserving and improving residential hotels as a housing resource for persons of low income, and will report on these projects and methods to the Legislature

(h) On or before January 1, 1983, the department shall report to the Legislature on the extent of the use of residential hotels as housing for persons of low income, and on possible state actions to further the use of residential hotels and to improve existing conditions in residential hotels in a manner designed to maintain their use as housing for persons of low income

SEC 3 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 12 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. 5 Section 50662 of the Health and Safety Code is amended to read

50662. The department shall adopt regulations establishing terms upon which deferred-payment rehabilitation loans may be made. The amount of a deferred-payment rehabilitation loan shall in no case exceed the costs of meeting rehabilitation standards The amount, when combined with other financing provided, shall in no case exceed the combined costs of meeting rehabilitation standards and refinancing existing indebtedness. Except for loans made to local agencies pursuant to Section 50664, deferred-payment rehabilitation loans shall bear interest at the rate of 3 percent per annum on the unpaid principal balance. In the discretion of the department, which may differentiate among the types of programs specified in Section 50663, such interest shall either be payable periodically as it accrues

during the term of the loan or payment of interest shall be deferred until payment of the principal is due. However, regulations of the department may provide for waiver of interest payments when a local public entity or nonprofit corporation contracting pursuant to Section 50663 remits to the department in advance on behalf of the borrower a sum equal to not less than 15 percent of the original principal balance, which may be in lieu of interest. The regulations of the department may also provide for payment of interest as accrued, in circumstances determined appropriate by the department to serve the purposes of this chapter In the case of a deferred-payment rehabilitation loan to an elderly person who is the owner of an owner-occupied one-to-four family residence, the note and deed of trust securing the loan shall require payment of the obligation upon transfer of the property In the case of a deferred-payment rehabilitation loan to a nonelderly person who is the owner of an owner-occupied one-to-four family residence, payment shall be required after five years or upon transfer of the property, whichever first occurs. However, the loan may be renewed for additional five-year terms so long as the property is not transferred and the owner is unable to refinance the obligation when the debt comes due. In the case of a deferred-payment rehabilitation loan to an owner of a residence other than an owner-occupied one-to-four family residence, payment shall be required after five years, but the loan may be renewed for up to three additional five-year terms so long as persons of low income residing in the residence will benefit The department shall establish standards and determine eligibility for renewal Regulations of the department shall permit the assumption of a deferred-payment rehabilitation loan authorized by this section when the property which has been rehabilitated by such loan is transferred to a person who meets the eligibility requirements of this section, as determined by the department

SEC 6 Section 50663 of the Health and Safety Code is amended to read.

50663. The department may contract with a local public entity or nonprofit corporation to provide any portion of uncommitted funds in the Housing Rehabilitation Loan Fund for making deferred-payment rehabilitation loans through such local public entity or nonprofit corporation in aid of a (a) rehabilitation loan program conducted in a concentrated rehabilitation area designated pursuant to Section 51302, (b) residential rehabilitation financing program conducted pursuant to Part 13 (commencing with Section 37910) of Division 24, (c) systematic enforcement program for which the California Housing Finance Agency has allocated funds for mortgage loans pursuant to Section 51311; (d) code enforcement agency repairing substandard dwellings following the owner's failure to commence work following a final notice or order from the enforcement agency; (e) program conducted by the agency in a mortgage assistance area, provided such area is located in a rural

area, or (f) rehabilitation or code enforcement program being undertaken by a local public entity or nonprofit corporation in an area in which federal funds are being used or will be used in conjunction with the program established pursuant to this chapter. Eligibility for such loans shall be governed by the provisions of Sections 50664, 50665, 50666, 50667, 50667 5, or 50668

SEC. 7 Section 50667 5 of the Health and Safety Code, as added by Assembly Bill 333 of the 1979–80 Regular Session of the Legislature, is amended to read:

50667.5 In areas in which a local public entity or nonprofit corporation is undertaking a rehabilitation or code enforcement program for which federal funds are being used or will be used in conjunction with the program established pursuant to this chapter, a person or family of low income who is the owner of an owner-occupied one-unit to four-unit dwelling may receive a deferred-payment rehabilitation loan for the excess of the cost of meeting rehabilitation standards over the amount of financing or assistance the local public entity or nonprofit corporation is able to provide without exceeding the owner's ability to afford the monthly payments required Owners of rental housing in such areas may receive deferred-payment loans if necessary to avoid increases in monthly debt service which would result in rent increases causing permanent displacement of persons of low income residing in such housing and if the owner enters into an agreement with the local public entity or nonprofit corporation which provides for the regulation of rents, consistent with a fair rate of return for the owner, if such owner is not a nonprofit corporation, and consistent with the provision of affordable rents, to assure that the purposes of this chapter are carried out. Such agreement shall be binding on any successor in interest of the sponsor. The department may adopt regulations which govern the terms of such agreements. Owners of rental housing in such areas may also receive deferred-payment rehabilitation loans in the amount necessary to avoid such increases in monthly debt service as would make it economically infeasible to accept subsidies available to provide affordable rents to persons of low income if the owner agrees to accept such subsidies

SEC 8. Section 50668 of the Health and Safety Code is amended to read

50668 Except as provided in Section 50664, deferred-payment loans may be made only through agreements between the local public entity or nonprofit corporation which has received a fund commitment and the owner of the residence, residential structure, or housing development. Such agreements shall regulate contractor selection, work to be done, and the schedule of contractor payments, and shall require that the loan be secured by a deed of trust Agreements regarding housing other than owner-occupied one-to-four family dwellings shall have the prior approval of the department

All moneys received by the department in repayment of loans

made pursuant to this chapter, including interest and payments in advance in lieu of future interest, shall be deposited in the Housing Rehabilitation Loan Fund

SEC 9 Section 50669 of the Health and Safety Code, as added by Assembly Bill 333 of the 1979–80 Regular Session of the Legislature, is amended to read

50669 As used in Section 50670

(a) "Deferred-payment loan" means a loan for acquisition and rehabilitation of a rental housing development which (1) has a term of not more than 25 years, but which shall not in any event exceed the useful life of the rental housing development for which such loan is made, as determined by the department, whichever is less, and (2) is repaid in a single payment upon refinancing of such development at the end of the term of the loan. Such loans shall bear interest at the rate of 3 percent per annum on the unpaid principal balance, provided however, that the department may reduce or eliminate interest payments on a loan for any year or alternatively defer interest payments until the deferred-payment loan is repaid, if in the exercise of sound discretion, the department determines such action is necessary to provide affordable rents to elderly or handicapped households of very low and low income

(b) "Rental housing development" means a residential structure or structures containing five or more rental dwelling units, provided that each unit is equipped with a kitchen and bathroom

(c) "Sponsor" means any individual, joint venture, partnership, limited partnership, trust, corporation, cooperative, local public entity, duly constituted governing body of an Indian reservation or rancheria, or other legal entity, or any combination thereof, certified by the department as qualified to own, manage, and rehabilitate a rental housing development. A sponsor may be organized for profit or limited profit or be nonprofit.

SEC 10 Section 50670 of the Health and Safety Code, as added by Assembly Bill 333 of the 1979–80 Regular Session of the Legislature, is amended to read·

50670 (a) The department shall establish a Demonstration Housing Rehabilitation Program for the Elderly and Handicapped under which it may make deferred-payment loans to sponsors for the rehabilitation or the acquisition and rehabilitation of rental housing developments to be occupied by elderly or handicapped households of very low and low income. The department may make such loans in an amount necessary to acquire and rehabilitate a rental housing development and to provide affordable rents, when considered in conjunction with other financing on or assistance to such development, for elderly or handicapped households of very low and low income for the term of the regulatory agreement pursuant to subdivision (d). In no event may the amount of the loan exceed 90 percent of the combined amount of the fair market value of the rental housing development and the cost of rehabilitation work to be undertaken, provided, however, that with respect to a nonprofit

sponsor, the department may loan up to 100 percent of such combined amount

(b) In making a loan pursuant to this section, the department may disburse funds in a manner and in accordance with a schedule which ensures the economic feasibility of the rental housing development and the completion of the rehabilitation work and which protects the interests of the state

(c) Prior to making a loan commitment pursuant to this section, the department shall do the following

(1) Inspect the rental housing development to be assisted pursuant to this section to determine the economic feasibility of rehabilitating such development

(2) Approve a plan submitted by the sponsor which includes a plan for occupancy of the development, a description of the nature and costs of rehabilitation to be undertaken, and projections as to rental levels in such development

(d) Prior to disbursement of any funds pursuant to this section, the department shall enter into a regulatory agreement with the sponsor which provides for the limitation on profits in the operation of the rental housing development When the sponsor is not a nonprofit sponsor or a local public entity, the regulatory agreement with the sponsor shall limit the distribution of the sponsor's earnings to an annual amount no greater than 6 percent of the sponsor's actual investment (excluding unaccrued liabilities of the sponsor) in the rental housing development The regulatory agreement shall also set standards for tenant selection to ensure occupancy by elderly or handicapped households of very low and low income for the term of such agreeement, govern the terms of occupancy agreements, and contain other provisions necessary to carry out the purposes of this section. Upon recordation of the agreement in the office of the county recorder in the county in which the real property subject to such agreement is located, the agreement shall be binding upon the sponsor and successors in interest for the original term of the loan, as determined by the department, but for a period of not more than 25 years

(e) The department shall fix and alter, from time to time, a schedule of rents on each development as may be necessary to provide residents of the rental housing development with affordable rents, to the extent consistent with the financial integrity of such development No sponsor shall increase the rent on any unit without the prior permission of the department which shall be given only if the sponsor affirmatively demonstrates that such increase is required to defray necessary operating costs or to avoid jeopardizing the fiscal integrity of the housing development However, in the event that the department does not act upon a request for a rent increase within 60 days from documented receipt of the request, such increase shall be deemed approved

(f) The department may annually inspect rental housing developments assisted pursuant to this section to ensure compliance

with the terms of the regulatory agreement and may require such audits, financial statements, and other documents as are necessary to ensure compliance with the terms of the regulatory agreement and to ensure occupancy by elderly or handicapped households of very low and low income

(g) With respect to rental housing developments rehabilitated pursuant to Section 50669 and this section, the department shall make displacement payments in the amount of one thousand dollars ($1,000) to persons and families of low or moderate income displaced as a result of such rehabilitation, provided that eligible households who will reside in the rental housing development subsequent to rehabilitation shall instead be provided with temporary housing during that period of the rehabilitation which requires temporary displacement of such tenants. The amount of monthly assistance provided to eligible households temporarily displaced shall not exceed the difference betwen monthly rents paid by such households in the rental housing development prior to rehabilitation and the rents in units located by the department during the period of rehabilitation

Elderly and handicapped households of very low and low income displaced as a result of rehabilitation pursuant to this section shall be accorded first priority in occupying units in the rental housing development, from which they were displaced, subsequent to rehabilitation

SEC. 11 Section 50735 of the Health and Safety Code, as added by Assembly Bill 333 of the 1979–80 Regular Session of the Legislature, is amended to read:

50735. The following definitions shall apply to all activities conducted pursuant to this chapter. Except as otherwise provided in this article or unless the context otherwise requires, the definitions contained in Chapter 2 (commencing with Section 50050) of Part 1 of this division shall also apply to this chapter

(a) "Assisted unit" means a unit which is affordable to an eligible household as a result of a payment made by the department pursuant to Article 2 (commencing with Section 50745), 3 (commencing with Section 50755), or 4 (commencing with Section 50765) or as a result of establishment of, or assistance from, an annuity trust fund or both.

(b) "Below-market interest financing" means a loan made by a local finance entity for long-term financing pursuant to this chapter at an interest rate no greater than 1 percent higher than the average interest rate charged by the California Housing Finance Agency on the agency's loans for long-term financing of multifamily rental developments from the agency's most recent bond issue.

(c) "Development costs" means the aggregate of all costs incurred in connection with construction of a rental housing development pursuant to this chapter, including (1) the cost of land acquisition, whether by purchase or lease, (2) the cost of construction, (3) the cost of overhead including architectural, legal, and accounting fees incurred in connection with the construction of

the rental housing development, (4) the cost of related offsite improvements, such as sewers, utilities, and streets, and (5) the cost of necessary and related onsite improvements The department shall adopt regulations consistent with this section specifying the expenses qualifying as development costs for which a payment may be made pursuant to Section 50745

(d) "Eligible households" means households of low, and very low income

(e) "Local finance entity" means a redevelopment agency, housing authority, city, county, or city and county which, in connection with the program established pursuant to this chapter, provides or utilizes financing at below-market interest for development of rental housing developments eligible for assistance under this chapter.

(f) "Rental housing development" means a development of five or more rental units, provided that such development consists of no less than two rental units in any single structure

(g) "Sponsor" means any individual, joint venture, partnership, limited partnership, trust, corporation, cooperative, local public entity, duly constituted governing body of an Indian reservation or rancheria, or other legal entity, or any combination thereof, certified by the department and the agency or the department and a local finance entity as the case may be, to own and manage or construct a rental housing development assisted pursuant to this chapter A sponsor may be organized for profit or limited profit or be nonprofit

SEC 12 Section 50736 of the Health and Safety Code, as added by Assembly Bill 333 of the 1979–80 Regular Session of the Legislature, is amended to read

50736 (a) Not less than 30 percent of the units in each rental housing development consisting of ten or more units which receives any funds pursuant to this chapter shall be available to or occupied by eligible households pursuant to the agreement required by Section 50739, and not less than 20 percent of all the units in each rental housing development shall be reserved for very low income households.

(b) Of all assisted units, under this chapter, not less than two-thirds shall be allocated to very low income households and the balance for low-income households

(c) Elderly or handicapped households shall be allocated not less than 20 percent, nor more than 30 percent, of the assisted units provided pursuant to this chapter

(d) The department shall ensure that not less than 20 percent of all units assisted pursuant to this chapter shall be allocated to rural areas

SEC 13 Section 50737 of the Health and Safety Code, as added by Assembly Bill 333 of the 1979–80 Regular Session of the Legislature, is amended to read

50737 The department shall adopt rules and regulations, 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, for the administration of this chapter. The rules and regulations shall give priority in the allocation of funds available for the purposes of this chapter to the following:

(a) Rental housing developments which are of the lowest possible cost, given local market conditions

(b) Rental housing developments which incorporate innovative design and construction techniques and higher densities that will result in lower costs while retaining quality

(c) Rental housing developments which complement the implementation of a local housing program of increased housing supply for persons and families of low or moderate income

(d) Rental housing developments for which the housing sponsor, whether public or private, has contributed funds, services, or land or for which Community Development Block Grant Funds have been allocated under Title I of Federal Public Law 93-383 for site acquisition, development costs, or construction costs.

(e) Rental housing developments which utilize available funds in the most efficient manner to produce the maximum number of housing units.

SEC. 14. Section 50738 of the Health and Safety Code, as added by Assembly Bill 333 of the 1979–80 Regular Session of the Legislature, is amended to read:

50738 The department may make payments pursuant to Article 2 (commencing with Section 50745), 3 (commencing with Section 50755), or 4 (commencing with Section 50765) or establish an annuity trust fund, or both, only if such payments or trust fund assistance result in affordable rents in assisted units for eligible households. In addition to making payments to provide assisted units for eligible households, the department may provide funds if necessary to ensure the economic feasibility of, and to enable the construction of, rental housing developments assisted under this chapter, but no more than 10 percent of the moneys appropriated to the Rental Housing Construction Incentive Fund may be used for this purpose

SEC. 15. Section 50739 of the Health and Safety Code, as added by Assembly Bill 333 of the 1979–80 Regular Session of the Legislature, is amended to read.

50739 At the time the department makes a payment pursuant to Article 2 (commencing with Section 50745), 3 (commencing with Section 50755), or 4 (commencing with Section 50765) or establishes an annuity trust fund in connection with a rental housing development, or both, a written agreement between the department and the agency or local finance entity shall be executed, designating the number of units to be made available on a priority basis within such housing development to very low income households, to persons and families of low or moderate income, and to other households. If the number of units occupied by very low or low income households in any housing development ever falls below the number agreed to by the department and agency or local finance

entity then units which become available for occupancy shall be made available on a priority basis to very low or low income households, as required, until the number of units so occupied equals at least the number specified in the agreement

SEC. 16 Section 50743 is added to the Health and Safety Code, to read

50743 The department shall report on or before January 1, 1981, and annually thereafter to the Legislature and Governor on the administration and implementation of the programs and fund established by this chapter. Such report shall include, but not be limited to, (1) the number of units in rental housing developments assisted under this chapter, (2) the number of units in rental housing developments occupied by or available to eligible households, (3) the number of units in rental housing developments occupied by or available to very low income households, (4) the average income of households assisted and the distribution of annual incomes among eligible households, (6) the average and median cost of a unit in rental housing developments, and (7) the department's recommendation as needed to improve operation of the programs and fund established under this chapter.

SEC 17 Section 50745 of the Health and Safety Code, as added by Assembly Bill 333 of the 1979–80 Regular Session of the Legislature, is amended to read.

50745. (a) Upon application by the agency or a local finance entity, the department may contract with the agency or local finance entity to pay all or a portion of the development costs incurred by a sponsor in connection with the construction of a rental housing development which is financed, or otherwise assisted pursuant to subdivision (b), by the agency, local finance entity, or a federal agency.

(b) In lieu of providing financing of a rental housing development at below-market interest, a local finance entity to be eligible for assistance under this article, may utilize other types of subsidies including, but not limited to, federal funds, as authorized by law, which reduce by an equivalent amount the rental levels of a rental housing development.

(c) Pursuant to such a contract the agency or local finance entity shall, in accordance with criteria established by the department, (1) ensure the feasibility of the proposed rental housing development to be financed and assisted pursuant to this chapter, (2) supervise the design and construction of the rental housing development to be financed by it and assisted pursuant to this chapter, and (3) supervise the management of such rental housing development while the financing thereof remains outstanding and unpaid or for a period of 30 years, whichever is greater. The department shall adopt criteria to ensure that a local finance entity has the capability of performing such functions prior to entering a contract pursuant to this section

SEC 18. Section 50746 of the Health and Safety Code, as added by Assembly Bill 333 of the 1979–80 Regular Session of the

Legislature, is amended to read:

50746 Each contract pursuant to Section 50745 shall be recorded in the office of the county recorder of the county in which the rental housing development is located, and shall be indexed by the recorder in the grantor index to the name of the sponsor and in the grantee index to the name of the State of California The contract shall contain at least the following provisions:

(a) The amount and terms of payments to be provided under this article, including specific items to be covered by such payments

(b) A description of the way in which the payments will be used to provide affordable rents to eligible households occupying dwelling units within the rental housing development.

(c) Projected rent levels for all units, and the number of units to be occupied by eligible households.

(d) Requirements for payment of prevailing wage rates on construction

(e) A requirement for a periodic report to be made at least annually by the agency or local finance entity which shall include, at a minimum, information on the fiscal condition of the rental housing development, the maintenance of such development, and the number of units occupied by eligible households.

(f) A provision for department approval prior to the execution terms of the regulatory agreement to be entered into between the sponsor and the agency or local finance entity pursuant to Section 50749

(g) A lien on the rental housing development for the purpose of securing performance of the agreement Such lien shall include a legal description of the assisted real property which is subject to the lien and shall specify the duration of the lien upon the assisted real property

(h) Standards which govern selection of tenants by housing sponsors to ensure occupancy by eligible households consistent with the requirements of Sections 50736 and 50739 and the terms of occupancy agreements to be used in rental housing developments.

(i) Provisions sufficient to ensure that dwelling units in the rental housing development available to and occupied by eligible households in accordance with Section 50736 and in accordance with the written agreement required by Section 50739 remain available to such households for a period of not less than 30 years or the duration of the long-term financing, whichever is greater.

(j) Provisions which specify the timing and manner in which payments are made by the department so as to ensure the economic feasibility of the rental housing development and to protect the interests of the state

(k) A provision making the covenants and conditions of the contract binding upon successors in interest of the sponsor

(*l*) When the sponsor is not a nonprofit housing sponsor or a local public entity, a provision limiting distribution of the sponsor's earnings to an annual amount no greater than 6 percent of the

sponsor's actual investment (excluding unaccrued liabilities of the sponsor) in the rental housing development. The department may allow an earnings distribution of no greater than 10 percent on a nonelderly rental housing development if the department finds it necessary to do so to fulfill the requirements of Section 50736 With respect to such nonelderly rental housing developments, the department may adopt regulations consistent with this section governing the conditions under which an earnings distribution over 6 percent but not to exceed 10 percent may be allowed

(m) A provision which specifies the conditions under which the department and agency may enforce the regulatory agreement with respect to a rental housing development financed by the agency.

(n) Any other provisions necessary to carry out the purposes and to exercise the powers granted by this chapter

SEC 19. Section 50748 of the Health and Safety Code, as added by Assembly Bill 333 of the 1979–80 Regular Session of the Legislature, is amended to read

50748 (a) The department may establish annuity trust funds to be administered by the agency or the local finance entity for the purpose of reducing rent levels to ensure occupancy by eligible households pursuant to Sections 50736 and 50739 Such annuity trust funds shall be structured so that the principal and interest accumulated thereon is not depleted prior to the expiration of the regulatory agreement required by Section 50749

(b) Payments made by the department pursuant to this section shall not constitute a subsidy under subdivision (b) of Section 50745.

(c) The department shall require annual reports on each annuity trust fund and such audits as may be required to ensure the proper operation of each trust fund. The department shall review all complaints received concerning such trust funds and shall have all powers necessary to assure the lawful application of such funds.

(d) When funds in an annuity trust fund are not necessary to ensure that eligible households in a rental housing development assisted under this chapter are paying affordable rents, the department may by contract (1) require that such funds revert to the Rental Housing Construction Incentive Fund or (2) authorize use of such funds to reduce rents to an affordable level for additional eligible households in the rental development.

(e) Not less than 20 percent of the funds appropriated for the purposes of this chapter shall be utilized pursuant to this section, provided however, that funds reverted pursuant to subdivision (d) shall be used for any purposes authorized by this chapter

(f) Such annuity trust funds shall also be available to assist rental housing developments under Articles 2 (commencing with Section 50745), 3 (commencing with Section 50755), or 4 (commencing with Section 50765) of this chapter.

SEC 20 Section 50749 of the Health and Safety Code, as added by Assembly Bill 333 of the 1979–80 Regular Session of the Legislature, is amended to read:

50749 Any rental housing development assisted pursuant to this article shall be governed by a regulatory agreement between the sponsor and the agency or local finance entity Such regulatory agreements shall be recorded in the office of the county recorder for the county in which the rental housing development is located The regulatory agreements shall contain at least all of the following

(a) Restrictions on occupancy of dwelling units within the rental housing development, as necessary to meet the requirements of Sections 50736 and 50739

(b) A requirement that prevailing wage rates be paid with respect to construction of the rental housing development, and that all contractors and subcontractors use affirmative action in hiring

(c) The authorization for the agency or local finance entity to fix and alter, from time to time, a schedule of rents such as may be necessary to provide residents of the rental housing development with affordable rents, to the extent consistent with the maintenance of the financial integrity of the rental housing development.

With respect to rental housing developments financed by the agency, no housing sponsor may increase rents except in accordance with the provisions of Section 51200 With respect to units under the supervision of a local finance entity, no housing sponsor shall increase the rent without the prior permission of such entity which shall be given only if the sponsor affirmatively demonstrates that such increase is required to defray necessary operating costs or to avoid jeopardizing the fiscal integrity of the rental housing development Prior to the time any rent increase is effective, the housing sponsor shall notify every affected tenant, in writing, of informal meetings with the housing sponsor to review the proposed rent increase Each tenant, upon request, shall be provided the information submitted to the local housing finance entity pursuant to this subdivision.

Notwithstanding Section 51200 with respect to rental housing developments assisted under this article, if the agency or local finance entity does not act upon a request for a rent increase within 60 days from documented receipt of the request, such increase shall be deemed approved

Prior notice of any rent increase shall be given in writing as required by Section 1946 of the Civil Code

(d) Provisions implementing standards governing selection of tenants by sponsors to ensure initial and continued occupancy by eligible households consistent with the requirements of Sections 50736 and 50739

(e) Provisions implementing the terms of occupancy agreements

(f) Provisions necessary for the administration and protection of annuity trust funds established pursuant to Section 50748

(g) Any other provisions necessary to carry out the purposes and to exercise the powers granted by this chapter

The regulatory agreement shall remain in effect so long as any financing for the rental housing development provided by the agency or local finance entity remains outstanding, but in any event

not less than 40 years The regulatory agreement shall be enforceable as specified in subdivision (m) of Section 50746 by the department, the agency or local finance entity or by any intended beneficiary of housing assisted under this chapter as against the sponsor or any successor in interest of the sponsor

SEC. 21 Section 50750 of the Health and Safety Code, as added by Assembly Bill 333 of the 1979–80 Regular Session of the Legislature, is amended to read·

50750 Upon consent of the legislative body of the city or county in which a rental housing development is or will be serving, the department may contract with a local finance entity located in a rural area to ensure that the terms of the regulatory agreement between such entity and a sponsor entered into pursuant to Section 50749 are carried out

SEC. 22. Section 50759 of the Health and Safety Code, as added by Assembly Bill 333 of the 1979–80 Regular Session of the Legislature, is amended to read.

50759 With respect to housing units developed pursuant to this article, the local housing authority shall do the following

(a) Fix and alter from time to time a schedule of rents as may be necessary to permit occupancy of such units by eligible households. The rents on such units shall not exceed the costs of maintenance, management and operation, property taxes, and where applicable, utilities No housing sponsor shall increase the rent without the prior permission of the housing authority which shall be given only if the sponsor affirmatively demonstrates that such increase is required to defray necessary operating costs or to avoid jeopardizing the fiscal integrity of the rental housing development.

Prior to the time any rent increase is effective the housing sponsor or housing authority shall notify every affected tenant, in writing, of, informal meetings with the housing sponsor or housing authority to review the proposed rent increase. Each tenant, upon request, shall be provided the information submitted to the local housing authority pursuant to this subdivision In the event that the local housing authority does not act upon a request for a rent increase within 60 days from documented receipt of the request, such increase shall be deemed approved. Prior notice of any rent increase shall be given in writing as required by Section 1946 of the Civil Code

(b) Determine standards for, and ensure fair procedures for the selection of tenants by housing sponsors or other management designated pursuant to Section 50758

(c) Regulate the terms of tenant occupancy agreements.

SEC. 23 Section 50767 of the Health and Safety Code, as added by Assembly Bill 333 of the 1979–80 Regular Session of the Legislature, is amended to read.

50767 With respect to rental housing developments developed and constructed pursuant to this article, the local housing authority shall, with the approval of the department·

(a) Fix and alter from time to time a schedule of rents as may be

necessary to permit occupancy of such units by eligible households. The rents on such units shall not exceed the costs of maintenance, operation, property taxes, and where applicable, utilities No housing authority shall increase the rent without the prior permission of the department which shall be given only if the authority affirmatively demonstrates that such increase is required to defray necessary operating costs or to avoid jeopardizing the fiscal integrity of the rental housing development

Prior to the time any rent increase is effective the housing authority shall notify every affected tenant, in writing, of, informal meetings with the housing authority to review the proposed rent increase Each tenant, upon request, shall be provided the information submitted to the department pursuant to this subdivision

Prior notice of any rent increase shall be given in writing as required by Section 1946 of the Civil Code

(b) Regulate the terms of tenant occupancy agreements

SEC. 24 Section 50770 of the Health and Safety Code, as added by Assembly Bill 333 of the 1979–80 Regular Session of the Legislature, is amended to read

50770 Four percent of the funds appropriated for the purposes of this chapter shall be set aside in a Management Reserve Account in the Rental Housing Construction Incentive Fund, which is hereby created All interest or other increment resulting from investment or deposit of moneys in such fund shall be deposited in the account

The department may expend moneys in such account to defray cost increases in maintenance, taxes, utility, or management costs, or charges for common areas and service so that, to the extent feasible, the rental charges to eligible households remain affordable The department may provide assistance from the fund to a rental housing development if the agency or local finance entity affirmatively demonstrates that assistance is necessary to avoid jeopardizing the fiscal integrity of the rental housing development while maintaining affordable rents and if the department determines that assistance is necessary to offset unavoidable increases in costs.

SEC. 25 Section 50775 of the Health and Safety Code, as added by Assembly Bill 333 of the 1979–80 Regular Session of the Legislature, is amended to read

50775. The department may provide financial assistance, in accordance with this chapter, to households residing in rental housing, or a mobilehome park in which such households rent spaces, which is to be converted to condominium ownership or ownership by a stock cooperative corporation, as defined in Section 11003 2 of the Business and Professions Code, for the purpose of assisting such households in acquiring their dwelling unit or a share in the stock cooperative corporation which entitles such households to occupancy of their dwelling unit The department may also provide financial assistance for the purpose of assisting households to purchase a mobilehome, as defined in Section 18008, which is located

outside a mobilehome park, as defined in Section 18214, and which is affixed to a permanent foundation Such financial assistance shall not exceed 49 percent of the purchase price paid by the household for the dwelling unit, mobilehome, or share in the stock cooperative, and in no event shall such assistance be used to reduce the purchaser's downpayment below 3 percent of the total purchase price The department may establish maximum purchase prices for such units, mobilehomes, or shares Eligibility for such financial assistance shall be limited to households (1) which have incomes no greater than the median for the county, (2) which do not currently own a residence and have not owned any real property for at least three years, (3) which have not previously received any assistance pursuant to this chapter and (4) which, without financial assistance pursuant to this section, would be unable to acquire their dwelling unit, mobilehome, or a share in a stock cooperative

As used in this section and Section 50776, "dwelling unit" includes a space in a mobilehome park, as defined in Section 18214

SEC 26 Section 50777 of the Health and Safety Code, as added by Assembly Bill 333 of the 1979–80 Regular Session of the Legislature, is amended to read

50777 The department may provide financial assistance to nonprofit corporations and stock cooperative corporations to enable such corporations to develop or purchase a mobilehome park to be occupied by persons and families of low or moderate income Such financial assistance shall not exceed 49 percent of the purchase price or development costs of the mobilehome park

In addition, the department may provide financial assistance to persons or families with incomes not in excess of the median income for the county to enable such persons or families to purchase a share in a stock cooperative corporation which owns a mobilehome park. The department may establish a maximum purchase price for such shares Upon sale of a share in a stock cooperative corporation assisted pursuant to this section, the shareholder shall pay to the department from the the proceeds of the sale of such share, an amount proportionate to the percentage of the initial purchase price which was paid with financial assistance provided by the department pursuant to this section, as adjusted for improvements made by the corporation or shareholder

Upon sale of a mobilehome park owned by a nonprofit corporation and assisted pursuant to this section, the corporation shall pay to the department from the proceeds of the sale of such park, an amount proportionate to the percentage of the initial purchase price or development cost which was paid by the department pursuant to this section, as adjusted for improvements made by the corporation For such purpose "improvements" shall be defined by regulations of the department, adopted in accordance with the provisions of Chapter 4 5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code, and shall be limited to substantial repairs, renovations or additions which increase the value of the mobilehome

park or of the shares of a stock cooperative corporation or which bring such mobilehome parks or mobilehomes within mobilehome parks assisted pursuant to this section into conformance with local or state building or housing standards

Such financial assistance shall be provided pursuant to a contract which requires, among other things, restrictions on occupancy, maintenance and payment of the full amount of taxes and insurance by the shareholders Every contract required by this section shall be secured by a deed of trust upon the mobilehome park for which assistance is provided, or if the financial assistance is for purchase of a share in a mobilehome park stock cooperative association, any security interest determined adequate by the department to protect the interests of the state. Such deeds of trust shall be recorded in the office of the county recorder of the county in which such mobilehome park is located Any contract pursuant to this section may permit the recipient of financial assistance to terminate the contract required by this section upon payment to the department of the amount which would be owed to the department if the mobilehome park or share in a stock cooperative, as the case may be, were sold at fair market value at the time of such repayment.

SEC 27 Section 50778 of the Health and Safety Code, as added by Assembly Bill 333 of the 1979–80 Regular Session of the Legislature, is amended to read

50778. The Homeownership Assistance Fund is hereby created in the State Treasury and is continually appropriated to the department for purposes of this chapter. Any moneys received by the department pursuant to this chapter shall be deposited in such fund All interest or other increment resulting from investment or deposit of moneys in the fund shall be deposited in the fund, notwithstanding Section 16305 7 of the Government Code. Moneys in the fund shall not be subject to transfer to any other fund pursuant to any provisions of Part 2 (commencing with Section 16300) of Division 4 of Title 2 of the Government Code, excepting the Surplus Money Investment Fund

Not less than 50 percent of the moneys in the fund shall be used to assist persons and families whose incomes do not exceed 80 percent of the median income for the county in which such persons or families reside

Funds available for the purpose of this chapter shall be allocated by the department throughout the state in accordance with identified housing needs

SEC 28 Section 50779 is added to the Health and Safety Code, to read·

50779 The department shall report on January 1, 1981, and annually thereafter to the Legislature and the Governor on the administration and implementation of the program established pursuant to this chapter Such report shall include at a minimum, (1) the number of households assisted under this chapter, (2) the number of households of low income assisted under this chapter; (3)

the average and median incomes of assisted households and the distribution of annual incomes among assisted households; (4) the number of households assisted in purchasing condominium units, shares in stock cooperatives, spaces in mobilehome parks, and mobilehomes, (5) the average and median amounts of state assistance to each assisted household and the average and median percentage of the total purchase price which such assistance represents; (6) the average and median purchase price of stock cooperative shares, mobilehome park spaces, condominiums, and mobilehomes purchased by households pursuant to this chapter; (7) data on monthly shelter costs of assisted households; (8) information on the number and amount of loans repaid; (9) data on the number of delinquencies and defaults, if any; and (10) recommendations, as needed, to improve the operation of the program established under this chapter

SEC. 29. Section 17162 is added to the Revenue and Taxation Code, to read.

17162 No payment or subsidy provided under the authority of Chapter 9 (commencing with Section 50735) of Part 2 of Division 31 of the Health and Safety Code, either to or for the benefit of an eligible household, as defined in subdivision (a) of Section 50735 of the Health and Safety Code, shall be included within the gross income of the eligible household or any member thereof

SEC 30 Section 11159 is added to the Welfare and Institutions Code, to read

11159 No payment received by, or for the benefit of any members of, an eligible household occupying an assisted unit under Chapter 9 (commencing with Section 50735) of Part 2 of Division 31 of the Health and Safety Code, shall be considered as income or resources to any recipient, including a recipient of aid to families with dependent children, and such payments shall not be deducted from the amount of aid to which the recipient would otherwise be entitled under any other provision of law

SEC 31 Section 1 of Assembly Bill 333 of the 1979–80 Regular Session of the Legislature, is amended to read·

Section 1 The Legislature finds and declares that safe, decent, and sanitary housing which is affordable is a basic need Adequate housing is of primary importance to the health, safety and well-being of the residents of this state for all of the following reasons:

(a) The homes, rental units, and neighborhoods in which residents live shape them as individuals, contribute to their self-image, and significantly influence their future roles in society

(b) Housing units affect the physical and mental health of residents, unsanitary, overcrowded, unsuitable units increase crime, and spread disease and infestation

(c) Housing patterns profoundly affect the state's economy, general well-being, social structure and patterns of development

(d) A healthy housing market offers the freedom of meaningful choice to all residents, a healthy housing market is necessary to

alleviate high unemployment and to achieve a healthy state economy.

The Legislature finds and declares that the state's housing problems are substantial, complex, and now of crisis proportions. There is a great lack of housing available in the state to moderate and lower income people, the elderly, and the handicapped This housing shortage is a threat to the health and well-being of both the individuals affected and the welfare of the state as a whole.

SEC. 32. Section 2 of Assembly Bill 333 of the 1979–80 Regular Session of the Legislature, is amended to read:

Sec. 2. The Legislature finds and declares that the greatest need for housing is experienced by residents at the lower end of the economic scale Many moderate- and low-income households cannot normally find decent, safe, and suitable housing at prices they can afford

Tenants comprise 45 percent of the state's households, but renter income is dramatically lower than homeowner income. More than half of the renter households earn less than eleven thousand dollars ($11,000) annually Forty-three percent of the state's renters can afford no more than two hundred dollars ($200) a month for rent and utilities and 31 percent of the state's renters can afford no more than one hundred fifty dollars ($150) a month for rent and utilities The units available at these rents are a small fraction of the number needed by low-income households

SEC 33 Section 4 of Assembly Bill 333 of the 1979–80 Regular Session of the Legislature, is amended to read

Sec 4 In order to reduce such housing shortages, it is necessary to implement a public program incorporating the following elements and goals

(a) A rental housing construction program that will utilize available funds in the most efficient and effective model in order to produce the maximum number of housing units.

(b) The minimum feasible amount of funding should be used for interest charges, administrative and management costs. Maximum feasible use should be made of below market interest rate loans from the California Housing Finance Agency and other public housing finance entities

(c) A program to serve state residents unable to compete in the present market for safe, decent and suitable housing.

(d) A program to encourage the new construction of rental units.

(e) A program to assist low-income and moderate-income families to become owners of condominium and cooperative dwelling units and mobilehome park spaces.

(f) A basic program which can be enhanced by the use of state or local surplus lands, additional existing subsidy programs, or other methods of lowering costs presently included in development

(g) A program of housing rehabilitation assistance to low- and moderate-income families to finance room additions to avoid overcrowding and to permit loans in connection with federally

assisted code enforcement

SEC 34 Sections 4 to 7, inclusive, and Sections 9 to 33, inclusive, of this act shall not become operative unless both this bill and Assembly Bill 333 are chaptered and become effective on January 1, 1980, and this bill is chaptered after Assembly Bill 333

SEC 35. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because the duties, obligations, or responsibilities imposed on local agencies or school districts by this act are such that related costs are incurred as part of their normal operating procedures It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code

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CHAPTER 1046

An act making an appropriation to pay the claims of the Secretary of the State Board of Control, and declaring the urgency thereof, to take effect immediately

[Approved by Governor September 26, 1979 Filed with Secretary of State September 26, 1979]

I am reducing the appropriation contained in Assembly Bill No 1929 from $1,082 419 96 to $1,042,702 40 by reducing the General Fund appropriation from $1,042,199 78 to $1,002,482 22

This bill appropriates $355 from the General Fund for hospital services to a Medi-Cal patient rendered prior to receiving the appropriate authorization To pay this claim would defeat the purpose of program controls

This bill also appropriates $39,362 56 from the General Fund for the payment of various Medi-Cal provider claims which were either not submitted or were submitted well past the time limitations allowed I feel it would be imprudent to set a precedent by approving claims which do not fall within the acceptable time constraint

With these reductions, I approve Assembly Bill No 1929

EDMUND G BROWN JR , Governor

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

SECTION 1 The sum of one million eighty-two thousand four hundred nineteen dollars and ninety-six cents ($1,082,419 96) is hereby appropriated from the funds indicated to the State Board of Control to pay the claims of the Secretary of the State Board of Control

General Fund	$1,042,199.78
State Transportation Fund	
Motor Vehicle Account	7,522 88
State Highway Account	3,923 03
Unemployment Administration Fund	23,476 28
Unemployment Compensation Disability Fund	2,534 00
Fish and Game Preservation Fund	327 00

Water Resources Revolving Fund	2,239.49
Transportation Tax Fund	
Motor Vehicle License Fee Account	2.00
Unemployment Fund	126 00
Fair and Exposition Fund	69.50
Total	$1,082,419 96

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 settle claims against the state and ending a hardship to claimants as quickly as possible, it is necessary for this act to take effect immediately

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CHAPTER 1047

An act to amend Sections 436 1, 436 4, 436 8, 436 9, and 436 28 of, and to amend, repeal, and add Section 436 2 of, the Health and Safety Code, relating to health, and declaring the urgency thereof, to take effect immediately

[Approved by Governor September 26, 1979 Filed with Secretary of State September 26, 1979]

The people of the State of California do enact as follows

SECTION 1 Section 436.1 of the Health and Safety Code is amended to read·

436 1 The purpose of this chapter is to provide, without cost to the state, an insurance program for health facility construction, improvement, and expansion loans in order to stimulate the flow of private capital into health facilities construction, improvement, and expansion and in order to rationally meet the need for new, expanded and modernized public and nonprofit health facilities necessary to protect the health of all the people of this state The provisions of this chapter are to be liberally construed to achieve this purpose

SEC 2 Section 436 2 of the Health and Safety Code, as amended by Chapter 1252 of the Statutes of 1977, 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, improvement, or expansion" or "construction, improvement, and expansion" includes construction of new buildings, expansion, modernization, renovation, remodeling and alteration of existing buildings, acquisition of existing buildings or health facilities, and initial or additional equipping of any such buildings

In connection therewith, "construction, improvement, or expansion" or "construction, improvement, and expansion" includes the cost of construction or acquisition of all structures, including parking facilities, real or personal property, rights, rights-of-way, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any land to which such buildings or structures may be moved, the cost of all machinery and equipment, financing charges, interest (prior to, during, and for a period after completion of such construction), provisions for working capital, reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations and improvements, cost of engineering, financial and legal services, plans specifications, studies, surveys, estimates of cost and of revenues, administrative expenses, expenses necessary or incident to determining the feasibility or practicability of constructing or incident to the construction, or the financing of such construction, improvement, or acquisition

(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 mentally retarded, nonprofit community care facilities that provide care, habilitation, rehabilitation or treatment to mentally impaired 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 mentally retarded, "health facility" does not include any institution furnishing primarily domiciliary care

Unless the context dictates otherwise, "health facility" includes a political subdivision of the state or nonprofit corporation which operates a facility included within the defimtion set forth in this

subdivision

(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 costs of construction, improvement, or expansion 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 organized under the General Nonprofit Corporation Law (Part 1 (commencing with Section 9000), Division 2 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, improved, or expanded, and also means 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

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 3 Section 436.2 is added to the Health and Safety Code, 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, improvement, or expansion" or "construction, improvement, and expansion" includes construction of new

buildings, expansion, modernization, renovation, remodeling and alteration of existing buildings, acquisition of existing buildings or health facilities, and initial or additional equipping of any such buildings

In connection therewith, "construction, improvement, or expansion" or "construction, improvement, and expansion" includes the cost of construction or acquisition of all structures, including parking facilities, real or personal property, rights, rights-of-way, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any land to which such buildings or structures may be moved, the cost of all machinery and equipment, financing charges, interest (prior to, during and for a period after completion of such construction), provisions for working capital, reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations and improvements, cost of engineering, financial and legal services, plans, specifications, studies, surveys, estimates of cost and of revenues, administrative expenses, expenses necessary or incident to determining the feasibility or practicability of constructing or incident to the construction, or the financing of such construction or acquisition

(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

Unless the context dictates otherwise, "health facility" includes a political subdivision of the state or nonprofit corporation which operates a facility included within the definition set forth in this subdivision

(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 costs of construction or expansion 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, improved, or expanded, and also means 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.

This section shall become operative January 1, 1980.

SEC 4 Section 436.4 of the Health and Safety Code is amended to read

436 4 The office shall implement the loan insurance program for the construction, improvement, and expansion of public and nonprofit corporation health facilities so that, in conjunction with all other existing facilities, the necessary physical facilities for furnishing adequate health facility services will be available to all the people of the state

The office shall make an inventory of all existing health facilities and shall survey the need for construction, improvement, and expansion of health facilities and, on the basis of such inventory and survey, shall develop a state plan.

Such state plan shall set forth the relative need for health facilities determined on the basis of the relative need of different sections of the population and of different areas and shall provide for the insurance of loans for health facility construction, improvement, and expansion when need is clearly demonstrated, in the order of relative need so determined, except that preference shall be given to health

facility construction, improvement, and expansion which will (a) provide the more comprehensive health services, (b) include outpatient and other integrated services useful and convenient to the operation of the facility and the community, or (c) reduce the inventory of beds and services in those areas where the state plan indicates excess health facility and service capacity.

The health facility construction loan insurance program shall provide for health facility distribution throughout the state in such manner as to make all types of health facility services reasonably accessible to all persons in the state according to the state plan

In performing its duties under this section, the office shall, insofar as possible and to the extent not inconsistent with this chapter, give consideration to the state plan and relative need for hospital construction determined under Sections 432, 432 1, 432.5, and 437.5.

SEC 5 Section 436 8 of the Health and Safety Code 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, improvement, or expansion of the health facility, as approved by the office under Section 436 4 However, loans insured pursuant to this chapter may include loans to refinance another prior loan, whether or not state insured and without regard to the date of the prior loan, if the office determines that the prior loan would have been eligible for insurance under this chapter at the time it was made 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

(k) A certificate of need or certificate of exemption has been issued for the project to be financed pursuant to Part 1.5 (commencing with Section 437) of this division, unless the project is not subject to such requirement With respect to projects for which a certificate of exemption has been issued or which are otherwise exempt from the requirement for a certificate of need, the director of the office may require a showing of need for the project be demonstrated in an informal review process to be conducted by the health systems agency for the area, as designated pursuant to federal Public Law 93-641, and by the Division of Certificate of Need of the office The health systems agency and the Division of Certificate of Need shall submit their recommendations and analyses respecting the project to the director of the office within 20 days after receiving the director's request for such review

(*l*) In the case of acquisitions, a project loan shall be guaranteed only for transactions not in excess of the fair market value of the acquisition

Fair market value shall be determined, for purposes of this subdivision, pursuant to the following procedure which shall be utilized during the state review of a loan guarantee application

(1) Completion of a property appraisal by an appraisal firm qualified to make appraisals, as determined by the office, before closing a loan on the project

(2) Evaluation of the appraisal in conjunction with the book value of the acquisition by the office. When acquisitions involve additional construction, the office shall evaluate the proposed construction to determine that the costs are reasonable for the type of construction proposed. In those cases where this procedure reveals that the cost of acquisition exceeds the current value of a facility, including improvements, then the acquisition cost shall be deemed in excess of fair market value.

SEC. 6. Section 436.9 of the Health and Safety Code is amended to read:

436.9. Political subdivisions and nonprofit corporations may apply for state insurance of needed construction, improvement, or expansion loans for construction, remodeling, or acquisition of health facilities to be or already owned, established, and operated by them as provided in this chapter. Applications shall be submitted to the office by the nonprofit corporation or political subdivision authorized to construct and operate a health facility. Each application shall conform to state requirements, shall be submitted in the manner and form prescribed by the office, and shall be accompanied by an application fee of one-half of 1 percent of the amount of the loan applied for, but in no case shall the application fee exceed five hundred dollars ($500) Such fees shall be deposited by the office in the fund and used to defray the office's expenditures in the administration of this chapter.

SEC. 7. Section 436.28 of the Health and Safety Code is amended to read:

436 28 The office's authorization to insure health facility construction, improvement, and expansion loans under this chapter shall be limited to a total of not more than one hundred fifty million dollars ($150,000,000) of insurance for each of the first five fiscal years during which this chapter is operative, except that any unused portion of any year's authorization shall be carried forward and added to the amount otherwise authorized for the succeeding fiscal year. Beginning July 1, 1974, there shall be no limits set upon the total amount of insurance which the office may authorize in any fiscal year.

SEC. 8. The Legislature finds and declares that there are many areas of the state where a substantial portion of the capacity of existing health facilities is distributed among a number of small, inefficient facilities. The result is that the cost of providing health care is unnecessarily high

It is the intent of the Legislature, in enacting this chapter, to promote efficiency, economy of scale, cost containment, and enhanced accessibility to high quality health care services by encouraging acquisition of these small facilities by existing larger health facilities for the purpose of consolidation.

The Legislature further finds that since the enactment of this chapter the need for health facilities has substantially shifted from the need for the construction of new facilities to the present need for

the consolidation or merger of existing facilities, and the inducement of fiscal economies within existing health facilities It is the intent of the Legislature that those health facilities which receive the public benefit of loan insurance under this chapter for acquisition and consolidation of health facilities should pass on consequential cost savings to the consuming public

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 immediate effect The facts constituting such necessity are

There are numerous pending negotiations for the acquisition of one health care facility by another which if concluded would result in substantial savings in health care costs and would significantly contribute to the quality of health care In order for these benefits to the public health to commence as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 1048

An act to amend Section 6363 6 of the Revenue and Taxation Code, relating to taxation, and making an appropriation therefor, to take effect immediately, tax levy

[Approved by Governor September 26, 1979 Filed with Secretary of State September 26, 1979]

The people of the State of California do enact as follows

SECTION 1 Section 6363 6 of the Revenue and Taxation Code is amended to read

6363 6 There are exempted from the taxes imposed by this part the gross receipts from the sale of, and the storage, use or other consumption in this state of, meals and food products for human consumption furnished or served to and consumed by residents or patients of

(a) A health facility as defined in Section 1250 of the Health and Safety Code, which holds the license required pursuant to Section 1253, or is exempt from the license requirement pursuant to subdivision (a) of Section 1270, or is operated by the United States

(b) A community care facility as defined in Section 1502 of the Health and Safety Code, which holds the license required by Section 1508, or is a residential facility selected by a licensee pursuant to Section 1506 and exclusively used for the reception and care of persons placed by such licensee, or is exempt from the license requirement pursuant to subdivision (f) of Section 1505, or is operated by the United States

(c) Any house or institution supplying board and room for a flat monthly rate and serving as a principal residence exclusively for persons 62 years of age or older

SEC 2 The Legislature finds and declares that the exemption for

houses and institutions supplying room and board promotes a legitimate state purpose.

SEC. 3. The sum of eleven thousand seven hundred dollars ($11,700) is hereby appropriated to the Controller from the General Fund to make the payments to counties and cities required by Section 2230 of the Revenue and Taxation Code to reimburse them for revenue losses caused by Section 1 of this act in the initial fiscal year in which this act is effective. The appropriation made by this section shall be allocated in the manner specified in Section 2230.

SEC. 4. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect However, the provisions of this act shall become operative on the first day of the first calendar quarter commencing more than 90 days after the effective date of this act

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CHAPTER 1049

An act to amend Sections 2627, 2653, and 2655 of, and to add Section 2627.3 to, the Unemployment Insurance Code, relating to unemployment insurance, and making an appropriation therefor.

[Approved by Governor September 26, 1979 Filed with Secretary of State September 26, 1979]

I am deleting the $37,380,000 appropriation contained in Section 7 of Assembly Bill No 780

This appropriation is unnecessary, because disability insurance benefits, and all previous legislative improvements in these benefits, have been authorized through the continuing appropriation made in Section 3012 of the Unemployment Insurance Code

With this deletion, I approve Assembly Bill No 780

EDMUND G GROWN JR , Governor

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

SECTION 1. Section 2627 of the Unemployment Insurance Code is amended to read

2627. A disabled individual is eligible to receive disability benefits equal to one-seventh of his or her weekly benefit amount for each full day during which he or she is unemployed due to a disability only if the director finds that.

(a) He or she has made a claim for disability benefits as required by authorized regulations.

(b) Except as provided in Sections 2627 3 and 2627 5, he or she has been unemployed and disabled for a waiting period of seven consecutive days during each disability benefit period with respect to which waiting period no disability benefits are payable.

(c) Except as provided in Sections 2626.1 and 2709, he or she has submitted to such reasonable examinations as the director may require for the purpose of determining his or her disability.

(d) Except as provided in Section 2708 1, he or she has filed a certificate as required by Section 2708 or 2709

SEC 2 Section 2627.3 is added to the Unemployment Insurance Code, to read

2627 3 If an individual is unemployed and disabled for more than 49 days during the disability benefit period, the waiting period required by subdivision (b) of Section 2627 shall be waived

SEC 3 Section 2653 of the Unemployment Insurance Code is amended to read

2653 The maximum amount of benefits payable to an individual during any one disability benefit period shall be 39 times his or her weekly benefit amount, but in no case shall the total amount of such benefits payable be more than one-half the total wages paid to the individual during his or her disability base period If the benefit is not a multiple of one dollar ($1) it shall be computed to the next higher multiple of one dollar ($1)

SEC 3 5 Section 2653 of the Unemployment Insurance Code is amended to read·

2653 The maximum amount of benefits payable to an individual during any one disability benefit period shall be 39 times his or her weekly benefit amount, but in no case shall the total amount of such benefits payable be more than 75 percent of the total wages paid to the individual during his or her disability base period If the benefit is not a multiple of one dollar ($1) it shall be computed to the next higher multiple of one dollar ($1).

SEC 4 Section 2655 of the Unemployment Insurance Code is amended to read

2655 An individual's "weekly benefit amount" shall be the amount appearing in column B in the table set forth in this section on the line of which in column A of such table there appears the wage bracket containing the amount of wages paid to such individual for employment by employers during the quarter of his or her disability base period in which such wages were the highest

A *Amount of wages in highest quarter*	B *Weekly benefit amount*
$75– $649 99	$30
650– 674 99	31
675– 699 99	32
700– 724 99	33
725– 749 99	34
750– 774 99	35
775– 799 99	36
800– 824 99	37
825– 849 99	38
850– 874 99	39
875– 899 99	40
900– 924 99	41

3,375–3,399.99	140
3,400–3,424.99	141
3,425–3,449.99	142
3,450–3,474.99	143
3,475–3,499.99	144
3,500–3,524.99	145
3,525–3,549.99	146
3,550–3,574.99	147
3,575–3,599.99	148
3,600–3,624.99	149
3,625–3,649 99	150
3,650–3,674.99	151
3,675–3,699.99	152
3,700–3,724.99	153
3,725 and over	154

SEC. 5. This act shall become operative with respect to periods of disability commencing on or after January 1, 1980. The provisions of law in effect prior to the amendment or addition of provisions of the Unemployment Insurance Code made by this act shall continue to be applicable with respect to periods of disability commencing prior to January 1, 1980.

SEC. 6. It is the intent of the Legislature, if this bill and Assembly Bill 758 are both chaptered and become effective January 1, 1980, both bills amend Section 2653 of the Unemployment Insurance Code, and this bill is chaptered after Assembly Bill 758, that the amendments to Section 2653 proposed by both bills be given effect and incorporated in Section 2653 in the form set forth in Section 3.5 of this act. Therefore, Section 3 5 of this act shall become operative only if this bill and Assembly Bill 758 are both chaptered and become effective January 1, 1980, both amend Section 2653, and this bill is chaptered after Assembly Bill 758, in which case Section 3 of this act shall not become operative.

SEC. 7. The sum of thirty-seven million three hundred eighty thousand dollars ($37,380,000) is hereby appropriated from the Unemployment Compensation Disability Fund for the purposes of this act.

CHAPTER 1050

An act to add Sections 226.1, 226 2, 226.3, 226.4, and 226.5 to the Labor Code, relating to payment of wages.

[Approved by Governor September 26, 1979 Filed with Secretary of State September 26, 1979]

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

SECTION 1 Section 226.1 is added to the Labor Code, to read.

226 1 It is the intent of the Legislature, in enacting Sections 226.1 to 226.5, inclusive, to establish a citation system for the imposition of prompt and effective civil sanctions against violators of the law that requires the listing of deductions when workers are paid in cash.

SEC 2 Section 226.2 is added to the Labor Code, to read

226 2 Every employer who pays wages in cash shall semimonthly or at the time of each payment of wages furnish each employee an itemized statement in writing showing: (1) all deductions, including, when applicable, deductions for federal income tax, state income tax, disability insurance, health and welfare payments, and any other deductions authorized by the employee; (2) the inclusive dates of the period for which the employee is paid; (3) the name of the employee or the employee's social security number; and (4) the name of the employer.

The deductions made from cash payments of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of such statement, or a record of the deductions, shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California. An employer's records shall be available for inspection by the employee upon reasonable request.

This section shall not apply to any employer of any person employed by the owner or occupant of a residential dwelling whose duties are incidental to the ownership, maintenance, or use of the dwelling, including the care and supervision of children, or whose duties are personal and not in the course of the trade, business, profession, or occupation of such owner or occupant.

Any employee suffering injury as a result of a knowing and intentional failure by an employer to comply with this section shall be entitled to recover all actual damages or one hundred dollars ($100), whichever is greater, plus costs and reasonable attorney fees.

SEC. 3 Section 226.3 is added to the Labor Code, to read:

226.3. Any employer who violates Section 226.2 shall be subject to a civil penalty in the amount of one hundred dollars ($100) per employee for each violation, for which the employer fails to provide the employee the statement and fails to keep the records required in Section 226.2. The civil penalties provided for in this section are in addition to any other penalty provided by law.

SEC 4 Section 226.4 is added to the Labor Code, to read:

226 4 If, upon inspection or investigation, the Labor Commissioner determines that an employer is in violation of Section 226.2, the Labor Commissioner may issue a citation to the person in violation. The citation may be served personally or by registered mail in accordance with subdivision (c) of Section 11505 of the Government Code. Each citation shall be in writing and shall describe the nature of the violation, including reference to the

statutory provision alleged to have been violated.

SEC 5. Section 226.5 is added to the Labor Code, to read:

226.5. (a) If a person desires to contest a citation or the proposed assessment of a civil penalty therefor, he shall within 15 business days after service of the citation notify the office of the Labor Commissioner which appears on the citation of his request for an informal hearing. The Labor Commissioner or his deputy or agent shall, within 30 days, hold a hearing at the conclusion of which the citation or proposed assessment of a civil penalty shall be affirmed, modified, or dismissed. If the person receiving the citation does not request a hearing with the Labor Commissioner within the prescribed time, the proposed civil penalty shall be deemed a final order of the Labor Commissioner and shall not be subject to further administrative review The Labor Commissioner's determination after the conclusion of the hearing shall be deemed the final order of the Labor Commissioner and shall not be subject to further administrative review.

(b) A person to whom a citation has been issued shall, in lieu of contesting a citation pursuant to this section, transmit to the office of the Labor Commissioner designated on the citation the amount specified for the violation within 15 business days after issuance of the citation.

(c) The Labor Commissioner shall promptly take all appropriate action to enforce the citation and recover the civil penalty prescribed thereon or found to be due after a hearing. The Labor Commissioner may maintain an action in any court of competent jurisdiction to recover the amount of civil penalties found to be due.

CHAPTER 1051

An act to amend Section 2653 of the Unemployment Insurance Code, relating to unemployment disability compensation, and making an appropriation therefor.

[Approved by Governor September 26, 1979 Filed with Secretary of State September 26, 1979]

I am deleting the $3,850,000 appropriation contained in Section 5 of Assembly Bill No 758

The appropriation is unnecessary, because disability insurance benefits, and all previous legislative improvements in these benefits, have been authorized through the continuing appropriation made in Section 3012 of the Unemployment Insurance Code

With this deletion, I approve Assembly Bill No 758

EDMUND G BROWN JR , Governor

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

SECTION 1. Section 2653 of the Unemployment Insurance Code is amended to read:

2653 The maximum amount of benefits payable to an individual during any one disability benefit period shall be 26 times his or her weekly benefit amount, but in no case shall the total amount of such benefits payable be more than 75 percent of the total wages paid to the individual during his or her disability base period If the benefit is not a multiple of one dollar ($1) it shall be computed to the next higher multiple of one dollar ($1)

SEC 2 Section 2653 of the Unemployment Insurance Code is amended to read

2653 The maximum amount of benefits payable to an individual during any one disability benefit period shall be 39 times his or her weekly benefit amount, but in no case shall the total amount of such benefits payable be more than 75 percent of the total wages paid to the individual during his or her disability base period If the benefit is not a multiple of one dollar ($1) it shall be computed to the next higher multiple of one dollar ($1)

SEC 3 This act shall become operative with respect to periods of disability commencing on or after January 1, 1980. The provisions of law in effect prior to the amendment of Section 2653 of the Unemployment Insurance Code made by this act shall continue to be applicable with respect to periods of disability commencing prior to January 1, 1980

SEC 4 It is the intent of the Legislature, if this bill and Assembly Bill 780 are both chaptered and become effective January 1, 1980, both bills amend Section 2653 of the Unemployment Insurance Code, and this bill is chaptered after Assembly Bill 780, that the amendments to Section 2653 proposed by both bills be given effect and incorporated in Section 2653 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 780 are both chaptered and become effective January 1, 1980, both amend Section 2653, and this bill is chaptered after Assembly Bill 780, in which case Section 1 of this act shall not become operative.

SEC. 5 The sum of three million eight hundred fifty thousand dollars ($3,850,000) is hereby appropriated from the Unemployment Compensation Disability Fund for the purposes of this act

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CHAPTER 1052

An act to repeal and add Section 2677 of the Unemployment Insurance Code, relating to unemployment disability compensation, and making an appropriation therefor

[Approved by Governor September 26, 1979 Filed with Secretary of State September 26, 1979]

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

SECTION 1 Section 2677 of the Unemployment Insurance Code is repealed.

SEC 2. Section 2677 is added to the Unemployment Insurance Code, to read.

2677. An individual who is otherwise eligible for benefits under this part shall not be disqualified from receiving such benefits because of a disqualification from receiving unemployment compensation benefits under Section 1262.

CHAPTER 1053

An act to amend Sections 708, 1032 5, 1088, 1113.1, 1252, 1252.2, 1276, 1277, 1277 5, 1279, 1280, 1281, and 1329 of, to add Sections 977.5 and 1280 to, and to repeal Section 1280 of, the Unemployment Insurance Code, relating to unemployment insurance, and making an appropriation therefor.

[Approved by Governor September 26, 1979 Filed with Secretary of State September 26, 1979]

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

SECTION 1. Section 708 of the Unemployment Insurance Code is amended to read·

708. (a) Any individual who is an employer under this division or any two or more individuals who have so qualified may file with the director a written election that their services shall be deemed to be services performed by individuals in employment for an employer for all the purposes of this division. Upon the approval of the election by the director the services of such individuals shall be deemed to constitute employment for an employer for all the purposes of this division. Regardless of their actual earnings, for the purposes of computing benefit rights and contributions under this division, they shall be deemed to have received remuneration for each calendar quarter in whichever is the higher of the following:

(1) The highest maximum amount stated in column A of Section 1280

(2) The highest maximum amount stated in column A of Section 2655.

(b) Any individual who is an employer under this division or any two or more individuals who have so qualified may file with the director a written election that their services shall be deemed to be services performed by individuals in employment for an employer for the purposes of Part 2 (commencing with Section 2601) only of this division. Upon the approval of the election by the director the services of such individuals shall be deemed to constitute

employment for an employer for the purposes of Part 2 (commencing with Section 2601) only of this division. Regardless of their actual earnings, for the purposes of computing disability benefit rights and worker contributions, they shall be deemed to have received remuneration for each calendar quarter in the highest of the maximum amounts stated in column A of Section 2655.

(c) Contributions required under this division are payable on and after the date stated in the approval of the director. The director may levy assessments under this division for any amount due under this section.

(d) No benefits shall be paid to any individual based upon remuneration deemed to have been received pursuant to this section unless all contributions due with respect to all remuneration deemed to have been received by such individual pursuant to this section have been paid to the department.

SEC. 1.5. Section 977.5 is added to the Unemployment Insurance Code, to read:

977.5 Notwithstanding the provisions of Sections 977, 978, and 979, the employer tax schedule contained in Section 978 shall apply to the calendar year 1980.

SEC 2. Section 1032 5 of the Unemployment Insurance Code is amended to read:

1032.5. (a) Any base period employer may, within 15 days after mailing of a notice of computation under Section 1329, submit to the department facts within its possession disclosing that the individual claiming benefits is rendering services for that employer in less than full-time work, and that the individual has continuously, commencing in or prior to the beginning of the base period, rendered services for that employer in such less than full-time work.

(b) The department shall consider facts submitted under subdivision (a) of this section together with any information in its possession and promptly notify the employer of its ruling. If the department finds that an individual is, under Section 1252, unemployed in any week on the basis of his or her having less than full-time work, and that the employer submitting facts under this section is a base period employer for whom the individual has continuously, commencing in or prior to the beginning of the base period, rendered services in such less than full-time work, that employer's account shall not be charged for benefits paid the individual in any week in which such wages are payable by that employer to the individual. The employer may appeal from a ruling or reconsidered ruling to a referee within 20 days after mailing or personal service of notice of the ruling or reconsidered ruling. The 20-day period may be extended for good cause, which shall include, but not be limited to, mistake, inadvertence, surprise, or excusable neglect The director shall be an interested party to any appeal. The department may for good cause reconsider any ruling or reconsidered ruling within either five days after an appeal to a referee is filed or, if no appeal is filed, within 20 days after mailing

or personal service of the notice of the ruling or reconsidered ruling.

SEC. 3 Section 1088 of the Unemployment Insurance Code is amended to read·

1088 (a) Each employer shall file with the director within the time required for payment of employer contributions, a return and a report of wages paid to his or her workers in such form and containing such information as the director prescribes. In the report of wages, each employer shall also state for each employee, in the form and manner prescribed by the director, the number of calendar weeks within the calendar quarter for which the employee has earned wages payable by the employer of twenty dollars ($20) or more If required by the director, the employer shall also report, in the form and manner prescribed by the director, the amount of wages earned in each such calendar week for which the employee has earned less than twenty dollars ($20). "Calendar week" for reporting such earned wages shall include within the calendar quarter each calendar week in which four or more days are within the calendar quarter

(b) Each employer shall file with the director within the time required by subdivision (b) of Section 1110 for payment of worker contributions for each first and second calendar month of each calendar quarter, a return containing the employer's business name, address, and account number, the total amount of worker contributions due, and such other information as the director shall prescribe. The director shall prescribe the form for the return

SEC. 3 5 Section 1113.1 of the Unemployment Insurance Code is amended to read

1113 1 (a) An employer who through an error caused by excusable neglect erroneously reports the number of calendar weeks for which an employee has earned wages payable by the employer or the amount of wages earned in any calendar week pursuant to subdivision (b) of Section 1088 shall not be liable for penalty, except as provided by Section 1114

(b) An employer who through an error caused by excusable neglect makes an underpayment of the amount due on a monthly return pursuant to subdivision (b) of Section 1088 shall not be liable for penalty or interest under Sections 1112, 1113, 1127 or 1129 if proper adjustment is made at the time of the filing of the quarterly return under subdivision (a) of Section 1088 and an explanation of the error is attached to such return

SEC 4 Section 1252 of the Unemployment Insurance Code is amended to read

1252 (a) An individual is "unemployed" in any week in which he or she meets any of the following conditions:

(1) Any week during which he or she performs no services and with respect to which no wages are payable to him or her

(2) Any week of less than full-time work

(3) Any week for which, except for the requirements of subdivision (d) of Section 1253, he or she would be eligible for

benefits under Section 1253.5

(4) Any week during which he or she performs full-time work for five days as a juror, or as a witness under subpoena.

(b) Authorized regulations shall be prescribed making such distinctions as may be necessary in the procedures applicable to unemployed individuals as to total unemployment, part-total employment, partial unemployment of individuals attached to their regular jobs, and other forms of short-time work.

(c) For the purpose of this section only "wages" includes any and all compensation for personal services whether performed as an employee or as an independent contractor or as a juror or as a witness

SEC. 5 Section 1252.2 of the Unemployment Insurance Code is amended to read:

1252 2 With respect to individuals hired as commercial fishermen a "partially unemployed individual" means an individual who, during a particular week:

(a) Was employed by his or her regular employer in the act of catching or attempting to catch fish;

(b) Was during such week continuously attached to his or her employer from the standpoint that there did not occur any severance of the employer-employee relationship; and

(c) (1) Worked less than normal customary full-time hours or full number of days per week for such regular employer because of lack of full-time work, or

(2) If normal customary full-time hours or full number of days per week are not determinable, he or she worked less than four (4) days during a payroll week for such regular employer because of lack of full-time work.

SEC. 6. Section 1276 of the Unemployment Insurance Code is amended to read:

1276 "Benefit year", with respect to any individual, means the 52-week period beginning with the first day of the week with respect to which the individual first files a valid claim for benefits and thereafter the 52-week period beginning with the week in which such individual again files a valid claim after the termination of his or her last preceding benefit year. As used in this section, "valid claim" means any claim for benefits made in accordance with this division and authorized regulations if the individual filing the claim is unemployed and has met the requirements of subdivision (a) of Section 1281. For the purpose of determining whether a claim is a "valid claim" within the meaning of this section, an individual otherwise unemployed shall be deemed unemployed even though wages, as defined in Section 1252, which are for a period subsequent to the termination of performance of services are payable with respect to the week for which he or she files the claim.

SEC 7 Section 1277 of the Unemployment Insurance Code is amended to read.

1277. Notwithstanding the provisions of Section 1281, if the base

period of a new claim includes wages which were paid prior to the effective date of and not used in the computation of the award for a previous valid claim, the new claim shall not be valid unless, during the 52-week period immediately following the effective date of the previous valid claim, the individual earned or was paid sufficient wages to meet the eligibility requirements of subdivision (a) of Section 1281 and had some work For the purpose of this section only the term "wages" includes any and all compensation for personal services performed as an employee for the purpose of meeting the eligibility requirements under subdivision (a) of Section 1281 This section is not applicable to the computation of an award for disability benefits but the establishment of a valid claim for disability benefits shall not constitute a valid claim for unemployment compensation benefits unless the claimant earned or was paid sufficient wages and performed some work to entitle the claimant to an award under this section

SEC 8 Section 1277 5 of the Unemployment Insurance Code is amended to read

1277 5 In determining, under Section 1277, whether a new claim is valid, if the individual had some work during the 52-week period immediately following the effective date of the previous valid claim, then twice the amount which an individual was entitled to receive under Part 2 (commencing with Section 2601) of this division or under Division 4 (commencing with Section 3201) of the Labor Code, or under any workers' compensation law, employer's liability law, or disability insurance law of any other state or of the federal government, during the 52-week period immediately following the effective date of the previous valid claim, shall be considered as wages earned or paid to the individual during that 52-week period for purposes of meeting the eligibility requirements of subdivision (a) of Section 1281 The amounts so included shall not be considered wages for the purpose of computing the weekly benefit amount of the individual under Section 1280 or the maximum amount payable to the individual under Section 1281.

SEC. 9. Section 1279 of the Unemployment Insurance Code is amended to read

1279. (a) Each individual eligible under this chapter who is unemployed in any week shall be paid with respect to that week an unemployment compensation benefit in an amount equal to his or her weekly benefit amount less the smaller of the following·

(1) The amount of wages in excess of twenty-five dollars ($25) payable to him or her for services rendered during that week.

(2) The amount of wages in excess of 25 percent of the amount of wages payable to him or her for services rendered during that week.

(b) The benefit payment, if not a multiple of one dollar ($1), shall be computed to the next higher multiple of one dollar ($1).

(c) For the purpose of this section only "wages" includes any and all compensation for personal services whether performed as an employee or as an independent contractor or as a juror or as a

witness, but does not include any payments, regardless of their designation, made by a city of this state to an elected official thereof as an incident to such public office.

SEC 10 Section 1280 of the Unemployment Insurance Code is amended to read·

1280. (a) An individual's weekly benefit amount is the amount appearing in column B in the following table opposite that wage bracket in column A which contains the amount of wages paid to the individual for employment by employers during the quarter of his or her base period in which his or her wages were the highest.

A *Amount of wages in highest quarter*	B *Weekly benefit amount*
$225.00– 688 99	30
689 00– 714 99	31
715 00– 740.99	32
741 00– 766 99	33
767 00– 792.99	34
793 00– 818 99	35
819 00– 844 99	36
845 00– 870.99	37
871 00– 896.99	38
897 00– 922 99	39
923.00– 961 99	40
962 00– 987 99	41
988 00–1,013 99	42
1,014 00–1,039 99	43
1,040 00–1,065 99	44
1,066 00–1,091 99	45
1,092 00–1,130 99	46
1,131 00–1,156 99	47
1,157 00–1,182.99	48
1,183 00–1,208 99	49
1,209 00–1,247 99	50
1,248 00–1,273 99	51
1,274 00–1,299 99	52
1,300 00–1,338 99	53
1,339 00–1,364 99	54
1,365 00–1,390 99	55
1,391.00–1,429.99	56
1,430 00–1,455 99	57
1,456 00–1,494 99	58
1,495.00–1,520.99	59
1,521 00–1,559 99	60
1,560 00–1,585.99	61
1,586 00–1,624 99	62
1,625 00–1,650 99	63
1,651 00–1,689 99	64

3,822 00–3,873 99	114
3,874.00–3,925.99	115
3,926.00–3,990 99	116
3,991 00–4,042 99	117
4,043 00–4,107 99	118
4,108.00–4,159 99	119
4,160.00 and over	120

(b) This section shall apply to new claims filed with an effective date beginning on or after January 1, 1980, and prior to May 1, 1981.

(c) This section shall remain in effect only until May 1, 1981, and as of such date is repealed.

SEC. 11 Section 1280 is added to the Unemployment Insurance Code, to read·

1280 (a) An individual's weekly benefit amount is the amount appearing in column B in the following applicable table opposite that wage bracket in column A which contains the amount of wages paid to the individual for employment by employers during the quarter of his or her base period in which his or her wages were the highest

(b) For new claims filed with an effective date beginning on or after May 1, 1981, and prior to January 1, 1982, the following table shall be applicable under subdivision (a)·

A *Amount of wages in highest quarter*	B *Weekly benefit amount*
$225 00– 688 99	30
689 00– 714 99	31
715 00– 740 99	32
741 00– 766 99	33
767.00– 792 99	34
793 00– 818 99	35
819 00– 844 99	36
845.00– 870 99	37
871 00– 896 99	38
897 00– 922 99	39
923 00– 948 99	40
949 00– 974 99	41
975 00–1,000 99	42
1,001 00–1,039 99	43
1,040 00–1,065 99	44
1,066 00–1,091.99	45
1,092 00–1,117 99	46
1,118 00–1,143 99	47
1,144 00–1,169 99	48
1,170 00–1,208 99	49
1,209 00–1,234 99	50
1,235 00–1,260 99	51
1,261 00–1,286 99	52

3,068 00–3,119.99	102
3,120.00–3,158.99	103
3,159.00–3,210 99	104
3,211.00–3,249.99	105
3,250.00–3,301.99	106
3,302.00–3,353 99	107
3,354.00–3,392.99	108
3,393.00–3,444.99	109
3,445 00–3,496.99	110
3,497.00–3,548.99	111
3,549.00–3,587.99	112
3,588.00–3,639.99	113
3,640.00–3,691.99	114
3,692.00–3,743 99	115
3,744.00–3,795.99	116
3,796.00–3,847 99	117
3,848.00–3,899 99	118
3,900.00–3,951.99	119
3,952.00–4,003.99	120
4,004.00–4,055 99	121
4,056.00–4,120.99	122
4,121.00–4,172 99	123
4,173.00–4,224 99	124
4,225.00–4,276.99	125
4,277.00–4,341.99	126
4,342 00–4,393 99	127
4,394.00–4,458 99	128
4,459.00–4,510 99	129
4,511 00 and over	130

(c) For new claims filed with an effective date beginning on or after January 1, 1982, the following table shall be applicable under subdivision (a):

A *Amount of wages in highest quarter*	B *Weekly benefit amount*
$225 00– 688 99	30
689 00– 714 99	31
715 00– 740.99	32
741 00– 766.99	33
767 00– 792.99	34
793.00– 818 99	35
819 00– 844.99	36
845.00– 870 99	37
871.00– 896 99	38
897.00– 922 99	39
923.00– 948 99	40
949.00– 974 99	41

2,548 00–2,586 99	91
2,587 00–2,625.99	92
2,626.00–2,664.99	93
2,665.00–2,703 99	94
2,704 00–2,742.99	95
2,743.00–2,781.99	96
2,782 00–2,820.99	97
2,821 00–2,859 99	98
2,860 00–2,898.99	99
2,899.00–2,937.99	100
2,938 00–2,989.99	101
2,990 00–3,028 99	102
3,029 00–3,067 99	103
3,068.00–3,106 99	104
3,107.00–3,158 99	105
3,159.00–3,197 99	106
3,198 00–3,236 99	107
3,237 00–3,288 99	108
3,289 00–3,327 99	109
3,328.00–3,379 99	110
3,380.00–3,418.99	111
3,419.00–3,470.99	112
3,471.00–3,509 99	113
3,510 00–3,561 99	114
3,562 00–3,600 99	115
3,601 00–3,652 99	116
3,653 00–3,704 99	117
3,705 00–3,743 99	118
3,744 00–3,795 99	119
3,796 00–3,847 99	120
3,848 00–3,899 99	121
3,900 00–3,938.99	122
3,939.00–3,990 99	123
3,991.00–4,042 99	124
4,043.00–4,094 99	125
4,095 00–4,146 99	126
4,147.00–4,198.99	127
4,199 00–4,250 99	128
4,251 00–4,302 99	129
4,303 00–4,354 99	130
4,355 00–4,419 99	131
4,420 00–4,471 99	132
4,472.00–4,523 99	133
4,524 00–4,575 99	134
4,576 00–4,640 99	135
4,641 00 and over	136

SEC 12 Section 1281 of the Unemployment Insurance Code is amended to read

1281 (a) An individual cannot establish a valid claim or a benefit year during which any benefits are payable unless during his or her base period·

(1) For new claims filed with an effective date beginning prior to May 1, 1981, he or she has been paid wages for employment by employers of not less than nine hundred dollars ($900)

(2) For new claims filed with an effective date beginning on or after May 1, 1981 and prior to January 1, 1982, he or she has met one of the following conditions

(A) He or she has earned wages for employment by employers of not less than twenty dollars ($20) in each of eight or more calendar weeks, and been paid wages for employment by employers of not less than nine hundred dollars ($900).

(B) He or she has been paid wages for employment by employers of not less than one thousand one hundred dollars ($1,100)

(3) For new claims filed with an effective date beginning on or after January 1, 1982, he or she has met one of the following conditions·

(A) He or she has earned wages for employment by employers of not less than twenty dollars ($20) in each of eight or more calendar weeks, and been paid wages for employment by employers of not less than nine hundred dollars ($900)

(B) He or she has been paid wages for employment by employers of not less than one thousand two hundred dollars ($1,200)

(b) Except as provided by subdivision (c) of this section, the maximum amount of unemployment compensation benefits payable to an individual during any one benefit year shall not exceed the lower of the following

(1) Twenty-six times his or her weekly benefit amount

(2) One-half the total wages paid to the individual during his or her base period

(c) If the maximum amount computed under subdivision (b) is not a multiple of one dollar ($1) it shall be computed to the next higher multiple of one dollar ($1)

(d) For the purpose of this section and Section 1280

(1) In determining wages paid, "wages" includes wages due to any individual but unpaid within the time limit provided by law

(2) In determining wages earned, "calendar weeks" shall include within the base period, each calendar week in which four or more days are within the base period.

SEC 13. Section 1329 of the Unemployment Insurance Code is amended to read

1329 Upon the filing of a new claim for benefits, the department shall promptly make a computation on the claim which shall set forth the total number of weeks in the base period in which the claimant earned wages for employment by employers of twenty dollars ($20) or more, the maximum amount of benefits potentially payable during the benefit year, and the weekly benefit amount The department shall promptly notify the claimant of the computation

The department shall promptly notify each of the claimant's base period employers of the computation after the payment of the first weekly benefit

SEC 14 Sections 1, 3, 6, 7, 8, and 10 to 13, inclusive, of this act shall be operative with respect to new claims filed with an effective date beginning on or after May 1, 1981, except that

(a) Section 708 of the Unemployment Insurance Code as amended by this act shall become operative on April 1, 1981, and for purposes of such section, Section 1280 as added by Section 11 of this act shall, in addition, be given effect on and after April 1, 1981.

(b) Section 1088 of the Unemployment Insurance Code as amended by this act shall become operative on January 1, 1980

(c) Section 1280 of the Unemployment Insurance Code as amended by Section 10 of this act and Section 1281 of such code as amended by this act shall become operative with respect to new claims filed with an effective date beginning on or after January 1, 1980

SEC 15 No right or cause of action founded upon any provision of law amended or repealed by this act as the provision existed prior to such amendment or repeal shall be abolished or impaired by this act

SEC 16 Notwithstanding any other provision of law, in order to aid local agencies and school districts who seek reimbursement of any increased costs incurred as a result of this act, the Director of Employment Development may determine the amount of any such reimbursements on an estimated basis utilizing information in the possession of the Employment Development Department, including, but not limited to, data with respect to unemployment benefit claims and wages and other employment experience

SEC 17 The sum of one million six hundred thousand dollars ($1,600,000) is hereby appropriated from the General Fund to the State Controller for allocation and disbursement to local agencies and school districts pursuant to Section 2231 of the Revenue and Taxation Code to reimburse such agencies for costs incurred by them pursuant to this act

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CHAPTER 1054

An act to add Section 5405 3 to the Business and Professions Code, relating to outdoor advertising, and declaring the urgency thereof, to take effect immediately

[Approved by Governor September 26, 1979 Filed with Secretary of State September 26, 1979]

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

SECTION 1 Section 5405 3 is added to the Business and Professions Code, to read

5405 3 Nothing in this chapter, including, but not limited to, Section 5405, shall prohibit the placing of temporary political signs, unless a federal agency determines that such placement would violate federal regulations However, no such sign shall be placed within the right-of-way of any highway or within 660 feet of the edge of and visible from the right-of-way of a landscaped freeway.

A temporary political sign is a sign which:

(a) Encourages a particular vote in a scheduled election.

(b) Is placed not sooner than 90 days prior to the scheduled election and is removed within 10 days after that election.

(c) Is no larger than 32 square feet.

(d) Has had a statement of responsibility filed with the department certifying a person who will be responsible for removing the temporary political sign and who will reimburse the department for any cost incurred to remove it.

SEC 2 This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect The facts constituting such necessity are

Recent court cases have raised doubts as to constitutionality of the Outdoor Advertising Act with respect to the placement of temporary political signs Furthermore, there is no uniform enforcement of that act with respect to such signs. In order to remove as soon as possible any confusion as to the legality of the placement of such signs along highways, it is necessary that this act take effect immediately.

CHAPTER 1055

An act to amend Section 17053.5 of, and to add Section 17061.5 to, the Revenue and Taxation Code, to amend Sections 1176.5, 3012, and 3013 of, and to add Section 1185 to the Unemployment Insurance Code, and to amend Section 3 of Chapter 61 of the Statutes of 1978, relating to taxation, and making an appropriation therefor, to take effect immediately, tax levy.

[Approved by Governor September 26, 1979 Filed with Secretary of State September 27, 1979]

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

SECTION 1 Section 17053 5 of the Revenue and Taxation Code is amended to read

17053 5 (a) For taxable years beginning after December 31, 1975, in the case of qualified renters, there shall be allowed credits

against the tax computed under this part, minus all other credits provided for in this part except the credit provided in Section 18551.1 (relating to withholding credit), the credit provided in Section 17061 (relating to excess tax credit), and the credit provided in Section 17061 5 (relating to worker contributions credit) The credit shall be in the amount of thirty-seven dollars ($37)

Except as provided in subdivision (b) of this section a husband and wife shall receive but one credit under this section If the husband and wife file separate returns, the credit may be taken by either or equally divided between them, except as follows.

(A) If one spouse was a resident for the entire taxable year and the other spouse was a nonresident for part or all of the taxable year, the resident spouse shall be allowed the full credit

(B) If both spouses were nonresidents for part of the taxable year, the credit shall be divided equally between them subject to the proration provided in subdivision (d) of this section

(b) In the case of a husband and wife, if each spouse maintained a separate place of residence and resided in this state during the entire taxable year, each spouse will be allowed the full credit provided in subdivision (a)

(c) For purposes of this section, a "qualified renter" means an individual who on March 1 of the taxable year—

(1) Was a resident of this state, as defined in Section 17014, and

(2) On such date rented and occupied premises in this state which constitute his principal place of residence

The term "qualified renter" does not include an individual who on March 1 of the taxable year rented and occupied premises which were exempt from property taxes, except that an individual, otherwise qualified, shall be deemed a qualified renter if he is required to pay property taxes on his possessory interest in a residence that is otherwise tax exempt during the taxable year.

The term "qualified renter" does not include an individual whose principal place of residence is with any other person who claimed such individual as a dependent for income tax purposes

The term "qualified renter" does not include an individual who has been granted or whose spouse has been granted the homeowners' property tax exemption during the taxable year This paragraph shall not apply in the case of an individual whose spouse has been granted the homeowners' property tax exemption if each spouse maintained a separate residence for the entire taxable year

(d) Any individual who is a nonresident for any portion of the taxable year shall claim the credits set forth in subdivision (a) at the rate of one-twelfth of such credits for each full month such individual resided within this state during the taxable year

(e) Every person claiming the credit provided in this section shall, as part of such claim, and under penalty of perjury, furnish such information as the Franchise Tax Board prescribes on a form supplied by such board

(f) The credit provided in this section shall be claimed on returns

in such form as the Franchise Tax Board may from time to time prescribe, and shall be filed with the Franchise Tax Board on the date prescribed by Section 18432

(g) For the purposes of this section, the term "premises" means a house or a dwelling unit used to provide living accommodations in a building or structure and the land incidental thereto, but does not include land only, except in the case where the dwelling unit is a mobilehome

(h) In the case of qualified renters whose credits provided in this section exceed their tax liability computed under this part, minus all other credits provided for in this part except the credits provided in Sections 17061, 17061 5, and 18551.1, the qualified renter shall be allowed a credit to the extent of his tax liability plus a refund in excess of that amount up to a combined credit and refund equal to the credit otherwise provided in this section.

(i) The changes made to paragraph (2) of subdivision (c) of this section by the 1977–78 Legislature shall be applied with respect to taxable years beginning on January 1, 1979, and thereafter.

SEC 1 5 Section 17053 5 of the Revenue and Taxation Code is amended to read

17053 5 (a) For taxable years beginning after December 31, 1975, in the case of qualified renters, there shall be allowed credits against the tax computed under this part, minus all other credits provided for in this part except the credit provided in Section 18551 1 (relating to withholding credit), the credit provided in Section 17061 (relating to excess tax credit), and the credit provided in Section 17061 5 (relating to worker contributions credit). The credit shall be in the amount of thirty-seven dollars ($37) For taxable years beginning after December 31, 1978, the tax credit shall be in the amount of one hundred thirty-four dollars ($134) for married couples and sixty-seven dollars ($67) for individuals

Except as provided in subdivision (b) of this section a husband and wife shall receive but one credit under this section. If the husband and wife file separate returns, the credit may be taken by either or equally divided between them, except as follows

(A) If one spouse was a resident for the entire taxable year and the other spouse was a nonresident for part or all of the taxable year, the resident spouse shall be permitted only the credit allowed to individuals.

(B) If both spouses were nonresidents for part of the taxable year, the credit allowed to married couples shall be divided equally between them subject to the proration provided in subdivision (d) of this section

(b) In the case of a husband and wife, if each spouse maintained a separate place of residence and resided in this state during the entire taxable year, each spouse will be allowed the full credit allowed to individuals provided in subdivision (a).

(c) For purposes of this section, a "qualified renter" means an individual who on March 1 of the taxable year—

(1) Was a resident of this state, as defined in Section 17014, and

(2) On such date rented and occupied premises in this state which constitute his principal place of residence.

The term "qualified renter" does not include an individual who on March 1 of the taxable year rented and occupied premises which were exempt from property taxes, except that an individual, otherwise qualified, shall be deemed a qualified renter if he is required to pay property taxes on his possessory interest in a residence that is otherwise tax exempt during the taxable year.

The term "qualified renter" does not include an individual whose principal place of residence is with any other person who claimed such individual as a dependent for income tax purposes.

The term "qualified renter" does not include an individual who has been granted or whose spouse has been granted the homeowners' property tax exemption during the taxable year. This paragraph shall not apply in the case of an individual whose spouse has been granted the homeowners' property tax exemption if each spouse maintained a separate residence for the entire taxable year.

(d) Any individual who is a nonresident for any portion of the taxable year shall claim the credits set forth in subdivision (a) at the rate of one-twelfth of such credits for each full month such individual resided within this state during the taxable year.

(e) Every person claiming the credit provided in this section shall, as part of such claim, and under penalty of perjury, furnish such information as the Franchise Tax Board prescribes on a form supplied by such board

(f) The credit provided in this section shall be claimed on returns in such form as the Franchise Tax Board may from time to time prescribe, and shall be filed with the Franchise Tax Board on the date prescribed by Section 18432

(g) For the purposes of this section, the term "premises" means a house or a dwelling unit used to provide living accommodations in a building or structure and the land incidental thereto, but does not include land only, except in the case where the dwelling unit is a mobilehome

(h) In the case of qualified renters whose credits provided in this section exceed their tax liability computed under this part, minus all other credits provided for in this part except the credits provided in Sections 17061, 17061 5, and 18551 1, the qualified renter shall be allowed a credit to the extent of his tax liability plus a refund in excess of that amount up to a combined credit and refund equal to the credit otherwise provided in this section

(i) The changes made to paragraph (2) of subdivision (c) of this section by the 1977–78 Legislature shall be applied with respect to taxable years beginning on January 1, 1979, and thereafter

SEC 2 Section 17061 5 is added to the Revenue and Taxation Code, to read

17061 5 (a) An employee shall be allowed a credit against the tax imposed under this part of 80 percent of the amount of worker

contributions withheld by an employer from wages paid to the employee during the 1979 calendar year and transferred into the disability fund pursuant to Sections 984 and 986 of the Unemployment Insurance Code, except to the extent such amounts entitle the employee to a credit pursuant to Section 17061 of the Revenue and Taxation Code or represent amounts transferred into the fund pursuant to an election for coverage pursuant to Section 708 or 708 5 of the Unemployment Insurance Code The credit shall not exceed ninety-one dollars ($91)

(b) If the credit provided by this section exceeds the tax liability of the employee computed under this part, minus all other credits provided in this part except the credits provided in Section 17061 (relating to excess SDI contributions) or Section 18655.1 (relating to withholding), the employee shall be allowed a credit to the extent of such tax liability plus a refund in excess of that amount up to a combined credit and refund equal to the credit otherwise provided in this section.

(c) The credit or refund provided in this section shall be claimed on the personal income tax return of the employee for taxable year 1979 in such manner and form as prescribed by the Franchise Tax Board

(d) If the Franchise Tax Board disallows the refund or credit provided for by this section, the Franchise Tax Board shall notify the claimant The Franchise Tax Board's action upon the credit or refund is final unless the claimant files a protest with the Director of Employment Development pursuant to Section 1176 5 of the Unemployment Insurance Code. None of the remedies provided by this part shall be available to such claimant

SEC 3 Section 1176 5 of the Unemployment Insurance Code is amended to read

1176 5 (a) Except as provided by subdivision (c) of this section, refunds and credits under Section 1176 shall be claimed pursuant to Section 17061 of the Revenue and Taxation Code on the personal income tax return of the claimant for the year in which the wages in excess of the applicable limitation are received. In no event shall the credit or refund be made unless the claim is made on a return filed within three years from the last day prescribed for filing the return, without regard to any extensions The director shall transfer from the disability fund to the General Fund an amount equal to the amount of credits and refunds allowed by the Franchise Tax Board pursuant to Section 17061 or Section 17061 5 of the Revenue and Taxation Code

(b) If the Franchise Tax Board disallows an individual's claim filed pursuant to subdivision (a) of this section or Section 17061 5 of the Revenue and Taxation Code, he may file a protest and submit the claim to the director within 30 days of the date of mailing of the notice of disallowance by the Franchise Tax Board An additional 30 days for the filing of the protest may for good cause be granted by the director

(c) If any individual is not required to file a personal income tax return for a year with the Franchise Tax Board, he may, within three years after the calendar year in which the wages in excess of the applicable limitation are received, file a claim for refund or credit under Section 1176 with the director

(d) The director shall make refunds from the disability fund if he allows a claim under this section The provisions of Sections 1180, 1182 and 1183 shall apply whenever the director denies any claim for refund or credit under this section or affirms the disallowance of a claim for refund or credit by the Franchise Tax Board

SEC 3.5 Section 1176 5 of the Unemployment Insurance Code is amended to read:

1176.5. (a) Except as provided by subdivision (c) of this section, refunds and credits under Section 1176 shall be claimed pursuant to Section 17061 of the Revenue and Taxation Code on the personal income tax return of the claimant for the year in which the wages in excess of the applicable limitation are received. In no event shall the credit or refund be made unless the claim is made on a return filed within three years from the last day prescribed for filing the return, without regard to any extensions. The director shall transfer from the disability fund to the General Fund an amount equal to the amount of credits and refunds allowed by the Franchise Tax Board pursuant to Section 17061 or Section 17061.5 of the Revenue and Taxation Code

(b) If the Franchise Tax Board disallows an individual's claim filed pursuant to subdivision (a) of this section or Section 17061 5 of the Revenue and Taxation Code, he or she may file a protest and submit the claim to the director within 30 days of the date of mailing of the notice of disallowance by the Franchise Tax Board An additional 30 days for the filing of the protest may for good cause be granted by the director

(c) If any individual is not required to file a personal income tax return for a year with the Franchise Tax Board, he or she may, within three years after the calendar year in which the wages in excess of the applicable limitation are received, file a claim for refund or credit under Section 1176 with the director

(d) The director shall make refunds from the disability fund if he or she allows a claim under this section The provisions of Sections 1180, 1222, 1223, 1224, 1241, and 1242 shall apply whenever the director denies any claim for refund or credit under this section or affirms the disallowance of a claim for refund or credit by the Franchise Tax Board

SEC 4 Section 1185 is added to the Unemployment Insurance Code, to read

1185 If the director finds that any credit or refund or portion thereof has been erroneously made under Section 17061.5 of the Revenue and Taxation Code, the provisions of Section 1184 shall apply

SEC 5 Section 3012 of the Unemployment Insurance Code is

amended to read

3012 (a) All money in the disability fund is continuously appropriated without regard to fiscal years for the purpose of providing disability benefits pursuant to this part, including the payment of refunds, credits, or judgments, and interest thereon, the payment of disability benefits to all eligible persons not covered exclusively by an approved voluntary plan, and the payment of the expenses of administration of this part and Sections 17061 and 17061 5 of the Revenue and Taxation Code by the department and the Franchise Tax Board "Eligible persons" as used in this section, means those individuals who are covered by the disability fund at the time their period of disability commences, or whose employment has terminated or who are in noncovered employment at the time their period of disability commences, and who are otherwise eligible for benefits under this part

(b) For the purpose of keeping a record of the payments to and the disbursements from the disability fund with respect to the payment of benefits to persons whose employment has terminated or who are in noncovered employment at the time their period of disability commences, the director shall maintain the Unemployed Disabled Account in the disability fund This account shall be credited with twelve one-hundredths of 1 percent (0.12%) of the taxable wages paid to employees covered by voluntary plans for disability benefits for each calendar year This account shall also be credited with an amount equal to twelve one-hundredths of 1 percent (0 12%) of the taxable wages paid to employees covered by the disability fund for each calendar year. This account shall be charged each calendar year with disbursements from the disability fund for the payment of benefits and the additional administrative costs of the payment of benefits to persons whose employment has terminated or who are in noncovered employment at the time their period of disability commences

SEC 6 Section 3013 of the Unemployment Insurance Code is amended to read

3013 A sum to be determined by the Director of Finance, of amounts deposited in the disability fund, may be used for the necessary expenses of administration of this part and Sections 17061 and 17061 5 of the Revenue and Taxation Code in addition to any other fund or money available for such purpose Such sum shall be available to the department for the payment of the expenses of administration of this part and Sections 17061 and 17061 5 of the Revenue and Taxation Code by the department and the Franchise Tax Board only to the extent that money received from the United States or any of its agencies is not available for such purposes

SEC 7 Section 3 of Chapter 61 of the Statutes of 1978 is amended to read

Sec 3 (a) The Tax Relief and Refund Account is hereby created in the General Fund and is continuously appropriated to the Franchise Tax Board for purposes of making all payments as

provided in this section

(b) Notwithstanding any other provision of law, all payments required to be made to taxpayers or other persons from the Personal Income Tax Fund shall be paid from the Tax Relief and Refund Account

(c) The Controller shall transfer, as needed, to the Tax Relief and Refund Account

(1) From the unexpended balance of the appropriation made by Item 375 of Chapter 219 of the Statutes of 1977, an amount determined by the Franchise Tax Board to be equivalent to the total amount of renters' assistance credits and refunds allowed under Section 17053 5 of the Revenue and Taxation Code,

(2) From the disability fund, the amount transferable to the General Fund pursuant to subdivision (a) of Section 1176 5 of the Unemployment Insurance Code,

(3) From the Personal Income Tax Fund, such additional amounts as determined by the Franchise Tax Board to be necessary to make the payments required under this section.

SEC 8 It is the intent of the Legislature, if this bill and Senate Bill 251 are both chaptered and become effective immediately, both bills amend Section 17053.5 of the Revenue and Taxation Code, and this bill is chaptered after Senate Bill 251, that Section 17053 5 of the Revenue and Taxation Code, as amended by Section 1 of Senate Bill 251 be further amended on the operative date of this act in the form set forth in Section 1 5 of this act to incorporate the changes in Section 17053.5 proposed by this bill. Therefore, Section 1 5 of this act shall become operative only if this bill and Senate Bill 251 are both chaptered and become effective immediately, both bills amend Section 17053 5, and this bill is chaptered after Senate Bill 251, in which case Section 1 5 of this act shall become operative on the operative date of this act and Section 1 of this act shall not become operative

SEC. 9 It is the intent of the Legislature that if this bill and Assembly Bill 1776 are both chaptered, both bills amend Section 1176.5 of the Unemployment Insurance Code, and this bill is chaptered after Assembly Bill 1776, that Section 1176.5 of the Unemployment Insurance Code, as amended by Section 3 of this act shall remain operative only until the operative date of Assembly Bill 1776, and that on the operative date of Assembly Bill 1776 Section 1176 5 of the Unemployment Insurance Code as amended by Section 3 of this act be further amended in the form set forth in Section 3 5 of this act to incorporate the changes in Section 1176.5 proposed by Assembly Bill 1776. Therefore, Section 3.5 of this act shall become operative only if this bill and Assembly Bill 1776 are both chaptered, both bills amend Section 1176 5 and this bill is chaptered after Assembly Bill 1776, in which case Section 3.5 of this act shall become operative on the operative date of Assembly Bill 1776

SEC 10 This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect

CHAPTER 1056

An act to add Section 75093.1 to the Government Code, relating to the Judges' Retirement Law, and making an appropriation therefor

[Became law without Governor's signature September 27, 1979 Filed with Secretary of State September 27, 1979]

The people of the State of California do enact as follows

SECTION 1. Section 75093.1 is added to the Government Code, to read:

75093.1. Notwithstanding any other provisions of this article to the contrary, the surviving spouse of any judge who took office in August 1938 and who died in office October 1951 shall be entitled to receive a monthly allowance equal to four hundred dollars ($400) per month.

A surviving spouse who receives an allowance under this section shall have no other claim with respect to the Judges' Retirement Fund, or with respect to any other positions of the Judges' Retirement Law and such surviving spouse shall not be entitled to receive such allowance for any period prior to the effective date of this section.

SEC 2 The sum of thirty-six thousand seven hundred fifty dollars ($36,750) is hereby appropriated from the General Fund to the Judges' Retirement Fund to pay the costs of this act.

CHAPTER 1057

An act to amend Sections 73101, 73101 5, 73107, 73110, 73113, 73113 5, 73114, and 73122 of the Government Code, relating to the San Bernardino County Municipal Court District

[Became law without Governor's signature September 27, 1979 Filed with Secretary of State September 27, 1979]

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. On March 14, 1979, that territory within the Highland and

Yucaipa Judicial Districts

(2) Central Division—that territory within the San Bernardino Judicial District

(3) Valley Division—that territory within the Fontana and Rialto Judicial Districts On January 1, 1979, that territory within the Bloomington Judicial District.

(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

(e) On July 1, 1979

(1) Morongo Basin Division—that territory within the Twenty-nine Palms 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, two, 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; in the Rancho Cucamonga Division, one; and in the Morongo Basin 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 100 of the salary schedule effective on July 1, 1979 He shall be the appointing authority 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 103 of the salary schedule effective on July 1, 1979. 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 Administrator

Job classification	*Number*	*Salary range 6/30/79*	*Salary range 12/29/79*
Management analyst I	1	87	87
Municipal court division manager II	2	87	88
Municipal court division manager I	7	83	84
Data processing analyst	1	82	82
Assistant municipal court division manager II	2	79	80
Municipal court chief clerk	5	72	73
Assistant municipal court division manager I	2	69	70
Municipal court clerk II	26	68	69
Municipal court clerk I	1	62	63
Clerk IV	7	62	62
Account clerk II	5	60	60
Account clerk III	2	64	64
Clerk III	32	59	59
Clerk II	43	53	53

Appointed by Marshal

Classification	*Number*	*Salary Range 6/30/79*	*12/1/79*	*12/29/79*	*4/5/80*
Marshal's captain	3	95	96	96	98
Marshal's lieutenant	5	91	92	92	94
Marshal's sergeant	7	87	88	88	90
Deputy marshal	44	79	79	79	79
Administrative clerk I	1	65		65	65
Marshal's clerk II	10	60		60	60
Marshal's clerk I	8	55		55	55
Marshal's technician	18	61		61	61

Marshal's radio dispatch clerk	4	57		57	57

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

In hiring for vacancies in the position of deputy marshal, the marshal may appoint successful candidates as deputy marshal probationary at a flat hourly rate of six dollars and eighty-six cents ($6.86) per hour until successful completion of a probationary period of one year, except that the marshal may extend the probationary period for not to exceed six months, after which the deputy marshal probationary shall be advanced to the deputy marshal classification at the "A" step of the appropriate salary range.

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, 1979, 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, 1981

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 62 of the salary schedule effective on July 1, 1978, range 65 effective on June 30, 1979, and range 66 effective on December 29, 1979, and be otherwise subject to the salary plan provided by Section 73113 5

SEC 8. 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 investigator who shall receive a salary at a rate specified in range 77 of the salary schedule effective on July 1, 1978, range 79 effective on June 30, 1979, and range 79 effective on December 29, 1979, and three own-recognizance investigators who shall receive a salary at a rate specified in range 74 of the salary schedule effective on July 1, 1978, range 76 effective on June 30, 1979, and range 76 effective on December 29, 1979, 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. 9 The changes effected by Section 1 are to reflect the addition of a judge to the East Division which occurred as a result of the consolidation of the Highland and Yucaipa Justice Court Districts, a declaratory relief judgment declaring that new district a municipal court district, and the annexation of that new district and its judge to the East Division of the San Bernardino County Municipal Court District, and as a result of a declaratory relief judgment declaring the Twenty-nine Palms Judicial District a municipal court district and its annexation to the San Bernardino County Municipal Court District as the Morongo Basin Division.

SEC 10 No appropriation is made by this act, nor is any obligation created thereby under Section 2231 or 2234 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

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CHAPTER 1058

An act to add an article heading immediately preceding Section 446 of, and to add Article 2 (commencing with Section 447) to Part 1 95 of Division 1 of, the Health and Safety Code, relating to brain-damaged persons, and making an appropriation therefor

[Approved by Governor September 27, 1979 Filed with Secretary of State September 28, 1979]

The people of the State of California do enact as follows

SECTION 1 An article heading is added immediately preceding Section 446 of the Health and Safety Code, to read.

Article 1 General Provisions

SEC. 2 Article 2 (commencing with Section 447) is added to Part 1 95 of Division 1 of the Health and Safety Code, to read

Article 2 Pilot Project for Brain-Damaged Persons

447 It has come to the attention of the Legislature that

(a) State public policy discriminates against brain-damaged adults

(b) Brain damage is often a long-term chronic illness, the costs of which are most often not covered by health insurance or existing government assistance programs

(c) Financial assistance is not available until after families have struggled to care for family members and exhausted their own financial resources.

(d) If brain damage is diagnosed as a mental disorder, financial liability is significantly less onerous

(e) Separable and less onerous financial liability already exists for programs serving the developmentally disabled and crippled children even though the medical and treatment needs may be identical to those of brain-damaged persons

(f) The term brain damage is broad in scope and covers a wide range of organic and neurological disorders.

(g) Services required by brain-damaged persons often cross the service line of a number of different programs

447 1 It is the intent of the Legislature to establish a pilot project to

(a) Assist families in securing services, information, and counseling necessary for the care of brain-damaged family members

(b) Coordinate funding and services among state departments and programs in order to provide an integrated program and single service access for persons with brain damage

(c) Facilitate the integration of existing funds and services for persons with brain damage

447.2. The Director of Mental Health, herein referred to as director, shall administer this article and establish such rules, regulations, and standards, as the director deems necessary in carrying out the provisions of this article.

447.3 The director shall establish a pilot project to be conducted by contract with an appropriate nonprofit community agency to integrate services and funds for persons with brain damage.

447 4 In choosing an appropriate nonprofit community agency to conduct the pilot project, the director shall give priority to the following·

(a) An agency which has previously provided information and support services to families of brain-damaged persons within a population area or county of at least 500,000 persons

(b) An agency which includes family members of persons with

brain damage on its governing board or advisory boards

(c) An agency which has shown a capacity to address the needs of brain-damaged persons and their families

447 5. The agency conducting the pilot project shall provide the following services:

(a) In-home support services shall be provided by the pilot project through the establishment of a client voucher system. The voucher system should be available to family members, in lieu of cash assistance, to reimburse for a wide variety of in-home services, as specified in Sections 12300 and 14132 of the Welfare and Institutions Code, including but not limited to, the following.

(1) Nursing services.
(2) Housekeeping services.
(3) Home health services.
(4) Attendant care.
(5) Transportation.
(6) Respite care

(b) If additional funding from sources other than the General Fund appropriation contained in the act by which this article is enacted become available, the pilot project under this article shall provide additional services in the following order of priority:

(1) Adult day health care services.
(2) Diagnostic services
(3) Out-of-home 24-hour skilled nursing services.

(c) The pilot project shall provide legal, financial, and postdiagnostic family support counseling, information about services to persons with brain damage, and overall project administration. The pilot project may provide such services directly or by contract

447.6. The director shall establish criteria for program eligibility for persons with brain damage, including financial liability pursuant to Section 447.7. The director shall assume coordination of existing funds and services for persons with brain damage, and for the purchase of in-home services through the client voucher system described in subdivision (b) of Section 447.5, with other departments that may serve persons with brain damage, including the Department of Rehabilitation, the State Department of Health Services, the State Department of Social Services, and the State Department of Developmental Services.

447.7. The parent, spouse, or child of a person receiving services under this article or the person receiving the services may be required to contribute to the cost of services depending upon their ability to pay, but not to exceed the actual cost thereof, as determined by the director.

447 8 In considering total funds available for the project, the director shall utilize funding available from appropriate state departments, including, but not limited to: the State Department of Health Services, the State Department of Social Services, and the Department of Rehabilitation. Funding for services not available from existing programs shall be provided from the appropriation

contained in this article

447.9 The pilot project under this article shall be limited to one year and the director shall evaluate the success of the pilot project The director shall report such evaluation to the Legislature, not less than three months following the completion of the pilot project, and the findings of the evaluation shall address at least the following

(a) Reduced need for institutionalized services by providing in-home support services.

(b) Number of persons in skilled nursing facilities who transfer to less dependent 24-hour care settings

SEC 3 The sum of two hundred fifty thousand dollars ($250,000) is hereby appropriated from the General Fund to the Director of Mental Health for expenditure during the 1979–80 and 1980–81 fiscal years for the purposes of Article 2 (commencing with Section 447) of Part 1 95 of Division 1 of the Health and Safety Code, provided that a sum not to exceed thirty thousand dollars ($30,000) of such amount shall be expended by the department for the administration of the pilot project established pursuant to Section 447 3 of the Health and Safety Code Such funds are in addition to other available funds for services provided in such article

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CHAPTER 1059

An act to amend Section 12300 of the Welfare and Institutions Code, relating to public social services, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately

[Approved by Governor September 27, 1979 Filed with Secretary of State September 28, 1979]

The people of the State of California do enact as follows

SECTION 1 Section 12300 of the Welfare and Institutions Code is amended to read·

12300 The purpose of this article is to provide in every county in a manner consistent with the provisions of this chapter those supportive services identified in this section to any aged, blind, or disabled person, as defined under this chapter, who can remain in his or her own home or an abode of his or her own choosing when such services are provided

Supportive services shall include domestic services and services related to domestic services, heavy cleaning, nonmedical personal services, accompaniment by a provider when needed during necessary travel to health related appointments or to alternative resource sites and other essential transportation as determined by the director, yard hazard abatement, protective supervision, teaching and demonstration directed at reducing the need for other

supportive services, and other services as determined by the director which make it possible for the recipient to live in comfort and safety under an independent living arrangement.

Where such supportive services are provided by a person having the legal duty pursuant to the Civil Code to provide for the care of his or her child who is the recipient, such provider of supportive services shall receive remuneration for such services only when the provider leaves full-time employment or is prevented from obtaining full-time employment because no other suitable provider is available and where the inability of such provider to provide supportive services may result in inappropriate placement or inadequate care.

Such providers shall be paid only for the following supportive services: services related to domestic services, nonmedical personal services, and accompaniment by a provider when needed during necessary travel to health related appointments or to alternative resource sites, and other essential transportation as determined by the director, protective supervision only as needed because of the functional limitations of the child, and other services as determined by the director.

To encourage maximum voluntary services, so as to reduce governmental costs, respite care shall also be provided Respite care is temporary or periodic service for eligible recipients to relieve persons who are providing care without compensation.

SEC 2. Section 12300 of the Welfare and Institutions Code is amended to read:

12300 The purpose of this article is to provide in every county in a manner consistent with the provisions of this chapter those supportive services identified in this section to any aged, blind, or disabled person, as defined under this chapter, who can remain in his or her own home or an abode of his or her own choosing when such services are provided.

Supportive services shall include domestic services and services related to domestic services, heavy cleaning, nonmedical personal services, accompaniment by a provider when needed during necessary travel to health related appointments or to alternative resource sites and other essential transportation as determined by the director, yard hazard abatement, protective supervision, teaching and demonstration directed at reducing the need for other supportive services, paramedical services, and other services as determined by the director which make it possible for the recipient to live in comfort and safety under an independent living arrangement

Where such supportive services are provided by a person having the legal duty pursuant to the Civil Code to provide for the care of his or her child who is the recipient, such provider of supportive services shall receive remuneration for such services only when the provider leaves full-time employment or is prevented from obtaining full-time employment because no other suitable provider

is available and where the inability of such provider to provide supportive services may result in inappropriate placement or inadequate care

Such providers shall be paid only for the following supportive services: services related to domestic services, nonmedical personal services, and accompaniment by a provider when needed during necessary travel to health related appointments or to alternative resource sites, and other essential transportation as determined by the director, protective supervision only as needed because of the functional limitations of the child, and paramedical services, and other services as determined by the director.

To encourage maximum voluntary services, so as to reduce governmental costs, respite care shall also be provided Respite care is temporary or periodic service for eligible recipients to relieve persons who are providing care without compensation.

SEC. 3 It is the intent of the Legislature, if this bill and Assembly Bill 1940 are both chaptered on or before January 1, 1980, and Assembly Bill 1940 includes within supportive services, paramedical services, to include paramedical services in the changes made by this bill in the third and fourth paragraphs of Section 12300 of the Welfare and Institutions Code, in the form set forth in Section 2 of this act Therefore, Section 1 of this act shall become operative only if, on the effective date of this act, Assembly Bill 1940 has not been chaptered, in which event, Section 1 of this act shall be operative on the effective date of this act and shall remain operative until Assembly Bill 1940 is chaptered, at which time, Section 1 of this act shall cease to have any force or effect and Section 2 of this act shall become operative. Section 2 of this act shall become operative only if Assembly Bill 1940 is chaptered on or before January 1, 1980 In the event that Assembly Bill 1940 is chaptered prior to the effective date of this act, Section 1 of this act shall not become operative and Section 2 of this act shall be operative on the effective date of this act

SEC 4. The fifth paragraph added to Section 12300 of the Welfare and Institutions Code by either or both Sections 1 and 2 of this act at the 1979–80 Regular Session does not constitute a change in, but is declaratory of, the existing law

SEC. 5 There is hereby appropriated from the General Fund to the State Department of Social Services the sum of two hundred sixteen thousand dollars ($216,000) for expenditure to carry out the purposes of this act

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 to supersede proposed regulations of the State Department of Social Services which would discontinue necessary services to recipients of in-home supportive services, it is necessary for this act to take effect immediately

CHAPTER 1060

An act to amend Section 118.5 of the Streets and Highways Code, and to augment Item 164 1 of Chapter 259 of the Statutes of 1979, relating to state highways, and making an appropriation therefor

[Approved by Governor September 27, 1979 Filed with Secretary of State September 28, 1979]

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

SECTION 1. Section 118.5 of the Streets and Highways Code is amended to read·

118.5 No parcel of property acquired by eminent domain for the purposes specified in Section 104 which, in its entirety, is found to be no longer necessary for such purposes shall be subject to public sale, unless an amount equal to the taxes which would have been paid by the owner had the property not been acquired by the state is transmitted by the department to the county auditor of the county in which the property is located. The amount of any payments made pursuant to Section 104.10 with respect to the property shall be deducted from the amount required to be transmitted pursuant to this section

The money received by the county under this section shall be expended only for the purposes authorized by Article XIX of the California Constitution.

SEC. 2. The sum of eight million dollars ($8,000,000) is hereby appropriated to the Department of Transportation, payable from the State Highway Account in the State Transportation Fund, in augmentation of the appropriation made by Item 164 1 of Chapter 259 of the Statutes of 1979.

The two million dollars ($2,000,000) appropriated by Item 164 1 and the funds appropriated by this section shall be available for expenditure for three years and shall be used by the department, notwithstanding the first proviso of Item 164 1, to bring construction projects to a ready-to-advertise point of readiness at least three months in advance of the scheduled advertising date, as set forth in the department's project management control system data base on November 1, 1979, by June 30, 1981, and up to six months in advance of the scheduled advertising date by June 30, 1982, and thereafter First priority for this additional project effort shall be new facilities and other projects with an estimated construction cost of one million dollars ($1,000,000) or more.

In lieu of monthly report requirement of the sixth proviso of Item 164 1, commencing January 1, 1980, and quarterly thereafter, the department shall report to the California Transportation Commission and the Legislature on project development staffing

Commencing on January 1, 1980, and quarterly thereafter, the department shall report, to the commission and the Legislature, the

project development schedule and the advertising schedule on all projects of one million dollars ($1,000,000) or more in such a manner which displays the results of the department's efforts to accelerate project development work under this section.

CHAPTER 1061

An act to amend Section 1382 of the Health and Safety Code, and to amend Sections 14302, 14303, 14308, 14311, 14312, 14404, 14405, 14406, 14450, 14451, 14452, 14456, 14457, 14459, and 14460 of the Welfare and Institutions Code, relating to prepaid health plans.

[Approved by Governor September 27, 1979 Filed with Secretary of State September 28, 1979]

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

SECTION 1 Section 1382 of the Health and Safety Code is amended to read·

1382 (a) The commissioner shall conduct an examination of the fiscal and administrative affairs of any plan, and each person with whom the plan has made arrangements for administrative, management, or financial services, as often as deemed necessary to protect the interest of subscribers or enrollees, but not less frequently than once every five years.

(b) The expense of conducting any additional or nonroutine examinations for good cause pursuant to this section, and the expense of conducting any additional or nonroutine medical surveys for good cause pursuant to Section 1380 shall be charged against the plan being examined or surveyed. The amount shall include the actual salaries or compensation paid to the persons making such examination or survey, the expenses incurred in the course thereof, and overhead costs in connection therewith as fixed by the commissioner. The amount charged shall be remitted by the plan to the commissioner

SEC. 1 5. Section 14302 of the Welfare and Institutions Code is amended to read

14302 Except as provided in Section 14490, the duration of initial contracts entered into pursuant to this chapter shall be for a maximum of one year and of renewed contracts for a maximum of five years.

SEC 2 Section 14303 of the Welfare and Institutions Code is amended to read·

14303 No contract between the department and the prepaid health plan shall be amended without the public hearing as required in Section 14300 if such amendments make any of the following changes in the contract.

(a) Reduction in the scope or availability of services.

(b) A material enlargement of the service area.

(c) Increase in the maximum enrollment permitted under the contract.

(d) Any other change in the plan's organization, operation, or delivery of services which the director determines will have a substantial impact on the ability of enrollees to obtain health care services

SEC. 3. Section 14308 of the Welfare and Institutions Code is amended to read

14308. (a) Each prepaid health plan shall furnish to the director such information and reports as required by Title XIX of the federal Social Security Act

(b) The director may require a prepaid health plan to provide the director with information and reports which are furnished by the prepaid health plan to the Commissioner of Corporations pursuant to the provisions of Chapter 2.2 (commencing with Section 1340), Division 2, of the Health and Safety Code, the Knox-Keene Health Care Service Plan Act of 1975

(c) The director may, by regulation, require plans to furnish statistical information to the extent such information is necessary for the department to establish rates of payment pursuant to Section 14301 and to provide reports pursuant to Section 14313. The department shall, to the extent feasible, accept this information in a form which is consistent with reports required to be provided pursuant to the Knox-Keene Health Care Service Plan Act of 1975 In the case of a hospital based plan which is a health maintenance organization qualified pursuant to Title XIII of the federal Public Health Service Act, and which has more than one million enrollees, of whom less than 10 percent are Medi-Cal enrollees, information required pursuant to this subdivision shall consist of reports required to be made to the Department of Health, Education and Welfare pursuant to Title XIII of the federal Public Health Service Act.

SEC 4 Section 14311 of the Welfare and Institutions Code is amended to read.

14311 Prepaid health plans, the services they provide and the persons receiving such services shall not be subject to the limitations on services set forth in Section 14133 or 14133 1, or the provisions of subdivision (c), (d), and (e) of Section 14120, or the fifth paragraph of Section 14105

Nothing in this section or in Article 7 (commencing with Section 14490) of this chapter shall relieve the director of his responsibility to provide the benefits provided for in Section 14132 Where a contract between the department and a prepaid health plan does not require the prepaid health plan to provide a benefit to which a Medi-Cal recipient is otherwise entitled, the recipient shall be entitled to receive such benefit pursuant to Chapter 7 (commencing with Section 14000) of this part.

SEC 5 Section 14312 of the Welfare and Institutions Code is amended to read

14312 The director shall adopt all necessary rules and regulations to carry out the provisions of this chapter. In adopting such rules and regulations, the director shall be guided by the needs of eligible persons as well as prevailing practices in the delivery of health care on a prepaid basis Except where otherwise required by federal law or by this part, the rules and regulations shall be consistent with the requirements of the Knox-Keene Health Care Service Plan Act of 1975

SEC. 6 Section 14404 of the Welfare and Institutions Code is amended to read.

14404 In order to enable Medi-Cal beneficiaries to fully use the system of their choice, at the time of determining the eligibility for Medi-Cal of persons who reside in an area served by a prepaid health plan and who are eligible to enroll in such a plan, the director shall make available to such persons information prepared by the department summarizing the benefits and restrictions to beneficiaries enrolled in prepaid health plans as opposed to the fee-for-service system. The department shall prescribe the format for providing the information required pursuant to this section

SEC. 7 Section 14405 of the Welfare and Institutions Code is amended to read

14405 The director shall make available such information as is necessary to enable Medi-Cal beneficiaries to exercise an informed choice in receiving benefits under this chapter. For this purpose each prepaid health plan shall provide marketing material to the director for distribution to all prospective enrollees in the plan's service area. Such marketing material shall include the following:

(a) A description of all services and benefits provided by the prepaid health plan

(b) The location of facilities where benefits and services are provided

(c) The hours and days when services are available at each of the facilities

(d) The addresses where primary care physicians, dentists, optometrists, or psychologists provide health services to enrollees of the prepaid health plan

(e) The names and addresses of each hospital which has agreed to provide health services to the enrollees

(f) Names and addresses of each pharmacy providing pharmaceutical services to the enrollees.

(g) Transportation arrangements offered by the prepaid health plan.

(h) Any other information as the department may require.

SEC 8 Section 14406 of the Welfare and Institutions Code is amended to read.

14406 (a) Within seven days after the effective date of enrollment, the prepaid health plan shall provide in writing the following information to a new enrollee or the family unit of the new enrollee.

(1) An appropriate document identifying the enrollee and authorizing the services or benefits to which that person is entitled under the plan subject to verification of eligibility.

(2) A description of all services and benefits provided by the plan.

(3) An explanation of the procedure for obtaining these services and benefits, including in the case of medical foundations or independent practice associations, the address and telephone number of each primary care physician, dentist, optometrist, psychologist, and in the case of other plans, the address and telephone number of each service site and the location of primary care physicians, dentists, optometrists and psychologists, and in the case of all prepaid health plans, the address and telephone numbers of each hospital, pharmacy, and skilled nursing facility where health care benefits may be obtained In addition, the explanation shall state the hours and days where each of these facilities are open and the services and benefits available.

(4) The location, telephone number, and procedure for securing 24-hour emergency care and an explanation of and procedure for obtaining out-of-area emergency coverage

(5) Information setting forth the term of enrollment in the prepaid health plan including the causes for which an enrollee shall lose eligibility in the prepaid health plan

(6) The procedure for processing and resolving any grievance by enrollees. Such information shall include the name, address, and telephone number of the person responsible for resolving grievances or initiating a grievance procedure

(7) The procedure by which enrollees may request disenrollment.

(8) Any other information essential to the use of the prepaid health plan as may be required by the department.

(b) The information made available under this section shall be revised and distributed annually to each enrollee or enrollee's family unit and whenever there is a change in the services provided or the location where they may be obtained. Except for a change which is unforeseeable, all enrollees affected by the change in service or the location of services shall be notified at least 14 days prior to such a change.

SEC 9. Section 14450 of the Welfare and Institutions Code is amended to read.

14450. No contract between the department and a prepaid health plan shall be approved or renewed unless the providers and the facilities of the prepaid health plan meet the Medi-Cal program standards for participation as established by the director In addition, a prepaid health plan shall meet the standards required pursuant to the provisions of the Knox-Keene Health Care Service Plan Act of 1975, standards specifically required by federal law, and the following requirements·

(a) Each prepaid health plan shall establish a grievance procedure under which enrollees may submit their grievances. Such procedure shall be approved by the department prior to the

approval of the contract. The department shall establish standards for such procedures to insure adequate consideration and rectification of enrollee grievances. A prepaid health plan shall make a finding of fact in the case of each grievance processed, a copy of which shall be transmitted to the enrollee. If the enrollee has an unresolved grievance, the fair hearing provided in Chapter 7 (commencing with Section 10950) of Part 2 shall be available to resolve all grievances regarding care and administration by the prepaid health plan. The findings and recommendations of the department, based on the decision of the hearing officer, shall be binding upon the prepaid health plan. Any changes in a proposed health plan's grievance procedure must be approved by the department before such changes take effect.

(b) The prepaid health plan shall provide the director, for his approval, a plan for marketing its services to Medi-Cal beneficiaries which relates the proposed service to the need for services, and the size of the potential population to be served in the proposed service area

(c) The prepaid health plan shall demonstrate to the department that it has adequate financial resources, administrative abilities and soundness of program design to carry out its contractual obligations

SEC 10 Section 14451 of the Welfare and Institutions Code is amended to read

14451 Services under a prepaid health plan contract shall be provided in accordance with the requirements of the Knox-Keene Health Care Service Plan Act of 1975

SEC 11 Section 14452 of the Welfare and Institutions Code is amended to read

14452 (a) All subcontracts shall be entered into pursuant to the requirements of the Knox-Keene Health Care Service Plan Act of 1975 and federal law All subcontracts shall be in writing, a copy of which shall be transmitted to the department

Each subcontract shall contain the amount of compensation or other consideration which the subcontractor will receive under the terms of the subcontract with the prepaid health plan, provided, however, that these provisions shall not apply to a provider who is employed or salaried by the prepaid health plan A prepaid health plan shall not enter into any subcontract in which consideration is determined by a percentage of the primary contractor's payment from the department This subdivision shall not be construed to prohibit any subcontract in which consideration is determined on a capitation basis

Subcontracts between a prepaid health plan and the subcontractor shall be public records on file with the department The names of the officers and owners of the subcontractor, stockholders owning more than 10 percent of the stock issued by the subcontractor, and major creditors holding more than 5 percent of the debt of the subcontractor shall be submitted by each prepaid health plan to the department and shall be public records on file with the department

(b) A prepaid health plan which is not a qualified health maintenance organization pursuant to Title XIII of the federal Public Health Service Act shall submit all provider and management subcontracts to the department for approval prior to the subcontract taking effect

(c) Each subcontract shall require that the subcontractor make all of its books and records, pertaining to the goods and services furnished under the terms of the subcontract, available for inspection, examination, or copying by the department during normal working hours at the subcontractor's place of business, or at such other mutually agreeable location in California.

SEC. 12. Section 14456 of the Welfare and Institutions Code is amended to read:

14456 The department shall conduct annual medical audits of each prepaid health plan unless the director determines there is good cause for additional reviews.

The reviews shall use the standards and criteria established pursuant to the Knox-Keene Health Care Service Plan Act of 1975. Except in those instances where major unanticipated administrative obstacles prevent, or after a determination by the director of good cause, the reviews shall be scheduled and carried out jointly with reviews carried out pursuant to the Knox-Keene Health Care Service Plan Act of 1975, if reviews under that act will be carried out within time periods which satisfy the requirements of federal law

The department shall be authorized to contract with professional organizations or the Department of Corporations to perform the periodic review required by this section. The department, or its designee, shall make a finding of fact with respect to the ability of the prepaid health plan to provide quality health care services, effectiveness of peer review, and utilization control mechanisms, and the overall performance of the prepaid health plan in providing health care benefits to its enrollees

SEC 13 Section 14457 of the Welfare and Institutions Code is amended to read

14457 In addition to the reviews required or authorized by Section 14456, the department shall conduct periodic onsite visits or additional visits after a determination by the director of good cause by departmental representatives to include observation of the general operation of the prepaid health plan, the condition of the facilities for delivering health care, the availability of emergency services, the degree of satisfaction of the enrollees, the operation of the plan's grievance system, and the administrative and financial aspects of the operation of the prepaid health plan

Except when reviewing a plan's grievance system or marketing activities, this evaluation shall use standards and criteria established pursuant to the Knox-Keene Health Care Service Plan Act of 1975 Except in those instances where major, unanticipated administrative obstacles prevent, or after a determination by the director of good cause, the visits shall be scheduled and carried out jointly with

reviews carried out pursuant to the Knox-Keene Health Care Service Plan Act of 1975 if reviews under that act will be carried out within time periods which satisfy the requirements of federal law.

The State Department of Health Services may contract with the Department of Corporations to perform the periodic vists required by this section.

SEC 14 Section 14459 of the Welfare and Institutions Code is amended to read·

14459 The prepaid health plan shall maintain financial records and shall have an annual audit or additional audits after a determination by the director of good cause, performed by an independent certified public accountant. A prepaid health plan operated by a public entity shall have an annual audit performed in a manner approved by the department. All certified financial statements shall be filed with the department as soon as practical after the end of the prepaid health plan's fiscal year and in any event, within a period not to exceed 90 days thereafter These financial statements shall be filed with the department and shall be public records The department shall perform routine auditing of prepaid health plan contractors and their affiliated subcontractors Except in those instances where major unanticipated obstacles prevent, or after a determination by the director of good cause, the audits shall be scheduled and carried out jointly with audits carried out pursuant to the Knox-Keene Health Care Service Plan Act of 1975 if audits under that act are carried out within time periods which satisfy the requirements of federal law The department is authorized to contract with the Department of Corporations to carry out the audits required by this section The prepaid health plan shall make all of its books and records available for inspection, examination or copying by the department during normal working hours at the prepaid health plan's principal place of business or at such other place in California as the department shall designate For good cause, the department may grant an exception to the time when annual financial statements are to be submitted to the department The annual report required in Section 14313 shall include an itemization of expenditures made by each prepaid health plan for the following categories of expenditures· physician services, inpatient and outpatient hospital services, pharmaceutical services and prescription drugs, dental services, medical transportation services, vision care services, mental health services, laboratory services, X-ray services, enrollee education programs, marketing and enrollment costs, data-processing costs, other administrative costs and health service expenditures and any payments made to subcontractors, and the purposes of the payments, including but not limited to, contributions to election campaigns

SEC 15 Section 14460 of the Welfare and Institutions Code is amended to read

14460 A schedule of reviews, visits, and audits shall be jointly established by the Department of Corporations and the State

Department of Health Services Nothing in Sections 14456, 14457, or 14459 shall be construed to prohibit the State Department of Health Services from conducting reviews, visits, or audits either jointly or individually, for the purpose of following up on findings resulting from reviews, visits, or audits carried out in accordance with this chapter.

SEC. 16 The provisions of the Information Practices Act of 1977 (Title 1.8 (commencing with Section 1798) of the Civil Code) shall not preclude or affect the sharing or exchange of information between the State Department of Health Services and the Department of Corporations pursuant to the provisions of this act or pursuant to any contract or memorandum of understanding entered into between such departments for the purposes of this act or for the purposes of 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) or Section 14101 or 14301 of the Welfare and Institutions Code. This section reflects the prior intent of the Legislature insofar as it relates to provisions of law, contracts and memoranda of understanding which were in effect prior to the operative date of this act

SEC 17. Section 1 of this act shall become operative July 1, 1980

CHAPTER 1062

An act to add Division 17 (commencing with Section 35000) to the Financial Code, relating to marinas, and making an appropriation therefor

[Approved by Governor September 27, 1979 Filed with Secretary of State September 28, 1979]

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

SECTION 1 Division 17 (commencing with Section 35000) is added to the Financial Code, to read

DIVISION 17 STATE ASSISTANCE FUND FOR RECREATIONAL MARINAS, CALIFORNIA BUSINESS AND INDUSTRIAL DEVELOPMENT CORPORATION

CHAPTER 1 GENERAL PROVISIONS

Article 1 Short Title, Construction and Severability

35000 This division shall be known and may be cited as the "State Assistance Fund for Recreational Marinas Act of 1979 "

35001 For purposes of this division, unless the context otherwise requires

(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.

35002 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 Intent

35100 It is the intent of the Legislature that Harbors and Watercraft Revolving Fund moneys be used to provide loans directly to private recreational marina owners for the expansion and improvement of boating facilities. It is the further intent of the Legislature that the needs of existing marinas be addressed before loans to new marinas are considered It is also the intent of the Legislature that small businesses receiving loans shall not charge unreasonably high boat berthing fees at their harbor facilities.

Article 3 Definitions

35200 "Small business" means a business defined as an eligible small business as set forth in Section 121 3-10 of Part 121, Chapter 1, Title 13 of the Code of Federal Regulations.

35201 "Recreational marina" means a profit-oriented small business whose marina facilities are used by the public primarily for recreational purposes.

35202 "Commission" means the California Boating and Waterways Commission.

35203 "Department" means the California Department of Boating and Waterways.

Chapter 2 Loan Authority

35300. The department is empowered to make subordinated loans to a recreational marina in connection with a loan made by a state bank, a national bank, or a California corporation licensed under Division 15 (commencing with Section 31000) to such recreational marina, and approved for guarantee by the Small Business Administration pursuant to Section 7(a) or (b) of the Small

Business Act, when the purpose of the subordinated loan and guaranteed loan is to construct, improve, or expand recreational marina facilities.

35301 The department may adopt regulations to implement or make more specific the provisions of this division, including standards for the approval of subordinated loans and standards for the prepayment thereof.

35302. The department shall submit proposals for loans pursuant to Section 35300, and proposals for the adoption or amendment of regulations pursuant to Section 35301, to the commission for its advice and consent.

35303. An application to the department pursuant to Section 35300 shall include evidence of compliance with the California Environmental Quality Act.

35304 The rate of interest charged by the department shall not exceed the maximum rate permitted by Section 1 of Article XV of the California Constitution.

CHAPTER 3 STATE RECREATIONAL MARINA REVOLVING ACCOUNT

35400. The State Controller shall establish, maintain, and administer a separate account within the Harbors and Watercraft Revolving Fund to effect the provisions of this chapter

35401 The name of this account shall be the State Recreational Marina Revolving Account, which account shall be continuously appropriated for the purposes of this division

35402 The State Controller shall deposit in the State Recreational Marina Revolving Account all moneys authorized and appropriated by the Legislature

35403 All loans made by the department to small businesses shall be funded from the State Recreational Marina Revolving Account

35405 The proceeds from repayment of loans made by the department shall be deposited in the State Recreational Marina Revolving Account

CHAPTER 4 REASONABLE BERTHING FEES

35500 Small businesses receiving loans made by the department shall not charge unreasonably high boat berthing fees at their marina facilities

35501 The department shall monitor the berthing fees of the small businesses receiving department loans to ensure that these rates are not exorbitant

SEC 2 The sum of one million fifty thousand dollars ($1,050,000) is hereby appropriated from the Harbors and Watercraft Revolving Fund to the State Recreational Marina Revolving Account for the purposes of this act, as follows

(a) The sum of fifty thousand dollars ($50,000) for the

department's initial costs of administering the loan program for the 1979–80 fiscal year with any unexpended balance to be added to the amount provided for in subdivision (b)

(b) The sum of one million dollars ($1,000,000) for the purposes of providing loans to small businesses and for costs of administering the loan program for the 1980–81 fiscal year

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CHAPTER 1063

An act to amend Sections 1527, 1528, 1550, 1551, and 1554 of, and to add Sections 1522.1 and 1528.5 to, the Health and Safety Code, relating to health, and making an appropriation therefor.

[Approved by Governor September 27, 1979 Filed with Secretary of State September 28, 1979]

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

SECTION 1 Section 1522.1 is added to the Health and Safety Code, to read:

1522 1 The department and the local agencies with which it contracts for the licensing of day care facilities for children, as defined in Section 1527, shall grant or deny a license to a family day care home for children within 30 days after receipt of all appropriate licensing application materials, as determined by the department, and after a home visit has been completed, on the condition that the application includes a statement, signed under penalty of perjury, from the applicant and every other adult living at the same location, that he or she has never been convicted of a crime other than a minor traffic violation involving a fine of fifty dollars ($50) or less.

SEC 2 Section 1527 of the Health and Safety Code is amended to read

1527 In licensing community care facilities, the state department shall give special consideration to the special nature, history, and purposes of day care facilities for children. Regulations adopted for day care facilities for children pursuant to Sections 1530, 1531, and 1562 shall substantially conform to the scope of regulations governing such day care facilities which were effective prior to the enactment of Chapter 1203 of the Statutes of 1973

For purposes of this article, "day care facilities for children" means those facilities which provide nonmedical care to infants and preschool and school-age children under 18 years of age during a portion of the day and includes infant centers, preschools, family day care homes, and day care centers

SEC 3 Section 1528 of the Health and Safety Code is amended to read:

1528. (a) Licensing reviews, pursuant to Sections 1534 and 1535, of care and services of a day care facility for children shall be limited

to health and safety considerations and shall not include any reviews of the content of any educational or training program of the facility Such licensing reviews shall be conducted not less than once every two years.

(b) The state department shall maintain a program to carry out the licensing and inspection activities for day care facilities for children in order that the health and safety of children receiving such services is protected. The state department shall maintain staff of adequate size and expertise to carry out the licensing and inspection program for day care facilities for children in order that the health and safety of children receiving services is protected. The state department shall license and inspect day care facilities for children in accordance with the provisions of this chapter and shall not maintain a self-certification and inspection program with respect to such facilities, except for the pilot registration program established pursuant to Section 1528 5 Nothing in this section shall preclude the state department from contracting with other agencies for services pursuant to Section 1511 in lieu of performing services directly

(c) Review of day care facilities for children, as defined in Section 1527, shall be limited to inspection for compliance with the provisions of this chapter, and shall not include evaluations and rating scales as specified in Sections 1534, 1535, and 1536.

(d) When the licensing agency determines that a family day care home for children is operating without a license and notifies the unlicensed provider of the requirement for such license, the licensing agency may issue a cease and desist order only if it finds and documents that continued operation of the facility will be dangerous to the health and safety of the children In all other cases where the licensing agency determines such a facility is operating without a license and notifies the unlicensed provider of the requirements for such license, the licensing agency may issue a cease and desist order only if such unlicensed provider does not apply for a license within a reasonable time after such notice

It is the intent of the Legislature in enacting this subdivision to ensure substantial compliance with the purpose of this article, which is the protection of the health and safety of children.

SEC 4 Section 1528 5 is added to the Health and Safety Code, to read

1528 5 (a) A pilot project of registration of family day care homes for children is hereby established This project shall be established in three counties consisting of one urban, one suburban, and one rural county as provided in subdivision (e) Registration shall be limited to such facilities, which care for six or fewer children The intent of this project is to determine whether a simplified registration procedure can expand and improve availability of care while substantial compliance with health and safety regulations is maintained Project planning shall commence on January 1, 1980, and contracts with pilot counties shall be implemented by July 1, 1980 The project shall terminate on January 1, 1983

(b) The department shall develop simplified forms for collecting information from prospective registrants Such forms shall request from the registrant the following information

(1) Name

(2) Age and sex

(3) Address

(4) Telephone number

(5) Age and number of children the registrant expects to care for.

(6) Size of home

(7) Outdoor space available

(8) Records maintained on children in care

(9) Provisions for meals and snacks

(10) Fingerprint application

(11) Evidence of negative tuberculosis test.

(12) A statement signed under penalty of perjury, from the registrant and every other adult living at the same location, that he or she has never been convicted of a crime other than a minor traffic violation involving a fine of fifty dollars ($50), or less.

(13) A statement, signed under penalty of perjury, from the registrant that fire safety, poison control, first aid procedures, disaster and emergency plans, and swimming pool safety are appropriate and in substantial conformity with regulations adopted by the department The department shall provide a copy of the appropriate sections of health and safety regulations, adopted by the department, to the registrant Completion of registration, as specified in this section, shall be sufficient for the continued operation of a day care facility for children

(c) If, after registration by the provider, it is determined that the registrant is not in substantial compliance with regulations adopted by the department for licensed family day care, the department may issue a cease and desist order or initiate other legal proceedings as provided for in subdivision (d) of Section 1528 and Sections 1550 and 1551, or both such actions

(d) The department shall institute a system of random visits to 10 percent of the registered homes during the pilot registration program, with appropriate reporting on the extent to which the system is working satisfactorily

(e) The department shall develop procedures to be followed in the event of complaints about the home, including procedures for visits, procedures to obtain corrections of unsafe conditions, procedures for suspension and revocation of registrations and licenses, and procedures to invoke criminal sanctions against operators who fail to correct unsafe conditions

(f) The department shall select the counties to be chosen for the pilot project in the following manner

(1) It shall confirm the existence of an information and referral system in the county with the capability of providing information to parents and prospective operators about the system

(2) It shall make certain that the counties have procedures for

ensuring that current licenses can be maintained upon appropriate applicant recertification that requirements are met.

(3) It shall make certain that procedures will be established to ensure that current licenses can be maintained upon appropriate applicant recertification that requirements are met.

(4) The county shall demonstrate its willingness to operate such a program

(g) The department shall develop, with local information and referral offices, procedures for informing parents of their selection and complaint responsibilities under registration systems.

(h) The pilot registration program shall be implemented by counties which maintain contracts with the state for family day care licensing. Those funds normally allocated to such counties for their licensing programs shall be allocated in full for registration, except as otherwise provided for in Section 8 of the act by which this section is enacted Such funds will cover the costs of administering the pilot registration program, and the costs of public education, followup on parent complaints, random visits, and other program elements

(i) The board of supervisors shall establish a voluntary advisory committee to advise on the development and implementation of the pilot registration program. It shall consist of three parent consumers of family day care services, three providers of family day care who represent at least two different associations where applicable, two representatives of resource and referral agencies, and one representative of the general public

(j) The Department of Finance shall provide an evaluation of the registration program provided by this section to be initiated on or before December 31, 1980, to determine the impact of the pilot registration program in the following areas·

(1) The extent to which such program has expanded the amount of family day care available

(2) The extent to which such program has encouraged the registration of unlicensed care providers

(3) The impact such program has had on state and local administrative costs

(4) An analysis of the extent and types of complaints which occur under the registration system with a comparison of the extent and types of complaints under current licensing procedures.

(k) The evalution required by subdivision (g) shall be submitted to the Legislature on or before March 1, 1983.

(*l*) During the existence of the pilot registration program, for the purposes of this chapter, "licensee" includes a registrant.

SEC 5 Section 1550 of the Health and Safety Code is amended to read.

1550 The state department may suspend or revoke any license, registration, 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, registrant, 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 in the operation or maintenance, or both the operation and maintenance, of a community care facility which is inimical to the health, morals, welfare, or safety of either an individual in or receiving services from the facility or the people of the State of California

The director may temporarily suspend any license or special permit shall immediately suspend any registration, prior to any hearing when, in his opinion, such action is necessary to protect residents or clients of the facility from physical or mental abuse, abandonment, or any other substantial threat to health or safety. The director shall notify the licensee, registrant, or holder of the 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 to the accusation by the licensee, registrant, or holder of the special permit, the director shall within 15 days set the matter for hearing, and the hearing shall be held as soon as possible but not later than 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 However, the temporary suspension shall be deemed vacated if the director fails to make a final determination on the merits within 30 days after the original hearing has been completed

SEC 6 Section 1551 of the Health and Safety Code is amended to read

1551 Proceedings for the suspension, revocation, or denial of a license, registration, or special permit 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

SEC 7 Section 1554 of the Health and Safety Code is amended to read

1554 Any license, registration, or special permit revoked pursuant to this chapter may be reinstated pursuant to the provisions of Section 11522 of the Government Code

SEC 8 The sum of one hundred twelve thousand dollars ($112,000) is hereby appropriated from the General Fund to the State Department of Social Services for the purposes of processing the increased number of applications for licenses resulting from adoption of Section 1522 1 of the Health and Safety Code pursuant to Section 1 of this act, providing that such funds shall not be used

for any other purposes, and providing further that the State Department of Social Services shall decrease the allocation of licensing funds which are normally allocated to the three counties, which are selected for the pilot registration program pursuant to Section 1528.5 of the Health and Safety Code, by a total sum of eight thousand five hundred dollars ($8,500) and reallocate such sum to the department for the purpose of developing and preparing forms and procedures for such registration program

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CHAPTER 1064

An act to add Section 2789 to, and to repeal Sections 1002 and 1003 of, the Public Utilities Code, relating to public utilities

[Approved by Governor September 27, 1979 Filed with Secretary of State September 28, 1979]

The people of the State of California do enact as follows

SECTION 1 Section 1002 of the Public Utilities Code is repealed

SEC 2 Section 1003 of the Public Utilities Code is repealed.

SEC 3 Section 2789 is added to the Public Utilities Code, to read.

2789 Notwithstanding any provision of this part, the commission may permit or require any electrical or gas corporation subject to its jurisdiction to institute energy conservation programs for its customers, including related financial assistance at terms found reasonable by the commission Such terms may include any provision of this chapter This chapter shall not apply to solar water heating systems or active solar space conditioning systems The commission shall initiate appropriate actions to secure exemptions or waivers which may be required under federal law Nothing in this chapter shall expand, limit, or contract the general powers of the commission contained in this part or the authority of the commission regarding the terms and conditions of service by a utility Any work requiring a license pursuant to Chapter 9 of Division 3 (commencing with Section 7000) of the Business and Professions Code which is performed pursuant to such an energy conservation program shall be performed by a licensed contractor

SEC 4 It is the purpose of the Legislature in enacting Section 3 of this act to reaffirm the authority of the Public Utilities Commission respecting the regulation of public utilities notwithstanding the opinion of the California Supreme Court in Southern California Gas Company v Public Utilities Commission, 24 Cal. 3d 653.

CHAPTER 1065

An act to amend Sections 5098, 5098 1, and 5098.3 of, to amend and renumber Section 5007 1 of, to amend the heading of Chapter 1.8 (commencing with Section 5098) of Division 5 of, to add Sections 5007 1 and 31011 to, to repeal and add Section 5010 of, to repeal Section 5098 2 of, and to repeal Division 7 (commencing with Section 8600) of, the Public Resources Code, to amend Sections 101.5 and 2108 of, and to repeal and add Section 2107 7 of, the Streets and Highways Code, to repeal Chapter 1764 of the Statutes of 1971, and to amend Sections 1 and 4 of Chapter 782 of the Statutes of 1978, relating to parks and recreation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately

[Approved by Governor September 27, 1979 Filed with Secretary of State September 28, 1979]

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

SECTION 1. Section 5007 1 of the Public Resources Code is amended and renumbered to read.

5007 5 Notwithstanding any other provision of law, the department shall have the right to remove and dispose of all floating logs, timber, lumber, and other debris deposited on public beaches, waterways or lands within the state park system, when such deposits create a hazard or impediment to the public safety, enjoyment, and use of the public beach, waterway or land

Logs, timber or lumber which are capable of being identified as the property of another shall be held by the department for a period of three months from the time of their removal from any public beach, waterway or land.

The owner of such property may remove it on payment or tendering to the department the amount of the damages which the department has sustained by reason of the drifting of the property upon the public beaches, waterways or lands within the state park system and which may accrue in removal of the property

If the property remains unclaimed after the three months period the department may dispose of such logs, timber or lumber by destruction, sale or use

SEC 1 3 Section 5007 1 is added to the Public Resources Code, to read

5007 1 Lands purchased or otherwise acquired by the department at the Pan Pacific and Seccombe Park projects, which are to be operated and maintained by other public agencies under agreements entered pursuant to Section 5003 or 5007, shall not be subject to the provisions of Section 5002 1, 5002 2, 5002 3, or 5002 4, or Article 1 7 (commencing with Section 5019 50) of this chapter, during the term of such agreements Any facility to be developed on such lands shall only be constructed in accordance with a

development plan approved by the director.

SEC 1 5 Section 5010 of the Public Resources Code is repealed

SEC 2 Section 5010 is added to the Public Resources Code, to read

5010 (a) The department, whenever in its judgment it is practicable to do so, shall collect fees, rentals, and other returns for the use of any state park system area, the amounts to be determined by the department

(b) An amount not to exceed seven million dollars ($7,000,000) of the revenues received by the department during each fiscal year, which consist of fees, rentals, or returns collected for the use of any state park system area, other than the Hearst San Simeon State Historical Monument and the state vehicular recreation areas, and other than revenues received by the department in connection with the California Exposition and State Fair, and other than fees received from the use of boats or boating facilities, shall be paid into the State Treasury to the credit of the State Parks and Recreation Fund, which is hereby created Any such revenues in excess of seven million dollars ($7,000,000) shall be paid into the General Fund

(c) All revenues received by the department consisting of fees and other proceeds collected at the Hearst San Simeon State Historical Monument and the California Exposition and State Fair shall be paid into the General Fund All revenues received by the department consisting of fees and other proceeds collected at state vehicular recreation areas shall be paid into the Off-Highway Vehicle Fund, as required by Section 38225 of the Vehicle Code

(d) All fees and other proceeds received from the use of boats or boating facilities shall be paid into the State Treasury to the credit of the Harbors and Watercraft Revolving Fund

(e) On July 1, 1980, all existing balances, including unappropriated balances and encumbered and unencumbered balances, of the following funds and accounts shall be transferred to the State Parks and Recreation Fund

(1) Park and Recreation Revolving Account (Section 5098, Public Resources Code, as added by Chapter 1222, Statutes of 1972).

(2) The Resources Protection Account (Section 8600, Public Resources Code, as added by Chapter 1052, Statutes of 1969)

(3) Collier Park Preservation Fund (Section 5010, Public Resources Code, as added by Chapter 1502, Statutes of 1974)

(4) San Francisco Maritime State Historic Park Account (Section 2, Chapter 1764, Statutes of 1971)

(5) State Park Highway Account, Bagley Conservation Fund (Section 2107 7, Streets and Highways Code, as added by Chapter 1032, Statutes of 1973)

(6) All funds received by the department pursuant to Division 21 (commencing with Section 31000)

(7) Hostel Facilities Use Fees Account (Section 2, Chapter 265, Statutes of 1974)

(8) All funds, other than expended funds, previously appropriated

to the department from the Bagley Conservation Fund.

(f) On and after July 1, 1980, all funds, other than those specified in subdivisions (g) and (h), in the State Parks and Recreation Fund shall be available for expenditure for state park planning, acquisition, and development projects, and state park resource management and protection, when appropriated by the Legislature

(g) All funds in the State Parks and Recreation Fund which had previously been appropriated and have become encumbered, may be used, without further appropriation, for liquidation of such encumbrances, upon the same terms and conditions as made by such previous appropriations

(h) The balance of any unencumbered funds in the State Park Highway Account in the Bagley Conservation Fund shall be transferred to the State Parks and Recreation Fund and shall be available for expenditure as provided in subdivisions (b) and (c) of Section 2107 7 of the Streets and Highways Code

SEC 3. The heading of Chapter 1.8 (commencing with Section 5098) of Division 5 of the Public Resources Code is amended to read:

CHAPTER 1.8 FEDERAL GRANTS FOR ACQUISITION AND DEVELOPMENT PROJECTS

SEC. 4 Section 5098 of the Public Resources Code is amended to read

5098 As used in this chapter, "fund" means the State Parks and Recreation Fund Any reference to the Park and Recreation Revolving Account in the General Fund shall mean the State Parks and Recreation Fund, as created by Section 5010.

SEC 5 Section 5098.1 of the Public Resources Code is amended to read

5098 1. All federal grants which result from the expenditure of state funds for Department of Parks and Recreation acquisition and development projects shall be deposited in the fund.

SEC. 6 Section 5098 2 of the Public Resources Code is repealed.

SEC. 7. Section 5098 3 of the Public Resources Code is amended to read

5098 3 Except as provided in Section 5098.1, the management and disbursement of moneys in the fund received pursuant to the "Land and Water Conservation Fund Act of 1965" (Public Law 88-578, 78 Stat. 897) are governed by the provisions of Chapter 1 9 (commencing with Section 5099) of this division

SEC. 8 Division 7 (commencing with Section 8600) of the Public Resources Code is repealed.

SEC 9 Section 31011 is added to the Public Resources Code, to read

31011 Any funds received by the department pursuant to this division shall be deposited in the State Parks and Recreation Fund

SEC 10 Section 101 5 of the Streets and Highways Code is amended to read

101 5 The department may file for record with the Division of State Lands such maps as are necessary to furnish an accurate description of any ungranted swamp, overflow, tide or submerged lands, the bed of any navigable channel, stream, river, creek, lake, bay or inlet, or other sovereign lands of the State of California which, in the opinion of the department are needed as a right-of-way for, and for the protection of, any state highway, or as a source of materials for the construction, maintenance or improvement of any such highway Upon the approval of such map by the Chief of the Division of State Lands, the lands described therein are reserved for such use by the department and the department is thereupon authorized to enter upon, occupy and use such lands for such purpose or purposes Any subsequent grant or permission to use such lands shall be subordinate to such reservation Any such reservation may be released by the written certificate of the director filed with the Division of State Lands This section shall not apply to state school lands

The department shall determine the reasonable value of such right-of-way or materials and shall deposit such amount in the State Parks and Recreation Fund The amount so deposited shall be considered as part of the cost of construction of the state highways

SEC 11 Section 2107 7 of the Streets and Highways Code is repealed

SEC 12 Section 2107 7 is added to the Streets and Highways Code, to read·

2107 7 (a) For each fiscal year, the Department of Parks and Recreation shall include in its budget submitted by the Governor an amount not to exceed one million five hundred thousand dollars ($1,500,000) to be appropriated by the Legislature from the Highway Users Tax Account in the Transportation Tax Fund to the State Parks and Recreation Fund

(b) Such funds shall be appropriated to the Department of Parks and Recreation for the maintenance and repair of highways in units of the state park system

(c) In addition, such money may be used by the Department of Parks and Recreation for construction and improvement on such highways when appropriated for such purposes by the Legislature

(d) Such highway construction and improvement shall be designed in accordance with the standards established by the Department of Parks and Recreation for state park roads, and may be carried out through service agreements with the Department of Transportation

(e) For purposes of this section, highways in units of the state park system shall include those routes of motor vehicle travel generally open to public travel and service roads, parking areas, and roads within campgrounds Nothing in this section shall constitute any such highway a state highway or add it to the state highway system

SEC 13 Section 2108 of the Streets and Highways Code is amended to read

2108 The balance of the money in the Highway Users Tax Account in the Transportation Tax Fund, after making the apportionments or appropriations, as the case may be, pursuant to Sections 2104 to 2107 7, inclusive, shall be transferred to the State Highway Account in the State Transportation Fund for expenditure on state highways and for exclusive public mass transit guideway purposes

SEC. 14 Chapter 1764 of the Statutes of 1971 is repealed

SEC 15 Section 1 of Chapter 782 of the Statutes of 1978 is amended to read

Section 1 The sum of two million five hundred thousand dollars ($2,500,000) is hereby appropriated from the Collier Park Preservation Fund to the Department of Parks and Recreation foi acquisition of Malibu Beach and the adjoining pier and restaurant for the state park system; provided, that no funds may be expended on the purchase price by the State Public Works Board until the State Lands Commission certifies that the seller of any interest in Malibu Beach and Malibu Pier has fulfilled or provided for all rental obligations, past and present, due the state for utilization of the tide and submerged lands adjacent to Malibu Beach Any work necessary at the time of transfer to put the pier into a condition of reasonably sound repair shall be accomplished by the Department of General Services out of the account established by Section 15863 of the Government Code The total amount paid out of such account for such purpose shall in no event exceed the sum of one hundred fifty thousand dollars ($150,000). Such account shall be reimbursed from the net revenues produced by the pier and restaurant

After the completion of the repairs by the Department of General Services, jurisdiction over the pier and restaurant shall be transferred to the Department of Parks and Recreation. Thereafter, within a period of five years, the Wildlife Conservation Board shall make any and all improvements, rehabilitation, or replacements necessary to protect the public health, safety, or welfare.

Except for the sums necessary to reimburse the Department of General Services for its administrative costs and the costs of repairs made prior to transfer to the Department of Parks and Recreation, all revenues produced by the operation of the pier and the restaurant for a period of five years from the date of the transfer shall be deposited in the Wildlife Restoration Fund in the State Treasury and are hereby appropriated without regard to fiscal years to the Wildlife Conservation Board for such improvements, rehabilitation, or replacements The Wildlife Conservation Board shall cooperate with the County of Los Angeles in discharging its responsibilities pursuant to this section.

SEC 16 Section 4 of Chapter 782 of the Statutes of 1978 is amended to read

Sec. 4 The Legislature finds and declares as follows

Malibu Beach is one of the most popular and heavily used beaches anywhere The owner of approximately 650 feet of beach adjacent to

the Malibu Pier has offered to sell to the state this beach property, the restaurant, and the adjacent pier at what he believes is significantly below fair market value, thereby making a partial gift to the state.

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

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

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

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

SEC. 17. On July 1, 1980, all special accounts and funds established by the State Controller pursuant to the following provisions shall be abolished.

(a) Chapter 1441, Statutes of 1976 (coastal access fees).

(b) Chapter 1764, Statutes of 1971 (San Francisco Maritime State Historic Park Account)

(c) Chapter 265, Statutes of 1974 (hostel facilities use fees)

(d) Chapter 1222, Statutes of 1972 (Park and Recreation Revolving Account)

(e) Chapter 1052, Statutes of 1969 (Resources Protection Account)

(f) Chapter 1502, Statutes of 1974 (Collier Park Preservation Fund)

(g) Chapter 1032, Statutes of 1973 (State Park Highway Account, Bagley Conservation Fund)

SEC 18. This act shall become operative on July 1, 1980, as to Sections 1, 1 5, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, and 17 of this act.

SEC. 19. 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 assist the Department of Parks and Recreation in the implementation of the Budget Act of 1979, to provide for needed simplification of department funding sources, and to eliminate costly duplication in department budgeting and accounting processes, it is necessary that this act take effect immediately

CHAPTER 1066

An act to amend Sections 500, 701, 707, 708, 1405, and 14216 of, to add Section 703 5 to, and to repeal Sections 101, 102, 8827 5, 9172, and 9327 5 of, the Elections Code, relating to elections

[Approved by Governor September 27, 1979 Filed with Secretary of State September 28, 1979]

The people of the State of California do enact as follows

SECTION 1 Section 101 of the Elections Code is repealed

SEC 2 Section 102 of the Elections Code is repealed

SEC 3 Section 500 of the Elections Code is amended to read

500 The affidavit of registration shall show

(a) The facts necessary to establish the affiant as an elector

(b) Affiant's name at length, including his or her given name, and a middle name or initial, or if the initial of such given name is customarily used, then the initial and middle name The affiant's given name may be preceded, at affiant's option, by the designation of Miss, Ms, Mrs or Mr No person shall be denied the right to register because of his or her failure to mark a prefix to such given name and shall be so advised on the voter registration card This subdivision shall not be construed as requiring the printing of prefixes on an affidavit of registration

(c) Affiant's place of residence, and residence telephone number, if furnished No person shall be denied the right to register because of his or her failure to furnish a telephone number, and shall be so advised on the voter registration card

(d) Affiant's mailing address, if different from the place of residence

(e) Affiant's date of birth

(f) The state or country of affiant's birth

(g) Affiant's occupation

(h) Affiant's political party affiliation

(i) That the affiant is currently not imprisoned or on parole for the conviction of a felony

(j) A prior registration portion indicating whether the affiant has been registered at another address, under another name, or as intending to affiliate with another party If the affiant has been so registered, he or she shall give such additional statement giving that address, name, or party

The affiant shall certify the content of the affidavit as to its truth and correctness, under penalty of perjury, with the signature of his or her name and if affiant is unable to write he or she shall sign with a mark or cross

The affiant shall date the affidavit immediately following the affiant's signature If any person, including a deputy registrar, assists the affiant in completing the affidavit, that person shall sign and date

the affidavit below the signature of the affiant

SEC 4. 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 proof that the person is presently imprisoned or on parole for conviction of a felony

(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 5 Section 703 5 is added to the Elections Code, to read·

703.5. Notwithstanding any other provision of law, whenever a voter changes his or her residence within the same precinct, the voter's affidavit of registration shall not be cancelled. Whenever notified by the voter, the clerk shall change the voter's affidavit of registration to reflect the new residence address within the same precinct

SEC. 6 Section 707 of the Elections Code is amended to read:

707. The county clerk shall, in the first week of September in each year, examine the records of the courts having jurisdiction of felonies and shall cancel the affidavits of registration of all voters who are currently imprisoned or on parole for the conviction of a felony.

As used in this section, "county clerk" does not include "registrar of voters "

SEC. 7. Section 708 of the Elections Code is amended to read.

708 The county clerk, on the basis of the records of courts in the county having jurisdiction of such offenses, shall furnish to the chief elections official of the county, before the first day of September of each year, a statement showing the names of all persons convicted of felonies and whose convictions have become final. The elections official shall, during the first week of September in each year, cancel the affidavits of registration of such persons who are currently imprisoned or on parole for the conviction of a felony. The county clerk shall certify the statement under the seal of his office.

As used in this section, "county clerk" does not include "registrar of voters "

SEC. 8 Section 1405 of the Elections Code is amended to read

1405 The board shall announce audibly the voter's name, whereupon a challenge may be made against the counting or deposit of the absent voter ballot. Challenges may be made for the same reasons as those made against a voter voting at a polling place. In addition a challenge may be entered on the grounds that the ballot was not received within the time provided by this code or that a person is imprisoned for a conviction of a felony

SEC 9 Section 8827 5 of the Elections Code is repealed.

SEC 10 Section 9172 of the Elections Code is repealed

SEC 11 Section 9327 5 of the Elections Code is repealed

SEC 12 Section 14216 of the Elections Code is amended to read

14216 A person offering to vote may be orally challenged within the polling place only by a member of the precinct board upon any or all of the following grounds·

(a) That the voter is not the person whose name appears on the index

(b) That the voter is not a resident of the precinct

(c) That the voter is not a citizen of the United States

(d) That the voter has voted that day

(e) That the voter is presently on parole for the conviction of a felony

On the day of the election no person, other than a member of a precinct board or other official responsible for the conduct of the election, shall challenge or question any voter concerning the voter's qualifications to vote

If any member of a precinct board receives, by mail or otherwise, any document or list concerning the residence or other voting qualifications of any person or persons, with the express or implied suggestion, request, or demand that such person or persons be challenged, the board member shall first determine whether the document or list contains or is accompanied by evidence constituting probable cause to justify or substantiate a challenge In any case, before making any use whatever of such a list or document, the member of the precinct board shall immediately contact the clerk, charged with the duty of conducting the election, and describe the contents of such document or list and such evidence, if any, received bearing on voting qualifications The clerk shall advise the members of the precinct board as to the sufficiency of probable cause for instituting and substantiating the challenge and as to the law as herein provided, relating to hearings and procedures for challenges by members of the precinct board and determination thereof by a precinct board The clerk may, if necessary, designate a deputy to receive and answer inquiries from precinct board members as herein provided

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CHAPTER 1067

An act to amend Sections 1721, 1725, and 1746 of, and to add Section 1721 5 to, the Business and Professions Code, relating to dental auxiliaries, and making an appropriation therefor

[Approved by Governor September 27, 1979 Filed with Secretary of State September 28, 1979]

The people of the State of California do enact as follows

SECTION 1 Section 1721 of the Business and Professions Code is amended to read:

1721 Except as provided in Section 1721 5, all funds received by the State Treasurer under the authority of this chapter shall be placed in the State Dentistry Fund Except as provided in Section 1721 5, all disbursements by the board made in the transaction of its business and in the enforcement of this chapter shall be paid out of the fund upon claims against the state

SEC 2 Section 1721 5 is added to the Business and Professions Code, to read

1721 5 All funds received by the State Treasurer under the authority of this chapter which relate to dental auxiliaries shall be placed in the State Dental Auxiliary Fund, which fund is continuously appropriated for the purposes of administering this chapter as it relates to dental auxiliaries

SEC 3. Section 1725 of the Business and Professions Code is amended to read·

1725 The amount of charges and fees for dental auxiliaries licensed pursuant to this chapter shall be fixed by the board as is necessary for the purpose of carrying out the responsibilities required by this chapter as it relates to dental auxiliaries, subject to the following limitations·

(a) The fee for applicants for a license shall not exceed twenty dollars ($20).

(b) The fee for a nonclinical examination shall not exceed thirty dollars ($30)

(c) The fee for a clinical examination shall not exceed fifty dollars ($50)

(d) The renewal fee shall not exceed thirty dollars ($30)

(e) The delinquency fee shall not exceed fifteen dollars ($15)

(f) The restoration fee for a license forfeited for nonregistration shall not exceed fifty dollars ($50)

(g) The fee for a substitute certificate shall not exceed twenty-five dollars ($25)

(h) No fees or charges other than those listed in subdivision (a) through (g) above shall be levied by the board in connection with the licensure of dental auxiliaries pursuant to this chapter

(i) Fees collected in connection with the licensure of dental auxiliaries shall be deposited in the State Dental Auxiliary Fund

SEC 4 Section 1746 of the Business and Professions Code is amended to read

1746 The committee may employ such employees as it may deem necessary to carry out the functions and responsibilities prescribed by this article.

CHAPTER 1068

An act to amend Sections 11003 2 and 11004 5 of, and to add Section 11003 4 to, the Business and Professions Code, and to amend Section 50073 of, and to add Sections 33007 5, 33413 7, and 51853 5 to, the Health and Safety Code, relating to housing

[Approved by Governor September 27, 1979 Filed with Secretary of State September 28, 1979]

The people of the State of California do enact as follows

SECTION 1 Section 11003 2 of the Business and Professions Code is amended to read

11003 2 A "stock cooperative" is a corporation which is formed or availed of primarily for the purpose of holding title to, either in fee simple or for a term of years, improved real property, if all or substantially all of the shareholders of such corporation receive a right of exclusive occupancy in a portion of the real property, title to which is held by the corporation, which right of occupancy is transferable only concurrently with the transfer of the share or shares of stock or membership certificate in the corporation held by the person having such right of occupancy The term "stock cooperative" does not include a limited-equity housing cooperative, as defined in Section 11003 4

SEC 1 5 Section 11003.4 is added to the Business and Professions Code, to read

11003 4. A "limited-equity housing cooperative" is a corporation which meets the criteria of Section 11003 2 and which also meets the criteria of Section 33007 5 of the Health and Safety Code A limited-equity housing cooperative shall be subject to all the requirements of this chapter pertaining to stock cooperatives

SEC 1 7 Section 11004 5 of the Business and Professions Code is amended to read

11004 5 In addition to any provisions of Section 11000 of this code the reference therein to "subdivided lands" and "subdivision" shall include all of the following

(a) Any planned development, as defined in Section 11003 of this code, containing five or more lots

(b) Any community apartment project, as defined by Section 11004 of this code, containing two or more apartments

(c) Any condominium project containing two or more condominiums as defined in Section 783 of the Civil Code

(d) Any stock cooperative as defined in Section 11003 2, including any legal or beneficial interests therein, having or intended to have two or more shareholders

(e) Any limited-equity housing cooperative as defined in Section 11003 4

(f) In addition, the following interests shall be subject to the

provisions of this chapter and the regulations of the commissioner adopted pursuant thereto

(1) Any accompanying memberships or other rights or privileges created in, or in connection with, any of the forms of development referred to in subdivisions (a), (b), (c), or (d) above by any deeds, conveyances, leases, subleases, assignments, declarations of restrictions, articles of incorporation, bylaws or contracts applicable thereto

(2) Any interests or memberships in any owners association as described in Section 11003.1 created in connection with any of the forms of the development referred to in subdivisions (a), (b), (c), or (d) above

SEC. 2. Section 33007.5 is added to the Health and Safety Code, to read:

33007.5 "Limited-equity housing cooperative" means a corporation organized on a cooperative basis which meets all of the following requirements:

(a) The corporation is any of the following.

(1) Organized as a nonprofit public benefit corporation pursuant to Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code

(2) Holds title to real property as the beneficiary of a trust providing for distribution for public or charitable purposes upon termination of the trust.

(3) Holds title to real property subject to conditions which will result in reversion to a public or charitable entity upon dissolution of the corporation

(4) Holds a leasehold interest, of at least 20 years' duration, conditioned on the corporation's continued qualification under this section, and providing for reversion to a public entity or charitable corporation

(b) The articles of incorporation or bylaws require the purchase and sale of the stock or membership interest of resident owners who cease to be permanent residents, at no more than a transfer value determined as provided in the articles or bylaws, and which shall not exceed the aggregate of the following

(1) The consideration paid for the membership or shares by the first occupant of the unit involved, as shown on the books of the corporation

(2) The value, as determined by the board of directors of the corporation, of any improvements installed at the expense of the member with the prior approval of the board of directors.

(3) Accumulated interest, or an inflation allowance at a rate which may be based on a cost-of-living index, an income index, or market-interest index. Any increment pursuant to this paragraph shall not exceed a 10 percent annual increase on the consideration paid for the membership or share by the first occupant of the unit involved

(c) The articles of incorporation or bylaws require the board of

directors to sell the stock or membership interest purchased as provided in subdivision (b), to new member-occupants or resident shareholders at a price which does not exceed the "transfer value" paid for the unit

(d) The "corporate equity," which is defined as the excess of the current fair marketed value of the corporation's real property over the sum of the current transfer values of all shares or membership interests, reduced by the principal balance of outstanding encumbrances upon the corporate real property as a whole, shall be applied as follows

(1) So long as any such encumbrance remains outstanding, the corporate equity shall not be used for distribution to members, but only for the following purposes, and only to the extent authorized by the board, subject to the provisions and limitations of the articles of incorporation and bylaws

(A) For the benefit of the corporation or the improvement of the real property

(B) For expansion of the corporation by acquisition of additional real property

(C) For public benefit or charitable purposes

(2) Upon sale of the property, dissolution of the corporation, or occurrence of a condition requiring termination of the trust or reversion of title to the real property, the corporate equity is required by the articles, bylaws, or trust or title conditions to be paid out, or title to the property transferred, subject to outstanding encumbrances and liens, for the transfer value of membership interests or shares, for use for a public or charitable purpose

(e) Amendment of the bylaws and articles of incorporation requires the affirmative vote of at least two-thirds of the resident-owner members or shareholders.

SEC. 3 Section 33413.7 is added to the Health and Safety Code, to read:

33413.7 An agency causing the rehabilitation, development, or construction of replacement dwelling units, other than single-family residences, pursuant to Section 33413 or Section 33464, or pursuant to a replacement housing plan as required by Section 33413 5, or pursuant to provisions of a redevelopment plan required by Section 33334 5, primarily for persons of low income, as defined in Section 50093, shall give preference to those developments which are proposed to be organized as limited-equity housing cooperatives, when so requested by a project area committee established pursuant to Section 33385, provided such project is achievable in an efficient and timely manner.

Such limited-equity housing cooperatives shall, in addition to the provisions of Section 33007.5, be organized so that the consideration paid for memberships or shares by the first occupants following construction or acquisition by the corporation, including the principal amount of obligations incurred to finance the share or membership purchase, does not exceed 3 percent of the

development cost or acquisition cost, or of the fair market value appraisal by the permanent lender, whichever is greater

SEC 4 Section 50073 of the Health and Safety Code is amended to read

50073. "Housing development" means any work or undertaking of new construction or rehabilitation, or the acquisition of existing residential structures in good condition, for the provision of housing which is financed pursuant to the provisions of this division for the primary purpose of providing decent, safe, and sanitary housing for persons and families of low or moderate income. "Housing development" also means housing financed pursuant to this part for rental occupancy of, for resale to, or sold to, persons and families of low or moderate income. Notwithstanding other provisions of this section, "housing development" does not include a work or undertaking financed by a neighborhood improvement loan A housing development may include housing for other economic groups as part of an overall plan to develop new or rehabilitated communities or neighborhoods, where housing for persons and families of low or moderate income is a primary goal. A housing development may include any buildings, land, equipment, facilities, or other real or personal property which the agency determines pursuant to its rules and regulations to be necessary or convenient in connection with the provision of housing pursuant to this division, including, but not limited to, streets, sewers, utilities, parks, site preparation, landscaping, and other nonhousing facilities, such as administrative, community, health, recreational, educational, commercial facilities, and child-care facilities which the agency determines are an integral part of a housing development or developments.

"Housing development" includes the acquisition of a residential structure by a nonprofit housing sponsor, whether or not including rehabilitation, for the purpose of forming a limited-equity housing cooperative as defined in Section 33007 5.

SEC. 5. Section 51853.5 is added to the Health and Safety Code, to read:

51853.5 The agency may, whether within or outside of neighborhood preservation areas, insure loans for the financing of limited-equity housing cooperatives, as defined in Section 33007.5.

CHAPTER 1069

An act to add Section 51360.5 to, and to add Part 5 (commencing with Section 52000) to Division 31 of, the Health and Safety Code, relating to housing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1979 Filed with Secretary of State September 28, 1979]

The people of the State of California do enact as follows

SECTION 1. Section 51360.5 is added to the Health and Safety Code, to read:

51360 5 The committee shall review every statement submitted to it by a city or county pursuant to subdivision (h) of Section 52020. 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. If the committee has not acted within 30 days of the date on which a statement was submitted pursuant to subdivision (h) of Section 52020, the proposed issuance shall be deemed approved by the committee

SEC 2 Part 5 (commencing with Section 52000) is added to Division 31 of the Health and Safety Code, to read·

PART 5. LOCAL HOUSING FINANCE AGENCIES

CHAPTER 1. LEGISLATIVE FINDINGS AND DECLARATIONS

52000. The Legislature finds and declares that the subject of housing is of vital importance to the health, safety, and welfare of the residents of this state, for the following reasons:

(a) Decent housing is an essential motivating force in helping people achieve self-fulfillment in a free and democratic society.

(b) Unsanitary, unsafe, overcrowded, or congested dwelling accommodations constitute conditions which cause an increase in and spread of, disease and crime.

(c) A healthy housing market is one in which residents of this state have a choice of housing opportunities and one in which the housing consumer may effectively choose within the free marketplace.

52001. The Legislature finds and declares that there exists within the state a serious shortage of decent, safe, and sanitary housing which is affordable to many persons in the state. This shortage is exacerbated during periods of rising interest rates, particularly as high interest rates have the effect of diminishing the number of otherwise creditworthy buyers from qualifying for private sector mortgage capital sources. In order to remedy this adverse effect on potential home buyers on the lower end of the purchasing spectrum, it is necessary to implement a public program to reduce the cost of mortgage financing for single-family purchases for those persons unable to compete for mortgage financing in the conventional mortgage market.

52002. The Legislature finds and declares that it is necessary and essential that counties and cities be authorized to directly or

indirectly make long-term, low-interest loans to persons not presently eligible for financing through private sector lending institutions to finance construction, rehabilitation, and acquisition of homes in order to encourage investment and upgrade local areas.

52003. The Legislature finds and declares that in order to preserve a healthy housing market and avoid a two-tier market where publicly subsidized mortgage capital supplants mortgage capital supplied by private financial institutions, it is necessary for the lending programs of cities and counties to be sufficiently targeted to avoid competition with private sector mortgage lenders, and further that revenue bond financing of mortgage lending by cities and counties be reasonably constrained to avoid disruption of bond markets and the credit standing of the state and its political subdivisions.

52004 The Legislature finds and declares that the present shortage of decent, safe, and sanitary housing available to potential purchasers in the lower end of the buying spectrum is particularly inimical to the health of the housing economy and, with few exceptions, beyond the capability of private enterprise acting alone to cure, and a public purpose is served by public-private efforts to reduce cost of financing single-family homes for this class of purchasers.

52005. The Legislature finds and declares that the revenue bonds provided for in this part are to be used to complement and not compete with home loans made from private sector sources, so as to substantially lower the cost of single-family home financing and meet a demand for housing financing which cannot otherwise be met.

52006. The Legislature finds and declares that the authority to issue revenue bonds to aid in the financing of home purchase is needed in the cities and the counties of the state and that it is in the public interest and serves a public purpose by providing financing for decent, safe, and sanitary housing that people in the lower end of the purchasing spectrum can afford and is a function pertaining to the government and affairs of the cities and the counties of the state.

52007. The Legislature finds and declares that the establishment of basic procedures for the issuance of revenue bonds to finance the purchase of residential housing and the costs of home ownership is necessary and desirable to provide clarity in law and direction for subsequent actions.

52008. The Legislature finds and declares that the construction of federally assisted housing for persons and families of low or moderate income is not a primary purpose of this part. However, nothing in this part shall be deemed to prohibit financing of federally assisted housing for persons and families of low or moderate income.

CHAPTER 2 DEFINITIONS

52010 Unless otherwise indicated by the context, the definitions contained in this chapter shall govern the construction of this part. The definitions contained in Chapter 2 (commencing with Section 50050) of Part 1 of this division shall not be applicable to this part, except as expressly and otherwise provided.

52011 "Bonds" means the revenue bonds authorized under this part and includes notes and any and all other limited obligations or evidences of indebtedness payable as provided in this part

52011 5 "City" or "county" includes a city and county.

52012. "Home" means real property and improvements thereon consisting of a single dwelling unit and which is owned by a mortgagor who occupies or intends to occupy one of such units. "Home" includes an owner-occupied condominium unit or a unit in a stock cooperative where the occupant is a shareholder

52013. "Home mortgage" or "mortgage" means an interest-bearing loan made as provided in this part to a mortgagor, whether originated in the manner provided in subdivision (a) or (b) of Section 52020, which is evidenced by a promissory note and secured by a mortgage, deed of trust, or other security instrument on a home, and which may but is not required to be additionally secured by insurance on the payment of such note, for the purpose of purchasing, constructing, or improving a home which meets either of the following criteria

(a) Is newly constructed or is being rehabilitated and which, in either case, is located within an area or neighborhood in which the city or county is conducting a housing rehabilitation or code enforcement program, a neighborhood preservation area or concentrated rehabilitation area designated pursuant to this division; an area for which federal funds are being made available; a renewal area as defined in Section 33702; or a residential rehabilitation areas as defined in Section 37912, provided, however, that a loan may be made for the purchase of a newly constructed home anywhere within the city or county if the purchase is in connection with a program adopted by ordinance of the city or county the purpose of which is to increase the housing supply.

(b) Is a home upon which no rehabilitation is being undertaken in connection with any financing pursuant to this part, where the purchaser will not be the first occupant and which is located within the city or county making or purchasing the home mortgage.

A "home mortgage" or "mortgage" shall not include a loan to a mortgagor for the purpose of refinancing an existing obligation of the mortgagor, unless substantial rehabilitation is to be undertaken in connection with such loan.

52014. "Lending institution" means any bank, trust company, savings bank, national banking association, savings and loan association, building and loan association, mortgage banker, or other financial institution or governmental agency which customarily

provides service or otherwise aids in the financing of home mortgages, or any holding company for any of the foregoing.

52015 "Mortgagor" means a person or persons who have received a home mortgage on a home and who are deemed by a city or county conducting a program under this part to be a person or family of low or moderate income and unable to pay the amounts at which unassisted private enterprise is providing suitable, decent, safe, and sanitary housing.

52016. "Person" means any individual, partnership, copartnership, firm, company, corporation, lending institution, association, joint stock company, trust, estate, political subdivision, state agency or any other legal entity, or its legal representatives, agents or assigns

CHAPTER 3. HOME FINANCING

52020 For purposes of a home financing program authorized by this part, a city or county shall have the following powers and duties:

(a) To acquire, contract, and enter into advance commitments to acquire, home mortgages made or owned by lending institutions at such purchase prices and upon such other terms and conditions as shall be determined by the city or county or such other person as it may designate as its agent, to make and execute contracts with lending institutions for the origination and servicing of home mortgages and to pay the reasonable value of services rendered under those contracts Prior to executing any such contract with a lending institution, a city or county shall adopt regulations establishing criteria for qualification of lending institutions eligible to originate and service home mortgages under home financing programs authorized by this part and shall with respect to each home financing progam, permit each qualified lending institution which transacts business in the city or county the opportunity to participate in such program on an equitable basis with other participating lending institutions Two or more cities in the same county, or a county and one or more cities within such county, may enter into an agreement to join or cooperate with one another in the exercise jointly, or otherwise, of any or all of their powers for the purpose of financing home mortgages pursuant to this part with respect to property within the boundaries of any one or more of such entities. No home mortgages financed by a county with the proceeds of a series of bonds issued pursuant to this part shall be on property within the boundaries of any city unless such city agrees with the county prior to the issuance of such series of bonds not to engage in a competing home mortgage finance program pursuant to this part until at least 90 percent of the home mortgages to be financed by the county with the proceeds of such series of bonds have been made or acquired. No home mortgage financed by a city with proceeds of a series of bonds issued pursuant to this part shall be on property outside of the boundaries of such city, unless the city within which

the property is located or, if located within unincorporated territory, the county within which such property is located, agrees with the city issuing such series of bonds, prior to issuance thereof, not to engage in any competing home mortgage finance program pursuant to this part until at least 90 percent of the home mortgages to be financed by the city with the proceeds of such series of bonds have been made or acquired.

(b) To make loans to lending institutions under terms and conditions which, in addition to other provisions as determined by the city or county, shall require the lending institutions to use all of the net proceeds thereof, directly or indirectly, for the making of home mortgages in an aggregate principal amount equal to the amount of such net proceeds.

(c) To establish, by rules or regulations, in resolutions relating to any issuance of bonds or in any documents relating to such issuance, such standards and requirements applicable to the purchase of home mortgages or the making of loans to lending institutions as the city or county deems necessary or desirable to effectuate the purposes of this part, which may include without limitation the following:

(1) The time within which lending institutions are required to make commitments and disbursements for home mortgages.

(2) The location and other characteristics of homes to be financed by home mortgages.

(3) The terms and conditions of home mortgages to be acquired.

(4) The amounts and types of any insurance coverage required on homes, home mortgages and bonds

(5) The representations and warranties of lending institutions confirming compliance with such standards and requirements

(6) Restrictions as to interest rate and other terms of home mortgages or the return realized therefrom by lending institutions

(7) The type and amount of collateral security to be provided to assure repayment of any loans from the city or county and to assure repayment of bonds.

(8) Any other matters related to the purchase of home mortgages or the making of loans to lending institutions as shall be deemed relevant by the city or county.

(d) To require from each lending institution from which home mortgages are purchased or to which loans are made the submission of evidence satisfactory to the city or county of the ability and intention of the lending institution to make home mortgages, and the submission, within the time specified by the city or county for making disbursements for home mortgages, of evidence satisfactory to the city or county of the making of home mortgages and of compliance with any standards and requirements established by it.

(e) Each city or county which finances housing pursuant to this part shall designate a person or entity to administer the program.

(f) Each city or county which finances housing pursuant to this part shall adopt regulations establishing criteria for qualification of such persons and families, which may differ among different cities or

counties to reflect varying economic and housing conditions. In developing such criteria, factors such as the following shall be taken into consideration·

(1) The amount of the income of such person or family that is available for housing needs

(2) The size of the household

(3) The costs and condition of available housing

(4) The eligibility of such persons or families for federal housing assistance of any type

Criteria for qualification of persons and families pursuant to this section shall include a maximum household income, which maximum shall not exceed either of the following·

(A) 120 percent of the median household income are to be for mortgages made for improving a home or for homes where the purchaser will be the first occupant.

(B) The median household income where the purchaser will not be the first occupant. However, the city or county shall assure that no less than half the funds allocated for home mortgages where the purchaser will not be the first occupant shall be for households whose income does not exceed 80 percent of such median household income; provided, that the legislative body of the city or county may, by resolution, increase this income limitation to 90 percent of median household income if the legislative body finds that there are insufficient numbers of creditworthy persons whose income does not exceed 80 percent of median household income. Such a resolution shall be final and conclusive as to the findings required by this subparagraph

As used in this subdivision, "median household income" means the highest of (i) statewide median household income, (ii) countywide median household income, or (iii) median family income for area as determined by the United States Department of Housing and Urban Development (with respect to either a standard metropolitan statistical area or an area outside of a standard metropolitan statistical area).

(g) Each city or county which finances housing pursuant to this part shall allocate no less than 60 percent of the dollar amount of its financing from bond proceeds to fund loans for new construction or substantial rehabilitation. As used in this chapter, "substantial rehabilitation" means rehabilitation in which the costs of rehabilitation equal or exceed 20 percent of the value of the structure after rehabilitation.

(h) Each city or county which finances housing pursuant to this part shall require each mortgagor under the program to certify his or her intention to occupy the home for a minimum of two years after receiving a home mortgage, with appropriate exceptions in hardship cases determined by such city or county.

(i) Prior to the issuance of any bonds pursuant to this part, the city or county shall submit to the Housing Bond Credit Committee, established pursuant to Section 51360, a statement of the purpose for

which bonds are proposed to be issued and the amount of the proposed issuance.

(j) To do any and all things necessary to carry out the purposes and exercise the powers expressly granted by this part

52021 A home financing program authorized by this part shall not be implemented unless the program complies with the land use element and the housing element which is required to be included in the general plan of the city or county by Section 65302 of the Government Code

52022. Notwithstanding Section 711 of the Civil Code, any indebtedness incurred pursuant to a mortgage financed under the terms of this part shall be subject to acceleration and the balance owing declared immediately due and payable upon the sale of the home to a purchaser who does not meet the required qualifications for borrowers of subdivision (f) of Section 52020

52023 In providing financing for home mortgages pursuant to this part, a lending institution shall incur no liability in any part based on any policy or procedure which has been adopted by the city or county unless it is contained in the contract between the lending institution and the city or county, its officers, agents or trustees.

CHAPTER 4. REVENUE BONDS

52030 For purposes of this part, a city or county shall have the following powers

(a) To issue its bonds to defray, in whole or in part, (1) the costs of acquiring home mortgages or making loans to lending institutions in order to enable them to make home mortgages, (2) the costs of studies and surveys, insurance premiums, underwriting fees, legal, accounting and marketing services incurred in connection with the issuance and sale of bonds, including bond and mortgage reserve accounts, and trustee, custodian and rating agency fees, and (3) such other costs as are reasonably related to the foregoing

(b) To sell or otherwise dispose of any home mortgages, in whole or in part, or to loan sufficient funds to any person to defray, in whole or in part, the costs of purchasing home mortgages, so that the revenues and receipts to be derived with respect to the home mortgages, together with any insurance proceeds, reserve accounts and earnings thereon, shall be designed to produce revenues and receipts at least sufficient to provide for the prompt payment at maturity of principal, interest and redemption premiums, if any, upon all bonds issued to finance such costs.

(c) To pledge any revenues and receipts to be received from or with respect to any home mortgages or loans made to lending institutions pursuant to this part to the punctual payment of bonds authorized under this part, and the interest and redemption premiums, if any, thereon

(d) To mortgage, pledge, assign, or grant security interests in any home mortgages, notes, loans made to lending institutions pursuant

to this part, or other property in favor of the holder or holders of bonds issued therefor or the trustee for such holder or holders.

(e) To sell and convey any home mortgages or loans made to lending institutions pursuant to this part, for such prices and at such times as the governing body of the city or county may determine.

(f) To issue its bonds to refund previously issued bonds in whole or in part at any time

(g) To make and execute contracts and other instruments necessary or convenient to the exercise of any of the powers granted herein.

52031. The exercise of any or all powers granted by this part shall be authorized and the bonds shall be authorized to be issued under this part for the purposes set forth in this part, by resolution or ordinance of the governing body of the city or county which shall take effect immediately upon adoption. Any such resolution or ordinance shall set forth a finding and declaration (1) of the public purpose therefor and (2) that such resolution or ordinance is being adopted pursuant to the powers granted by this part. The finding and declaration shall be conclusive evidence of the existence and sufficiency of the public purpose and powers.

52032. The bonds shall bear interest at such rate or rates, may be payable at such times, may be in one or more series, may bear such date or dates, may mature at such time or times not exceeding 45 years from their respective dates, may be payable in such medium of payment at such place or places, may carry such registration privileges, may be subject to such terms of redemption at such premiums, may be executed in such manner, may contain such terms, covenants and conditions and may be in such form, either coupon or registered, as the resolution authorizing the bonds may provide The bonds may be sold at public or private sale in such manner and upon such terms as may be provided in such resolution or by separate resolution. Pending the preparation of definitive bonds, interim receipts or certificates in such form and with such provisions as may be provided in such resolution, may be issued to the purchaser or purchasers of bonds sold pursuant to this part. The bonds and interim receipts or certificates shall be deemed to be securities and negotiable instruments within the meaning and for all purposes of the Uniform Commercial Code of this state, subject to the provisions for registration thereof contained in such resolution.

52033 Any resolution authorizing the issuance of the bonds may contain covenants as to (1) the use and disposition of the revenues and receipts from or with respect to any home mortgages or loans to lending institutions for which the bonds are to be issued, including the creation and maintenance of reserves, (2) any insurance to be carried on any home, home mortgage or bonds and the use and disposition of insurance moneys, (3) the appointment of one or more banks or trust companies within or outside the state having the necessary trust powers as trustee, custodian, or trustee and custodian for the benefit of the bondholders, paying agent, or bond registrar,

(4) the investment of any funds held by such trustee or custodian, (5) the maximum interest rate payable on any home mortgage, and (6) the terms and conditions upon which the holders of the bonds or any portion thereof, or any trustees therefor, are entitled to the appointment of a receiver by a court of competent jurisdiction, and which may provide that the receiver may take possession of the home mortgages, or any part thereto, and maintain, sell or otherwise dispose of such mortgages, prescribe other payments and collect, receive and apply all income and revenues thereafter arising therefrom

Any resolution authorizing the issuance of bonds may provide that the principal or redemption price of, and interest on, the bonds shall be secured by a mortgage, pledge, assignment, security interest, insurance agreement or indenture of trust covering such home mortgages or loans to lending institutions for which the bonds are issued and may include any improvements or extensions thereafter made Such mortgage, pledge, assignment, security interest, insurance agreement or indenture of trust may contain such covenants and agreements to properly safeguard the bonds as may be provided for in the resolution authorizing such bonds and shall be executed in the manner as may be provided for in the resolution. The provisions of this part and any such resolution and any such mortgage, pledge, assignment, security interest, insurance agreement, or indenture of trust shall constitute a contract with the holder or holders of the bonds and continue in effect until the principal of, the interest on, and the redemption premiums, if any, on the bonds so issued have been fully paid or provision made therefor, and the duties of the issuing city or county and its agencies and officers under this part and any such resolution and any such mortgage, pledge, assignment, security interest, insurance agreement, or indenture of trust shall be enforceable as provided therein by any bondholder by mandamus, foreclosure of any such mortgage, pledge, assignment, security interest, insurance agreement, or indenture of trust or other appropriate suit, action or proceeding in any court of competent jurisdiction, provided, the resolution or any mortgage, pledge, assignment, security interest, insurance agreement, or indenture of trust under which the bonds are issued may provide that all such remedies and rights to enforcement may be vested in a trustee (with full power of appointment) for the benefit of all the bondholders, and that the trustee shall be subject to the control of such number of holders or owners of any outstanding bonds as specified in the resolution.

52034 The bonds shall bear the manual or facsimile signatures of such officers of the issuing city or county as may be designated in the resolution authorizing the bonds and such signatures shall be the valid and binding signatures of the officers of the city or county, notwithstanding that before the delivery thereof and payment therefor any or all of the persons whose signatures appear thereon have ceased to be officers of the city or county The validity of the

bonds shall not be dependent on, nor affected by, the validity or regularity of any proceedings relating to the home mortgages for which the bonds are issued. The resolution authorizing the bonds may provide that the bonds shall contain a recital that they are issued pursuant to this part, and the recital shall be conclusive evidence of their validity and of the regularity of their issuance

52035 Bonds issued under this part may be secured by a pledge of, or lien upon the revenues and receipts derived from or with respect to the home mortgages or from or with respect to any notes or other obligations of lending institutions with respect to which the bonds have been issued, and the governing body of the issuing city or county may provide in the resolution authorizing such bonds for the issuance of additional bonds to be equally and ratably secured by a lien upon such revenues and receipts

52036. Any pledge made to secure bonds shall be valid and binding from the time when the pledge is made. The revenues and receipts or property or interests in property pledged and thereafter received by the issuing city or county, trustee or custodian shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against such city or county, trustee or custodian, irrespective of whether the parties have notice thereof Neither the resolution nor any other instrument by which a pledge is created need be recorded

52037 All bonds issued pursuant to this part shall be limited obligations of the city or county issuing the same, payable solely out of the revenues and receipts derived from or with respect to the home mortgages or from or with respect to any notes or other obligations of lending institutions with respect to which the bonds are issued No holder of any bonds issued under this part has the right to compel any exercise of the taxing power of a city or county to pay the bonds, the interest or redemption premium, if any, thereon, and the bonds shall not constitute an indebtedness of the issuing city or county or a loan of credit thereof within the meaning of any constitutional or statutory provision, nor shall the bonds be construed to create any moral obligation on the part of the issuing city or county or any agency or subdivision thereof with respect to the payment of such bonds It shall be plainly stated on the face of each bond that it has been issued under the provisions of this part and that it does not constitute an indebtedness of the city or county issuing the bond or a loan of credit thereof within the meaning of any constitutional or statutory provisions

52038 Neither the members of the governing body of a city or county, nor any official or employee of a city or county, nor any person executing bonds issued under this part shall be liable personally on the bonds or be subject to any personal liability or accountability by reason of the issuance thereof

52039 Any property or interests in property held by or on behalf

of a city or county pursuant to the provisions of this part and any bonds issued under the provisions of this part, their transfer and the income therefrom, shall at all times be free from taxation of every kind by the state and city or county, or other political subdivision of the state, except inheritance and gift taxes.

52040 Notwithstanding any other provision of law, bonds issued pursuant to this part shall be legal investments for all trust funds, insurance companies, savings and loan associations, investment companies and banks, both savings and commercial, and shall be legal investments for executors, administrators, trustees and all other fiduciaries Such bonds shall be legal investments for state school funds and for any funds which may be invested in county, municipal or school district bonds, and such bonds shall be deemed to be securities which may properly and legally be deposited with, and received by, any state or municipal officer or by any agency or political subdivision of the state for any purpose for which the deposit of bonds or obligations of the state is now, or may hereafter, be authorized by law, including deposits to secure public funds.

52041 An action may be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure and any other applicable laws of the state to determine the validity of any issuance or proposed issuance of bonds under this part and the legality and validity of all proceedings previously taken or proposed in a resolution of a county or city to be taken for the authorization, issuance, sale and delivery of the bonds and for the payment of the principal thereof and interest thereon.

52042 A city or county which has issued bonds pursuant to this part or any trustee or custodian on behalf of the city or county, may invest any funds held by it as provided in the resolution authorizing the issuance of the bonds.

52043. All moneys received pursuant to the provisions of this part, whether revenues or proceeds from the sale of revenue bonds or proceeds of mortgage insurance or guarantee claims, shall be deemed to be trust funds to be held and applied solely for the purposes of this part Any bank or trust company in which such moneys are deposited shall act as trustee of such moneys and shall hold and apply the same for the purposes specified in this part, subject to the terms of the resolution authorizing the revenue bonds

52044 A city or county may provide for the issuance of the revenue bonds of the city or county for the purpose of refunding any revenue bonds of the city or county then outstanding, including the payment of any redemption premiums thereof and any interest accrued or to accrue to the earliest or subsequent date of redemption, purchase, or maturity of such bonds, and, if deemed advisable by the city or county, for the additional purpose of paying all or any part of the cost of additional residential construction.

The proceeds of revenue bonds issued pursuant to this section may, in the discretion of the city or county, be applied to the purchase or retirement at maturity or redemption of outstanding

revenue bonds, either at their earliest or any subsequent redemption date or upon the purchase or retirement at the maturity thereof and, pending such application, that portion of the proceeds allocated for such purpose may be placed in escrow, to be applied to such purchase or retirement at maturity or redemption on such date, as may be determined by the city or county. Pending use for purchase, retirement at maturity, or redemption of outstanding revenue bonds, any proceeds held in such an escrow may be invested and reinvested as provided in the resolution authorizing the issuance of the refunding bonds Any interest or other increment earned or realized on any such investment may also be applied to the payment of the outstanding revenue bonds to be refunded. After the terms of the escrow have been fully satisfied and carried out, any balance of such proceeds and any interest or increment earned or realized from the investment thereof may be returned to the city or county to be used by it for any lawful purpose under this part. That portion of the proceeds of any revenue bonds issued pursuant to this section which is designated for the purpose of paying all or any part of the cost of additional residential construction may be invested and reinvested in obligations of, or guaranteed by, the United States of America or in certificates of deposit or time deposits secured by obligation of, or guaranteed by, the United States of America, maturing not later than the time or times when such proceeds will be needed for the purpose of paying all or any part of such cost

All revenue bonds issued pursuant to this section shall be subject to the provisions of this part in the same manner and to the same extent as other bonds issued pursuant to this part

CHAPTER 5 MISCELLANEOUS PROVISIONS

52051 The provisions of Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 of the Government Code shall not apply to a mortgagor of any home acquired by foreclosure, trust deed, sale or other proceeding resulting from default on a home mortgage made by a county or city or by a lending institution pursuant to this part

52052 This part is necessary for the health, welfare and safety of the state, its counties and cities and its inhabitants Therefore, it shall be liberally construed to effect its purposes

52053 (a) Except as provided in subdivision (b), the powers conferred by this part are in addition and supplemental to, and the limitations imposed by this part shall not affect the powers conferred by, any other law

(b) The Legislature finds and declares that the market for municipal home mortgage revenue bonds is limited and that, as a matter of overriding state policy, issuances of such bonds should be limited to financing housing for persons whose housing needs are least satisfied by conventional mortgage financing and other governmental home ownership assistance programs This part

contains appropriate limitations with respect to mortgagor income and also contains provisions which will assist in assuring that no bond issuance under this part will result in any impairment of the public credit in this state

Therefore, this part shall be the exclusive authority for issuance of revenue bonds by any city, including any charter city, county, or city and county for the purpose of providing long-term mortgage financing for the construction or acquisition of housing, excluding multifamily rental housing; provided, that nothing in this subdivision shall supersede any other provision of state law authorizing the provision of long-term mortgage financing by any state agency or local public entity; and provided further, that nothing in this subdivision shall affect, or be in any way applicable to, revenue bonds issued (and loans made with the proceeds thereof) by any charter city on or before February 1, 1980, the interest on which would be excludable from the gross income of the recipients by reason of Section 4(b) of the proposed Mortgage Subsidy Bond Tax Act of 1979, as reported by the Committee on Ways and Means of the United States House of Representatives on August 31, 1979. Furthermore, nothing in this subdivision shall affect the authority conferred upon a charter city by its charter to issue revenue bonds to undertake a program of long-term mortgage financing of multifamily rental housing

(c) Home mortgages may be acquired, purchased, and financed, and bonds may be issued under this part for purposes of this part, notwithstanding that any other law or resolution may provide for the acquisition, purchase, and financing of like home mortgages, or the issuance of bonds for like purposes, and without regard to the requirements, restrictions, limitations, or other provisions contained in any other law or resolution.

52054. If any provision of this part or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the part which can be given effect without the invalid provision or application, and to this end the provisions of this part are severable.

52055 Any city having a population exceeding 2,000,000 persons may, in addition to any other power conferred by this part, issue revenue bonds as provided in Chapter 4 (commencing with Section 52030) of this part for the purpose of financing the construction, development, rehabilitation, or acquisition and rehabilitation of multifamily rental housing and for the provision of capital improvements in connection with and determined necessary to such multifamily rental housing for occupancy by persons and families of low and moderate income

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 facilitate financing of homes so that decent, safe, and

sanitary housing is available to the inhabitants of the state as soon as possible, it is necessary that this act take effect immediately

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CHAPTER 1070

An act relating to water facilities, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately

[Approved by Governor September 27, 1979 Filed with Secretary of State September 28, 1979]

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

SECTION 1 A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13861 of the Water Code to the Joshua Basin County Water District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards The Department of Water Resources shall determine eligibility for such grant in accordance with the provisions of Chapter 10 6 (commencing with Section 13880) of Division 7 of the Water Code and may make a grant in accordance with such provisions

SEC 2 A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13861 of the Water Code to the Amador County Water Agency for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards The Department of Water Resources shall determine eligibility for such grant in accordance with the provisions of Chapter 10 6 (commencing with Section 13880) of Division 7 of the Water Code and may make a grant in accordance with such provisions

SEC 3 A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13861 of the Water Code to the Seeley County Water District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards The Department of Water Resources shall determine eligibility for such grant in accordance with the provisions of Chapter 10 6 (commencing with Section 13880) of Division 7 of the Water Code and may make a grant in accordance with such provisions

SEC 4 A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California

Safe Drinking Water Fund pursuant to subdivision (d) of Section 13861 of the Water Code to the Calaveras County Water District—Copperopolis Improvement District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards The Department of Water Resources shall determine eligibility for such grant in accordance with the provisions of Chapter 10 6 (commencing with Section 13880) of Division 7 of the Water Code and may make a grant in accordance with such provisions

SEC 5 A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13861 of the Water Code to the Calaveras County Water District—Sheep Ranch Improvement District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards The Department of Water Resources shall determine eligibility for such grant in accordance with the provisions of Chapter 10 6 (commencing with Section 13880) of Division 7 of the Water Code and may make a grant in accordance with such provisions

SEC 6 A grant not to exceed the amount of four hundred thousand dollars ($400,000) in hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13861 of the Water Code to the Calaveras County Water District—West Point Improvement District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards The Department of Water Resources shall determine eligibility for such grant in accordance with the provisions of Chapter 10 6 (commencing with Section 13880) of Division 7 of the Water Code and may make a grant in accordance with such provisions

SEC 7 A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13861 of the Water Code to the Calaveras County Water District—Wilseyville Improvement District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards The Department of Water Resources shall determine eligibility for such grant in accordance with the provisions of Chapter 10 6 (commencing with Section 13880) of Division 7 of the Water Code and may make a grant in accordance with such provisions

SEC 8 The Legislature hereby finds and declares that in order to meet the minimum safe drinking water standards there is a critical need within the Joshua Basin County Water District, the Seeley County Water District, the Amador County Water Agency, the Calaveras County Water District—Copperopolis Improvement

District, the Calaveras County Water District—Sheep Ranch Improvement District, the Calaveras County Water District—West Point Improvement District, and the Calaveras County Water District—Wilseyville Improvement District to immediately undertake certain improvements necessary to enable the residents of the areas served by such agencies to have a dependable and potable water supply

SEC 9 The Legislature further finds and declares that the water systems of the Joshua Basin County Water District, the Seeley County Water District, the Amador County Water Agency, the Calaveras County Water District—Copperopolis Improvement District, the Calaveras County Water District—Sheep Ranch Improvement District, the Calaveras County Water District—West Point Improvement District, and the Calaveras County Water District—Wilseyville Improvement District have critical deficiencies in the areas of treatment, storage, and distribution which pose a serious threat to the public health and welfare of all consumers within such agencies

SEC 10 For capital outlay, in accordance with the provisions of Section 2 2 of the Budget Act of 1979 (Chapter 259 of the Statutes of 1979), there is hereby appropriated from the General Fund to the Department of Water Resources the sum of one million three hundred thirty-nine thousand two hundred seventy dollars ($1,339,270) for Sutter bypass rehabilitation. Such funds shall be utilized to complete construction of Pumping Plant No. 1 and two fish ladders in the Sutter bypass and shall be appropriated for expenditure during the 1979–80, 1980–81, and 1981–82 fiscal years. The State Public Works Board shall approve any overbids

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

In order to authorize grants from the California Safe Drinking Water Fund to the Joshua Basin County Water District, the Seeley County Water District, the Amador County Water Agency, the Calaveras County Water District—Copperopolis Improvement District, the Calaveras County Water District—Sheep Ranch Improvement District, the Calaveras County Water District—West Point Improvement District, and the Calaveras County Water District—Wilseyville Improvement District to resolve the critical water supply problems of such agencies at the earliest possible time, and also to provide vitally needed flood control facilities, it is necessary that this act go into immediate effect

SEC 12 The Legislature hereby finds and declares that for purposes of the California Safe Drinking Water Grant Program, the Copperopolis Improvement District, the West Point Improvement District, and the Wilseyville Improvement District are individual suppliers and separate public agencies which own or operate a

domestic water system because each of these improvement districts, organized within the Calaveras County Water District has separate responsibilities and service areas

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CHAPTER 1071

An act to amend Section 12304 of the Welfare and Institutions Code as proposed to be amended by Senate Bill No. 124 and to add Sections 12300 1, 12300.2, 12304 1, and 12304 2 to the Welfare and Institutions Code, relating to public social services, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately

[Approved by Governor September 27, 1979 Filed with Secretary of State September 28, 1979]

The people of the State of California do enact as follows

SECTION 1 Section 12300 1 is added to the Welfare and Institutions Code, to read

12300 1 The Legislature finds that, in order to ensure the provision of services that will allow aged, blind, or disabled persons, as defined under this chapter, to remain in their own homes or an abode of their own choosing, such recipients shall, in addition to the services set forth in Section 12300, be provided necessary paramedical services ordered by a licensed health care professional who is lawfully authorized to do so

SEC 2 Section 12300 1 is added to the Welfare and Institutions Code, to read

12300.1. As used in Section 12300 and in this article, "supportive services" include those necessary paramedical services which are ordered by a licensed health care professional who is lawfully authorized to do so, which persons could provide for themselves but for their functional limitations These necessary services shall be rendered by a provider under the direction of a licensed health care professional, subject to the informed consent of the recipient obtained as a part of the order for service Remuneration of providers under the fourth paragraph of Section 12300 shall also be paid for paramedical services Any and all references to Section 12300 in any statute heretofore or herafter enacted shall be deemed to be references to this section All statutory references to the supportive services specified in Section 12300 shall be deemed to include paramedical services

SEC 3 Section 12300 2 is added to the Welfare and Institutions Code, to read

12300 2 As used in Section 12300 and in this article, "supportive

services" include those necessary paramedical services which are ordered by a licensed health care professional who is lawfully authorized to do so, which persons could provide for themselves but for their functional limitations These necessary services shall be rendered by a provider under the direction of a licensed health care professional, subject to the informed consent of the recipient obtained as a part of the order for service

SEC 4 It is the intent of the Legislature, if this bill and Assembly Bill 1134 are both chaptered on or before January 1, 1980, and Assembly Bill 1134 amends Section 12300 of the Welfare and Institutions Code to include within supportive service, various services and to require remuneration for certain such services, to include within supportive services and within such remunerated services, paramedical services Therefore, Sections 1 and 3 of this act shall become operative only if, on the effective date of this act, Assembly Bill 1134 has not been chaptered, in which event, Sections 1 and 3 of this act shall become operative on the effective date of this act and shall remain operative until Assembly Bill 1134 is chaptered, at which time, Sections 1 and 3 of this act shall cease to have any force or effect and Section 2 of this act shall become operative Section 2 of this act shall become operative only if Assembly Bill 1134 is chaptered on or before January 1, 1980 In the event that Assembly Bill 1134 is chaptered prior to the effective date of this act, Sections 1 and 3 of this act shall not become operative and Section 2 of this act shall become operative on the effective date of this act

SEC 5 Section 12304 of the Welfare and Institutions Code, as proposed to be amended by Senate Bill 124, is further amended to read

12304 (a) Any aged, blind, or disabled individual who is eligible for assistance under this chapter or Chapter 4 (commencing with Section 12500) who is in need, as determined by the county welfare department, of at least 20 hours per week of the services specified in subdivision (e), shall be eligible to receive services under this article, the total cost of which does not exceed four hundred fifty dollars ($450) per month, plus adjustments reflecting cost-of-living changes subsequent to January 1, 1974, as determined under Section 12201 Increases in the maximum amount payable under this section shall not be construed to mean automatic increases in the amounts payable under this article

(b) An individual who is eligible for services subject to the maximum amount specified in subdivision (a) and who is capable of handling his or her own financial and legal affairs shall be given the option of hiring and paying his own provider of in-home supportive services For this purpose such individual shall be entitled to receive a monthly cash payment in advance not to exceed the maximum amount specified in subdivision (a), which is in addition to his grant, if any Such an individual who is not capable of handling his own

financial and legal affairs shall be entitled to receive such cash payment through his guardian, conservator or protective payee.

(c) In no event shall the maximum total cost for services and advance cash payment for one individual recipient under subdivisions (a) and (b) exceed the maximum of four hundred fifty dollars ($450) per month, as adjusted pursuant to subdivision (a)

(d) The county welfare department shall inform in writing any individual who is potentially eligible for services under this section of his or her right to such services

(e) For purposes of this section, a recipient who is eligible for services subject to the maximum amount specified in subdivision (a) is one who requires in-home supportive care of at least 20 hours per week to carry out any or all of the following:

(1) Routine bodily functions, such as bowel and bladder care;

(2) Dressing,

(3) Preparation and consumption of food,

(4) Moving into and out of bed,

(5) Routine bed bath, or

(6) Ambulation,

(7) Paramedical services,

(8) Or for any other function of daily living as determined by the director

This determination of need must be supported by a medical report when requested and at the expense of the State Department of Social Services

(f) The county welfare department shall review the provisions of services under this section at least every six months.

(g) Funding for the in-home supportive services under this section shall qualify, where possible, for the maximum federal reimbursement. In the event that such services are determined to be meligible for federal financial participation, or to the extent that federal funds prove madequate, the state shall provide funding for services under this section

SEC 5 5 Section 12304 1 is added to the Welfare and Institutions Code, to read

12304 1 In the selection of attendants to perform services pursuant to this article, preference shall be given to any qualified individual provider who is chosen by any recipient of the services listed in paragraphs (1) to (8), inclusive, under subdivision (e) of Section 12304, including any person in subdivision (b) of Section 12304 who does not exercise the options stated in subdivision (b) of Section 12304

With respect to counties which provide services pursuant to subsection (e) of Section 12304 to persons who receive fewer than 20 hours per week of such services exclusively through an agency contract, this section shall not become operative for those persons receiving such services pursuant to the agency contract, until the existing contract terminates

SEC 6 Section 12304.2 is added to the Welfare and Institutions Code, to read

12304 2 The services specified in subdivision (e) of Section 12304 shall also include paramedical services Any and all references to Section 12304 or subdivision (e) of Section 12304 in any statute heretofore or hereafter enacted shall be deemed to also be references to this section All statutory references to the services specified in subdivision (e) of Section 12304 shall be deemed to include paramedical services

SEC 7 Sections 5 and 5 5 of this act shall become operative only if this bill and Senate Bill 124 are both chaptered, Senate Bill 124 amends Section 12304 of, and adds Section 12304 1 to, the Welfare and Institutions Code, and this bill is chaptered after Senate Bill 124 In which event, Sections 5 and 5 5 of this act shall become operative on the effective date of Senate Bill 124 and, on that date, Section 6 of this act shall cease to have any force or effect

SEC 8 The sum of two million six hundred ninety-nine thousand dollars ($2,699,000) is hereby appropriated as follows

(a) One million five thousand dollars ($1,005,000) from the General Fund to the State Department of Social Services for the purpose of implementing this act

(b) One million six hundred ninety-four thousand dollars ($1,694,000) from Item 261 of the Budget Act of 1979 (Chapter 259, Statutes of 1979) to the State Department of Social Services for the purpose of implementing this act

SEC 9 It is the intent of the Legislature that the addition of Section 12300 2 to the Welfare and Institutions Code by Section 3 of this act does not constitute a change in, but is declaratory of, existing law

SEC 10 This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect The facts constituting such necessity are

In order to supersede regulations proposed by the State Department of Social Services which conflict with the provisions of this act, it is necessary for this act to take effect immediately

CHAPTER 1072

An act to amend Sections 66609, 89007, 89039, 89500, 89502, 89503, 89504, 89505, 89506, 89507, 89508, 89509, 89510, 89512, 89513, 89514, 89515, 89516, 89517, 89518, 89519, 89520, 89531, 89532, 89533, 89534, 89537, 89541, 89542, 89542 5, 89543, 89544, 89545, 89546, 89550, 89551, 89552, 89553, 89554, 89555, 89556, 89700, and 89701 of, and to add Section 22013 to, the Education Code, to amend Sections 825, 825 2, 825 6, 3520, 3542, 3564, 3569 5, 3572 5, 6700, 11020, 11021, 13926, 18005, 18006, 18007, 18020, 18020 1, 18022, 18023, 18025, 18025 1, 18050,

18051 5, 18053, 18100, 18100.5, 18101, 18102, 18102.5, 18103, 18105, 18106, 18200, 18853, and 18853.5 of, and to add Sections 18120.5, 18135 3, 18150 5, and 19460 5 to, the Government Code, and to amend Sections 395, 395 01, 395 05, 395.1, and 395 3 of the Military and Veterans Code, relating to public employer-employee relations, and declaring the urgency thereof, to take effect immediately

[Approved by Governor September 27, 1979 Filed with Secretary of State September 28, 1979]

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

SECTION 1 Section 22013 is added to the Education Code, to read

22013 If the provisions of this part are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC 2 Section 66609 of the Education Code is amended to read:

66609. All state employees employed on June 30, 1961, in carrying out functions transferred to the Trustees of California State University and Colleges by this chapter, except persons employed by the Director of Education in the Division of State Colleges and Teacher Education of the Department of Education, are transferred to the California State University and Colleges

Nonacademic employees so transferred shall retain their respective positions in the state service, together with the personnel benefits accumulated by them at the time of transfer, and shall retain such rights as may attach under the law to the positions which they held at the time of transfer All nonacademic positions filled by the trustees on and after July 1, 1961, shall be by appointment made in accordance with Chapter 5 (commencing with Section 89500) of Part 55 of Division 8 of this title, and persons so appointed shall be subject to the provisions of Chapter 5

The trustees shall provide, or cooperate in providing, academic and administrative employees transferred by this section with personnel rights and benefits at least equal to those accumulated by them as employees of the state colleges, except that any administrative employee may be reassigned to an academic or other position commensurate with his qualifications at the salary fixed for that position and shall have a right to appeal from such reassignment, but only as to whether the position to which he is reassigned is commensurate with his qualifications. All academic and administrative positions filled by the trustees on and after July 1,

1961, shall be filled by appointment made solely at the discretion of the trustees The trustees shall establish and adjust the salaries and classifications of all academic, nonacademic, and administrative positions and neither Section 18004 of the Government Code nor any other provision of law requiring approval by a state officer or agency for such salaries or classifications shall be applicable thereto. In establishing and adjusting such salaries, consideration shall be given to the maintenance of the state university and colleges in a competitive position in the recruitment and retention of qualified personnel in relation to other educational institutions, private industry or public jurisdictions which are employing personnel with similar duties and responsibilities. The establishment and adjustment of salaries for nonacademic employees shall be in accordance with the standards prescribed in Section 18850 of the Government Code The trustees, however, shall make no adjustments which require expenditures in excess of existing appropriations available for the payment of salaries. The provisions of Chapter 5 (commencing with Section 89500) of Part 52 of Division 8 of this title relating to appeals from dismissal, demotion or suspension shall be applicable to academic employees.

Persons excluded from the transfer made by this section shall retain all the rights and privileges conferred upon civil service employees by law Personnel of state agencies employed in state university and college work other than those transferred by this section and who are employed by the trustees prior to July 1, 1962, shall be provided with personnel rights and benefits at least equal to those accumulated by them as employees of such state agencies. If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC 5 Section 89007 of the Education Code is amended to read:

89007 For the purposes of Section 11032 of the Government Code, the following constitute, among other proper purposes of like or different character, state business for officers and employees of the trustees for which the officers and employees shall be allowed actual and necessary traveling expenses

(a) Attending meetings of any association, organization or agency having as its principal purpose the study of matters relating to education or to a particular field or fields of education, or any agency of such association

(b) Conferring with officers or employees of this state or the United States, or appearing before committees of either house of the

Congress of the United States, relative to problems relating to education in California

(c) Conferring with officers or employees of other states engaged in the performance of similar duties

(d) Obtaining information useful to the trustees in the conduct of their work

The provisions of Section 11032 of the Government Code, requiring approval by the Governor and Director of Finance of traveling and expenses outside the state shall not be applicable to the officers and employees of the trustees

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act

SEC 6 Section 89039 of the Education Code is amended to read

89039 (a) Notwithstanding anything to the contrary in Article 2 (commencing with Section 1940) of Chapter 2 of Part 7 of Division 2 of the Labor Code, the trustees may enter into an agreement with any political entity mentioned in Section 87422 for the exchange and employment of persons serving as teachers in state college laboratory demonstration elementary schools and employees of public schools of the political entity The exchange and employment shall be made under comparable circumstances, subject to comparable conditions, with comparable effect as to tenure and retirement rights, subject to comparable requirements as to payment of salary and deductions therefrom, and for the same period of time as set forth in Sections 87422, 87423, and 87424 with respect to the exchange of school district employees, except that the circumstances, conditions, rights, and requirements shall be those appropriate to the employment relationship between the teachers and the trustees

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act

SEC. 7 Section 89500 of the Education Code is amended to read

89500 (a) Notwithstanding any other provision of law, the trustees shall provide by rule for the government of their appointees and employees, pursuant to the provisions of this chapter and other

applicable provisions of law, including, but not limited to, appointment, classification, terms, duties, pay and overtime pay, leave of absence, tenure, vacation, layoff, dismissal, demotion, suspension, sick leave and reinstatement.

The rules adopted by the trustees relating to tenure, layoff, dismissal, demotion, suspension, and reinstatement of academic and administrative employees shall be adopted on or before February 1, 1962 and become effective on July 1, 1962, with respect to employees who are academic teaching and administrative employees as defined in subdivision (1) (e) of Section 24301 as added by Chapter 1010 of the Statutes of 1972

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 9. Section 89502 of the Education Code is amended to read:

89502 (a) It is the policy of the state that the workweek of the employees of the California State University and Colleges shall be 40 hours, and the workday of such employees eight hours, except that workweeks and workdays of a different number of hours may be established in order to meet the varying needs of the different campuses and facilities It is the policy of the state to avoid the necessity for overtime work whenever possible.

This policy does not restrict the extension of regular working-hour schedules on an overtime basis when such action is necessary to carry on the business of the California State University and Colleges properly during a manpower shortage

The trustees may provide for the payment of overtime in designated classes for work performed after the normal scheduled workday or normal scheduled workweek, when such designation is appropriate to such designated class.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC 10. Section 89503 of the Education Code is amended to read:

89503 (a) The trustees may authorize payments into a private fund to provide health and welfare benefits to nonpermanent employees of the class specified in Section 18853 of the Government

Code employed by the trustees, upon a finding by the trustees as to any such position that the criteria stated in Section 18853 5, subdivision (a), of the Government Code are satisfied

(b) Payments made by the state pursuant to this section to any such fund on behalf of any employees shall be in lieu of benefits such as vacation allowance, sick leave, and retirement which are now or may hereafter be granted directly by the state in accordance with law

(c) The trustees are empowered to determine the equitable application of this section to insure that the employees receive benefits comparable to, but not in excess of, those provided in comparable private employment

(d) The payments authorized by this section shall be a proper charge against any funds available for the support of the California State University and Colleges

(e) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act

SEC 11 Section 89504 of the Education Code is amended to read

89504 (a) Upon separation from service, without fault on his part, a nonacademic employee is entitled to a lump-sum payment as of the time of separation for any unused or accumulated vacation or for any time off to which he is entitled by reason of previous overtime work where compensating time off for overtime work is provided for by the trustees

Such sum shall be computed by projecting the accumulated time on a calendar basis so that the lump sum will equal the amount which the employee would have been paid had he taken the time off but not separated from the service A nonacademic employee separated from service through fault of his own is entitled to a lump-sum payment for such compensating time off for overtime work, similarly computed, and in addition, such portion, if any, of unused vacation as the trustees may determine

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act

SEC 12 Section 89505 of the Education Code is amended to read

89505 The trustees, subject to such conditions as they may establish, may purchase annuity contracts for any of their employees, and shall reduce the salary of any such employee for whom such contract is purchased in the amount of the cost thereof, provided that each of the following conditions are met·

(a) The annuity contract is under an annuity plan which meets the requirements of Section 403(b) of the Internal Revenue Code of 1954 of the United States as amended by the Employment Retirement Income Security Act of 1974 (P L 93-406)

(b) The employee makes application to the trustees for such purchase and reduction of salary

(c) All provisions of the Insurance Code applicable to the purchase of such annuities are satisfied

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 13 Section 89506 of the Education Code is amended to read

89506 (a) The trustees, subject to such conditions as they may establish, may enter into contracts of group life insurance and contracts of group disability insurance or protection with respect to any class of their employees they may designate or with respect to all such employees, with any insurer, medical service plan, or nonprofit hospital service plan corporation they may select, provided, that all applicable provisions of state law relating to any such coverage, or to the qualifications of the provider of coverage, are satisfied.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act

SEC 14 Section 89507 of the Education Code is amended to read

89507 (a) The trustees, subject to such conditions as they may impose, may establish a program of motor vehicle liability and automobile insurance with respect to any class of their employees they may designate or with respect to all such employees, with any insurer or insurers, insurance broker or brokers, or insurance agent or agents, they may select, provided that all applicable provisions of the Insurance Code relating to any such insurance, or to the qualifications of the insurer, broker, or agent, are satisfied The

premiums of such a program of insurance shall be borne by the employees participating therein

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act

SEC. 15 Section 89508 of the Education Code is amended to read

89508 (a) Each person holding a four-year term appointment under Section 80507 on June 30, 1961, regardless of when the term commenced, shall on that date be entitled to all personnel benefits and rights under the law which would have attached to his position if he had been appointed and had served throughout his state college employment under the provisions of law applicable to persons serving under appointments made pursuant to Article 2 (commencing with Section 89530) of this chapter

On and after July 1, 1961, each such person shall be entitled to all personnel benefits and rights conferred by Section 66609 of this code upon state employees appointed pursuant to said Article 2 and transferred to the Trustees of the California State University and Colleges by that section

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act

SEC 16 Section 89509 of the Education Code is amended to read

89509 The employment of any employee of the trustees, excepting those employees who on October 1, 1949, and on September 7, 1955, were members of the State Teachers' Retirement System, shall terminate on the first day of the calendar month next succeeding that in which he attains mandatory retirement age, except as provided in this section

An academic or administrative employee may elect to continue in active service until the end of the college term or academic year during which he attains mandatory retirement age An academic employee who reaches the mandatory retirement age, if mentally and physically sound, may be employed from year to year without tenure, for the good of the service, at the discretion of the trustees The payment of retirement allowances by either the State Teachers' Retirement System or the Public Employees' Retirement System, or both of said systems, to such a person employed from year to year shall be suspended during the period of such employment or

reemployment and such suspension shall not serve to reinstate such a person to membership in either of said systems If a person should die during such a period of suspension, said systems shall pay any death benefits that would have been payable had the death not occurred during such a period. A period of suspension shall end on the last day of the month during which such employment or reemployment is terminated. Said systems shall then resume the payment of the retirement allowance to such a person without change from what it was at the beginning of the latest period of suspension except for any change in the provisions governing the calculation of the allowance which was made during said period and made applicable to the persons then retired.

Any person over the mandatory retirement age who otherwise has the qualifications of an academic or administrative employee and who is not retired under the State Teachers' Retirement System, if mentally and physically sound, may be employed from year to year without tenure at the discretion of the trustees Such employment shall not entitle him to become a member of nor serve to reinstate him as a member of the system

As used in this section, "mandatory retirement age" means the mandatory retirement age as provided in Government Code Section 20981

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 17 Section 89510 of the Education Code is amended to read:

89510 (a) The trustees may grant a leave of absence without compensation to any nonacademic employee

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC 18 Section 89512 of the Education Code is amended to read

89512 (a) Upon the expiration of the leave of absence granted pursuant to Section 89510 the employee to whom the leave of absence was granted is entitled to reinstatement in the position he held at the time the leave of absence was granted him, if the position is still in existence, or to any other comparable existing vacant position for which he is qualified

(b) If the provisions of this section are in conflict with the

provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act

SEC 19 Section 89513 of the Education Code is amended to read

89513 (a) Every employee who has entered or who hereafter enters the active military service of the United States of America or of the State of California, including active service in any uniformed auxiliary of, or to, any branch of such military service created or authorized as such auxiliary by the Congress of the United States of America or by the Legislature of the State of California, or in the full-time paid service of the American Red Cross, during any period of national emergency declared by the President of the United States of America or during any war in which the United States of America is engaged, shall be deemed to have been entitled or shall be entitled to absent himself from his duties.

Within six months after such employee honorably leaves such service or has been placed on inactive duty he shall be entitled to return to the position held by him at the time of his entrance into such military service, at the salary to which he would have been entitled had he not absented himself from his duties

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act

SEC 20. Section 89514 of the Education Code is amended to read

89514 (a) The time during which an employee of the trustees is on leave of absence without compensation shall not be credited toward retirement under any retirement system of the state If such employee receives compensation during such leave of absence the time for which he receives such compensation shall be credited toward retirement. The period of any leave of absence shall not be construed as a break in the continuity of service required toward retirement

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act

SEC. 21 Section 89515 of the Education Code is amended to read:

89515. The trustees shall eliminate all policies which detrimentally and unreasonably affect the employment status of females hired by the California State University and Colleges To accomplish this purpose, the trustees shall

(a) Review hiring, wages, job classifications, and advancement practices as applied to female employees and take corrective measures where inequities exist;

(b) Review selection procedures utilized for employment of female employees to determine disparate selection practices,

(c) Assure opportunity of advancement for qualified female employees to executive positions within departments and divisions.

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 22. Section 89516 of the Education Code is amended to read:

89516 The trustees may establish rules and regulations which allow academic teaching employees, librarians, counselors, and student affairs officers to reduce their workload from full-time to part-time duties.

Such regulations shall include but shall not be limited to the following if such employees wish to reduce their workload and maintain retirement benefits pursuant to Section 20815 of the Government Code:

(a) The employee must have reached the age of 55 prior to reduction in workload

(b) The employee must have been employed full-time as an academic employee for at least 10 years of which the immediately preceding five years were full-time employment. For purposes of this subdivision, sabbatical and other approved leaves shall not constitute a break in service. However, time spent on sabbatical or on other approved leaves shall not be used in satisfying the five-year full-time employment requirement.

(c) The option of part-time employment must be exercised at the request of the employee and can be revoked only with the mutual consent of the employer and the employee.

(d) The employee shall be paid a salary which is the pro rata share of the salary the employee would be earning had the employee not elected to exercise the option of part-time employment but shall retain all other rights and benefits for which the employee makes the payments that would be required if the employee remained in full-time employment.

The employee shall receive health benefits in the same manner as a full-time employee.

This section shall only be applicable to academic teaching employees, librarians, counselors, and student affairs officers who receive no higher salary than the maximum paid to a department chairman

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act

SEC 23 Section 89517 of the Education Code is amended to read

89517 (a) The minimum and maximum salary limits for laborers, workmen, and mechanics employed on an hourly or per diem basis need not be uniform throughout the state, but the trustees shall ascertain, as to each such position, the general prevailing rate of such wages in the various localities of the state

In fixing such minimum and maximum salary limits within the various localities of the state, the trustees shall take into account the prevailing rates of wages in the localities in which the employee is to work and other relevant factors, and shall not fix the minimum salary limits below the general prevailing rate so ascertained for the various localities

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 24 Section 89518 of the Education Code is amended to read:

89518 (a) Any librarian employed by the trustees on a 12-month basis in a fiscal year has the right to elect to be employed for one or more fiscal years on a 10-month basis The compensation of any librarian making the election shall be reduced for any such fiscal year in the same proportion as the compensation of instructional academic employees whose fiscal year employment basis is changed from a 12-month basis to a 10-month basis.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC 25. Section 89519 of the Education Code is amended to read·

89519. (a) The trustees shall grant a leave of absence without pay for the purposes of the pregnancy, childbirth or the recovery therefrom of a female employee, for a period as determined by the employee not exceeding one year to any permanent employee under the jurisdiction of the trustees. When the employee has notified the trustees as to the period of the leave of absence required, any change in the length of the period of leave shall not be effective unless approved by the trustees.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act

SEC 25.5. Section 89520 of the Education Code is amended to read

89520. (a) The provisions of Article 4.5 (commencing with Section 19400) of Chapter 7 of Part 2 of Division 5 of the Government Code, relating to upward mobility, shall be applicable to the California State University and Colleges System The trustees shall administer the program for its employees and shall have the powers and duties with respect to employees of the California State University and Colleges System, as are given to the State Personnel Board in Article 4.5 (commencing with Section 19400) of Chapter 7 of Part 2 of Division 5 of the Government Code, with respect to state civil service employees In the event of conflict between the provisions of Article 4 5 (commencing with Section 19400) of Chapter 7 of Part 2 of Division 5 of the Government Code and the antidiscrimination and affirmative action requirements of Title VI and Title VII of the Civil Rights Act of 1964, as amended, Title IX of the Education Amendments of 1972, as amended; Executive Order Number 11246, as amended, and the rules and regulations adopted under each of these, the federal law shall prevail.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 26. Section 89531 of the Education Code is amended to read:

89531. (a) Every nonacademic employee shall be appointed for one year which is a probationary period On reappointment for the second year, the employee shall be permanent at the same level and salary step or higher salary step as at completion of the probationary year.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act

SEC 27 Section 89532 of the Education Code is amended to read

89532. (a) All vacant nonacademic positions shall, as far as practicable and consistent with the best interest of the California State University and Colleges be filled from qualified nonacademic employees serving in lower positions in the same or related series

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC 28 Section 89533 of the Education Code is amended to read

89533 (a) Any nonacademic employee shall be required to serve only one probationary period to gain permanent status in a position or in a substantially similar position If such an employee is promoted to a position with substantially different duties or to a position that requires additional duties and abilities, he shall serve an additional probationary period; but if he does not become permanent in the new position, he shall have the right to return to any class in which he was permanent or to the class in which he was serving before his promotion. An employee who is promoted before he completed the probationary period in the lower class and is returned to such class without having become permanent in the new position shall receive credit toward permanent status in the lower class for the period of time he had previously performed satisfactorily therein An employee who is promoted before he completed the probationary period in the lower class shall earn permanent status in the lower class at the end of one year from the original appointment date in the lower class, provided the duties in the higher class are substantially similar to the duties in the lower class and the employee's performance in both classes has been satisfactory

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 29. Section 89534 of the Education Code is amended to read

89534 (a) The trustees shall adopt rules prescribing the form, time and method of notice of rejection at any time during the probationary period to any probationary nonacademic employee, or notice of intention not to recommend reappointment of an academic employee for the succeeding year to any such employee not having permanent status

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC 30 Section 89537 of the Education Code is amended to read.

89537 "Unprofessional conduct" as used in Section 89535 includes, but is not limited to:

(a) Membership in, or active support of, a "communist front," a "communist action" organization, or a communist organization, as those terms are now defined in the act of the Congress of the United States designated as "Internal Security Act of 1950"

(b) Persistent active participation in public meetings conducted or sponsored by an organization mentioned in subdivision (a) of this section

(c) Willful advocacy of the overthrow of the government of the United States or of the state, by force, violence or other unlawful means, either on or off the campus

(d) Willful advocacy of communism, either on or off the campus, for the purpose of undermining the patriotism of pupils, or with the intent to indoctrinate any student with communism or inculcate a preference for communism in the mind of any student.

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC 31 Section 89541 of the Education Code is amended to read:

89541 (a) Absence without leave of an employee, whether voluntary or involuntary, for five consecutive working days is an automatic resignation from state service, as of the last date on which the employee worked.

An employee may within 90 days of the effective date of such separation file a written request with the State Personnel Board for reinstatement If the appointing authority has notified the employee of his automatic resignation, any request for reinstatement must be

in writing and filed within 15 days of the service of notice of separation Notice may be personally served or it may be served by mail to the last known residence or business address of the addressee and is complete on mailing. Proof of service, either personal or by mail, shall be made by affidavit Reinstatement may be granted only if the employee makes a satisfactory explanation to the board as to the cause of his absence and his failure to obtain leave therefor, and the board finds that he is ready, able, and willing to resume the discharge of the duties of his position or, if not, that he has obtained the consent of his appointing power to a leave of absence to commence upon reinstatement

Any employee so reinstated shall not be paid salary for the period of his absence or separation or for any portion thereof.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC 32. Section 89542 of the Education Code is amended to read:

89542. (a) If a petition to set aside the resignation of any employee is filed with the State Personnel Board within 30 days after the last date upon which services to the state university or college are rendered, or the date the resignation is tendered, whichever is later, the resignation may be set aside on the ground that it was given or obtained pursuant to or by reason of mistake, fraud, duress, undue influence, or that for any other reason it was not the free, voluntary, and binding act of the person resigning The State Personnel Board shall hold a hearing and render a decision on the petition following the same procedure as in the state civil service procedures governing resignations from the state civil service

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that if such provisons of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 33 Section 89542 5 of the Education Code is amended to read.

89542 5. The Trustees of the California State University and Colleges shall establish grievance and disciplinary action procedures for all academic employees, including all temporary employees who have been employed for more than one semester or quarter, whereby·

(a) Grievances and disciplinary actions shall be heard by a faculty

hearing committee composed of full-time faculty members, selected by lot from a panel elected by the campus faculty, which shall make a recommendation to the president of the state university or college

(b) The grievance or disciplinary hearing shall be open to the public at the option of the person aggrieved or the person charged in a disciplinary hearing

(c) Each party to the dispute shall have the right of representation by a faculty adviser or counsel of his choice and to be provided access to a complete record of the hearing.

(d) If there is disagreement between the faculty hearing committee's decision and the university or college president's decision, the matter shall go before an arbitrator whose decision shall be final

(e) The costs incurred in arbitration shall be paid by the university or college.

(f) If the parties cannot agree upon an arbitrator, either party may petition either the Federal Mediation Service, the State Conciliation Service, or the American Arbitration Association for a list of seven qualified, disinterested persons, from which list each party shall alternate in striking three names, and the remaining person shall be designated as the arbitrator.

The grievance procedure established pursuant to this section shall be exclusive with respect to any grievance which is not subject to a State Personnel Board hearing. In the case of a grievance or disciplinary action which is subject to a State Personnel Board hearing, pursuant to Sections 89535 to 89539, inclusive, and Section 89542 the procedures provided for in those sections or those provided for in this section may be utilized. The academic employee shall have the choice of which procedures shall be utilized

For purposes of this section, a "grievance" is an allegation by an employee that he was directly wronged in connection with the rights accruing to his job classification, benefits, working conditions, appointment, reappointment, tenure, promotion, reassignment, or the like A grievance does not include matters, such as the salary structure, which require legislative action

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act

SEC 34 Section 89543 of the Education Code is amended to read

89543 (a) The trustees shall adopt regulations for determination of the order in which nonacademic employees shall be laid off for lack of funds or because of lack of work To the extent the trustees shall deem practical such regulations shall provide for layoff in the inverse order of employment

The trustees shall adopt rules governing the reemployment of nonacademic employees laid off, pursuant to this section To the extent the trustees deem practical, such regulations shall include provision that for a period of five years following layoff, an employee shall have a preferential right to reemployment in the same or a comparable position, in the event of a vacancy. This preferential right shall give the employee laid off the right to reemployment in a position comparable to that from which he was laid off over any person not employed at the time the particular employee was laid off.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the legislature in the annual Budget Act.

SEC. 35 Section 89544 of the Education Code is amended to read·

89544. (a) A permanent nonacademic employee may, with his consent and the approval of the trustees, be employed at less than full time and retain permanent status. Seniority credit and any other credit shall be gained only in the proportion the actual time employed is to full-time employment in the position

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 36. Section 89545 of the Education Code is amended to read:

89545 (a) Whenever a new campus of the California State University and Colleges is established and an employee is transferred from an existing campus of the California State University and Colleges to the newly established campus before or during the first academic year of the newly established campus, each employee so transferred shall be entitled to retain all sickness and injury, sabbatical and other leave rights and all seniority and tenure rights accumulated as an employee of the existing campus of the California State University and Colleges as though the rights had been accumulated as an employee of the newly established campus of the California State University and Colleges.

Whenever the educational program of a newly established campus of the California State University and Colleges is, during the first year of its existence, limited to an off-campus educational program rather than a regular educational program, any employee transferring from an existing campus of the California State University and Colleges to

the newly established campus of the California State University and Colleges before or during the first three academic years of the newly established campus shall be entitled to retain all sickness and injury, sabbatical and other leave rights and all seniority and tenure rights accumulated as an employee of the existing campus as though the rights had been accumulated as an employee of the newly established campus

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act

SEC. 37. Section 89546 of the Education Code is amended to read·

89546. (a) Every employee of a state university or college shall have the right to access to all reports, documents, correspondence, and other material which pertain to the employee which are kept by the university or college. Each employee shall also have the right to have another person of the employee's choosing accompany the employee to inspect the employee's records.

(b) Upon written request, the employee shall, within 10 calendar days of the request, be provided an exact copy of all or any portion the employee desires of any of the items specified in subdivision (a). The employee shall bear the cost of duplicating such items.

(c) If, after examination of the records pertaining to the employee, an employee believes that any portion of the material is not accurate, relevant, timely, or complete, the employee may request in writing correction of the record or deletion of the offending portion, or both Such request shall include a written statement by the employee as to the corrections and deletions that the employee believes need to be made and the reasons therefor This statement shall become part of the employee's personnel file.

(d) Within 21 calendar days of the request for correction of the record or deletion of the portion of the record objected to, or both, the president of the state university or college shall either accede to the employee's request or notify the employee in writing of the president's refusal to grant the request. If the president refuses to grant the request, the president shall state the reasons for the refusal in writing, and the written statement shall become part of the employee's personnel file.

(e) The remedies authorized by this section shall be in addition to any other remedy provided by law.

(f) Personnel recommendations or decisions relating to the promotion, retention, termination, or any other personnel action shall be based primarily on material contained in the employee's personnel file and open to the employee's inspection If a personnel recommendation or decision is based on any reasons not contained

in the employee's personnel file, the party making the recommendation or decision shall commit those reasons to writing, and the written statement of those reasons shall become part of the employee's personnel file.

(g) Preemployment materials shall be excluded from the requirements of this section, except as they may be considered in subsequent personnel actions.

(h) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 38. Section 89550 of the Education Code is amended to read·

89550 (a) It shall be the policy of the California State University and Colleges to provide stability of employment by foreseeing and avoiding unnecessary reductions in staff However, when this is not possible due to lack of funds or lack of work, the staff shall be reduced in accordance with this article. The classes or teaching service areas to be reduced and the employees therein to be laid off shall be determined, in accordance with the provisions of this article, by the president of the campus after consultation with such employees and others in the same classes, specializations within classes, or teaching service areas and other persons as appropriate, including faculty and administrators. The chancellor shall make all determinations for the office of the chancellor

(b) The office of the Chancellor of the California State University and Colleges shall make a survey of all campuses in order to ascertain the availability of suitable positions where staff to be laid off may seek relocation To the extent staff resources permit, similar efforts shall be made with respect to colleges and universities outside the California State University and Colleges

(c) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC 39 Section 89551 of the Education Code is amended to read

89551 (a) Layoff of administrative and nonacademic employees shall be by class within a particular campus, or within the office of the chancellor

(b) Layoff of academic employees shall be by teaching service area within a campus

(c) If the provisions of this section are in conflict with the

provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC 40. Section 89552 of the Education Code is amended to read:

89552 (a) Whenever a determination has been made that there is a lack of funds or lack of work, employees in a class or teaching service area to be reduced shall be laid off in the following order:

(1) The Chancellor of the California State University and Colleges or a president of a state university or college may, at his discretion, without regard to the class or teaching service area to be reduced, separate from service any student assistant, instructor for extension service, person employed on a temporary basis, or, with respect to employment in a summer session, any member of the faculty of a campus summer session. Persons described in this paragraph, if performing the same or comparable work as that performed by a probationary or permanent employee, shall be separated before any probationary or permanent employee desiring to continue in employment is laid off pursuant to the provisions of this article

(2) Probationary employees not employed on a temporary basis, without regard to length of service.

(3) Permanent employees.

(A) If the area of layoff is in administrative or nonacademic classes, permanent administrative and nonacademic employees in the inverse order of their length of employment both in the class and in class of equal or higher rank.

(B) If the area of layoff is in class or rank positions, permanent academic employees in the inverse order of their length of employment at the campuses.

(C) If the area of layoff is in the closely related academic area, permanent employees in the inverse order of their length of employment in the class or in classes of equal or higher level at the campuses

(b) If the layoff is in a class, part-time employees shall be credited with the service at the campus in the proportion that the actual time employed bears to full-time employment If the layoff is in a teaching service area, part-time permanent employees shall be credited with service as permanent employees of the campus in the proportion that the actual time served as permanent employees bears to full-time employment.

(c) In case two or more employees in the class or teaching service area are tied for a place in the order of layoff, the president or the chancellor, as appropriate to the place of employment, shall determine which of such employees shall be laid off

(d) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to

Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC 41. Section 89553 of the Education Code is amended to read·

89553 (a) After a determination has been made of the class or teaching service area to be reduced and the number of employees in such class or area to be laid off, the president or chancellor shall notify each employee to be laid off, that the employee is being laid off for lack of funds or lack of work Such notice shall be in writing and mailed by certified mail, return receipt requested, to the employee's last known address, or the notice may be delivered to the employee in person who shall acknowledge receipt of the notice in writing The notice shall specify the effective date of layoff and shall be delivered to the employee or mailed to the employee's last known resident address at least 30 days, whenever possible, prior to the effective date of the layoff When curricular shifts or other program changes, which can be anticipated, are to be made those who will be laid off will normally be notified at least one year in advance

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act

SEC 42 Section 89554 of the Education Code is amended to read

89554 (a) An employee to be laid off may elect to accept such layoff prior to the date named in the notice of layoff If an employee elects to accept early layoff, he should give as much notice as possible

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act

SEC 43 Section 89555 of the Education Code is amended to read

89555 (a) In lieu of being laid off, an administrative or nonacademic employee may elect demotion or transfer to any class in which he has served as a permanent employee or to any vacancy for which he is qualified

(b) In lieu of being laid off, an academic teaching employee actively employed at a campus during the academic year 1975–76 or

prior thereto at such campus may elect transfer to that other teaching service area in which he or she has served longest during the preceding four years at the particular campus if both of the following conditions exist:

(1) If the employee, during the four-year period immediately preceding the date of the mailing of the layoff notice, taught at least 24 semester units or 36 quarter units in any one teaching service area other than the teaching service area in which he or she is teaching on the date of the mailing of the layoff notice provided that only such units as have accrued during the academic year 1975–76 and prior thereto may be utilized for purposes of transfer under this section.

(2) If the employee has not previously during that year elected transfer in lieu of layoff.

(c) In the event an employee elects demotion or transfer, his place for layoff purposes in the class or teaching service area to which he elects demotion or transfer shall be determined in accordance with this article

(d) An employee electing demotion or transfer shall notify the president or chancellor in writing of his election within five calendar days after receipt of the notice of layoff.

(e) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act

SEC 44 Section 89556 of the Education Code is amended to read:

89556 (a) The president at each campus, and the chancellor at the office of the chancellor, shall establish and maintain reemployment lists of all permanent employees laid off for lack of funds or lack of work during the preceding five-year period Laid-off permanent employees shall be listed by class or teaching service area corresponding to the class or teaching service area from which they were laid off

(b) In the event there is a vacancy at a campus or at the office of the chancellor, for which there exists no reemployment list, the position may be offered to the persons in the appropriate class or teaching service area who are on mandatory reemployment lists at another campus or the office of the chancellor

(c) A person shall deliver or cause to be delivered his acceptance of an offer with the following times·

(1) When the person resides in the city from which the offer is mailed, five days after the date the offer is received

(2) When the person resides outside such city, seven days after the offer is received.

(3) When the offer is made by telephone or telegram, 48 hours after the offer is received While a prudent effort shall be made to

contact the person eligible for reemployment, it is his responsibility to keep the office maintaining the reemployment list informed of where he may be reached readily

(d) Any person on a reemployment list who cannot be reached within five days, or who fails to reply to an offer of reemployment as required by this section, shall be deemed to have declined the offer Such failure by any person may be excused by the president or chancellor at his discretion. If the failure is excused, the person may be reemployed or his name may be continued on the reemployment list if the vacancy has already been filled.

(e) Any person on a reemployment list may request inactive status for a prescribed period of not to exceed one year.

(f) Any person on the reemployment list who declines two offers of reemployment shall be removed from the list Any person removed from a reemployment list may be restored to his relative position on the list at the discretion of the president or chancellor upon a showing of good cause

(g) Any employee reemployed pursuant to this article shall be reemployed in a class at a level at least equal to that from which he was laid off

(h) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC 45 Section 89700 of the Education Code is amended to read:

89700 (a) The trustees may by rule require all persons to pay fees, rents, deposits, and charges for services, facilities or materials provided by the trustees to such persons, except that fees relating to parking shall be subject to the approval of the Director of General Services The trustees may, by rule, provide for the method of collecting such fees, rents, deposits, and charges, and may, by rule, provide for the refund in whole or part of such fees, rents, deposits, and charges collected in error or collected for facilities, services, or materials not utilized

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act

SEC 46 Section 89701 of the Education Code is amended to read

89701 The trustees are authorized to acquire, pursuant to the Property Acquisition Law (Part 11 (commencing with Section

15850), Division 3, Title 2, Government Code) or by lease or other means, real property and to construct, operate and maintain motor vehicle parking facilities thereon for state college officers, employees, students, or other persons The trustees may prescribe the terms and conditions of such parking, and of parking on facilities existing on the effective date of this section, including the payment of parking fees in such amounts and under such circumstances as may be determined by the trustees Varying rates of parking fees may be established for different localities or for different parking facilities In determining rates of parking fees the trustees may consider the rates charged in the same locality by other public agencies and by private employers for employee parking, and the rates charged to students by other universities and colleges.

Except as otherwise provided in this section, revenues received by the trustees from any of the hereinabove motor vehicle parking facilities, as well as from all parking facilities existing on the effective date of this section, shall be transmitted to the State Treasurer and shall be deposited by that officer in the State Treasury to the credit of the State College Parking Revenue Fund, which fund is hereby created The trustees may pledge all or any part of such revenues in connection with bonds or notes issued pursuant to the State College Revenue Bond Act of 1947 (Article 2 (commencing with Section 90010) of Chapter 8) of this part in which case such revenues shall be deposited, transmitted and used in the manner provided by that act All revenues received by the trustees from parking facilities, to the extent not pledged in connection with bonds or notes issued pursuant to the State College Revenue Bond Act of 1947, are hereby appropriated, without regard to fiscal years, to the trustees for the acquisition, construction, operation and maintenance of motor vehicle parking facilities on real property acquired hereunder or on real property otherwise under the jurisdiction of the trustees, and for the study of alternate methods of transportation for students and employees of the California State University and Colleges Moneys in the State College Parking Revenue Fund may be invested by the State Treasurer, upon approval of the trustees, in those eligible securities listed in Section 16430 of the Government Code All interest or other earnings received pursuant to such investments shall be collected by the State Treasurer, and shall be deposited in the State Treasury to the credit of the State College Parking Revenue Fund

The Legislature by this section does not intend to authorize the institution of a private parking program unrelated to state purposes in competition with private industry

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the

expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC 47 Section 825 of the Government Code is amended to read

825 If an employee or former employee of a public entity requests the public entity to defend him against any claim or action against him for an injury arising out of an act or omission occurring within the scope of his employment as an employee of the public entity and such request is made in writing not less than 10 days before the day of trial, and the employee or former employee reasonably cooperates in good faith in the defense of the claim or action, the public entity shall pay any judgment based thereon or any compromise or settlement of the claim or action to which the public entity has agreed

If the public entity conducts the defense of an employee or former employee against any claim or action with his reasonable good faith cooperation, the public entity shall pay any judgment based thereon or any compromise or settlement of the claim or action to which the public entity has agreed, but, where the public entity conducted such defense pursuant to an agreement with the employee or former employee reserving the rights of the public entity not to pay the judgment, compromise or settlement until it is established that the injury arose out of an act or omission occurring within the scope of his employment as an employee of the public entity, the public entity is required to pay the judgment, compromise or settlement only if it is established that the injury arose out of an act or omission occurring in the scope of his employment as an employee of the public entity

Nothing in this section authorizes a public entity to pay such part of a claim or judgment as is for punitive or exemplary damages

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act

SEC 48 Section 825 2 of the Government Code is amended to read

825 2 (a) Subject to subdivision (b), if an employee or former employee of a public entity pays any claim or judgment against him, or any portion thereof, that the public entity is required to pay under Section 825, he is entitled to recover the amount of such payment from the public entity

(b) If the public entity did not conduct his defense against the action or claim, or if the public entity conducted such defense pursuant to an agreement with him reserving the rights of the public entity against him, an employee or former employee of a public

entity may recover from the public entity under subdivision (a) only if he establishes that the act or omission upon which the claim or judgment is based occurred within the scope of his employment as an employee of the public entity and the public entity fails to establish that he acted or failed to act because of actual fraud, corruption or actual malice or that he willfully failed or refused to conduct the defense of the claim or action in good faith or to reasonably cooperate in good faith in the defense conducted by the public entity

(c) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC 49 Section 825 6 of the Government Code is amended to read

825 6 (a) If a public entity pays any claim or judgment, or any portion thereof, either against itself or against an employee or former employee of the public entity, for an injury arising out of an act or omission of the employee or former employee of the public entity, the public entity may recover from the employee or former employee the amount of such payment if he acted or failed to act because of actual fraud, corruption or actual malice or if he willfully failed or refused to conduct the defense of the claim or action in good faith Except as provided in subdivision (b) or (c), a public entity may not recover any payments made upon a judgment or claim against an employee or former employee if the public entity conducted his defense against the action or claim

(b) If a public entity pays any claim or judgment, or any portion thereof, against an employee or former employee of the public entity for an injury arising out of his act or omission, and if the public entity conducted his defense against the claim or action pursuant to an agreement with him reserving the rights of the public entity against him, the public entity may recover the amount of such payment from him unless he establishes that the act or omission upon which the claim or judgment is based occurred within the scope of his employment as an employee of the public entity and the public entity fails to establish that he acted or failed to act because of actual fraud, corruption or actual malice or that he willfully failed or refused to reasonably cooperate in good faith in the defense conducted by the public entity

(c) If a public entity pays any claim or judgment, or any portion thereof, against an employee or former employee of the public entity for an injury arising out of his act or omission, and if the public entity conducted the defense against the claim or action in the absence of an agreement with him reserving the rights of the public entity

against him, the public entity may recover the amount of such payment from him if he willfully failed or refused to reasonably cooperate in good faith in the defense conducted by the public entity

(d) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC 49 3 Section 3520 of the Government Code is amended to read.

3520 (a) Judicial review of a unit determination shall only be allowed (1) when the board, in response to a petition from the state or an employee organization, agrees that the case is one of special importance and joins in the request for such review; or (2) when the issue is raised as a defense to an unfair practice complaint. A board order directing an election shall not be stayed pending judicial review

Upon receipt of a board order joining in the request for judicial review, a party to the case may petition for a writ of extraordinary relief from the unit determination decision or order

(b) Any charging party, respondent, or intervenor aggrieved by a final decision or order of the board in an unfair practice case, except a decision of the board not to issue a complaint in such a case, may petition for a writ of extraordinary relief from such decision or order

(c) Such petition shall be filed in the district court of appeal in the appellate district where the unit determination or unfair practice dispute occurred The petition shall be filed within 30 days after issuance of the board's final order, order denying reconsideration, or order joining in the request for judicial review, as applicable. Upon the filing of such petition, the court shall cause notice to be served upon the board and thereupon shall have jurisdiction of the proceeding The board shall file in the court the record of the proceeding, certified by the board, within 10 days after the clerk's notice unless such time is extended by the court for good cause shown The court shall have jurisdiction to grant to the board such temporary relief or restraining order it deems just and proper and in like manner to make and enter a decree enforcing, modifying, or setting aside the order of the board The findings of the board with respect to questions of fact, including ultimate facts, if supported by substantial evidence on the record considered as a whole, shall be conclusive The provisions of Title 1 (commencing with Section 1067) of Part 3 of the Code of Civil Procedure relating to writs shall, except where specifically superseded herein, apply to proceedings pursuant to this section.

(d) If the time to petition for extraordinary relief from a board

decision has expired, the board may seek enforcement of any final decision or order in a district court of appeal or a superior court in the district where the unit determination or unfair practice case occurred If, after hearing, the court determines that the order was issued pursuant to procedures established by the board and that the person or entity refuses to comply with the order, the court shall enforce such order by writ of mandamus. The court shall not review the merits of the order

SEC 49 5. Section 3542 of the Government Code is amended to read

3542 (a) No employer or employee organization shall have the right to judicial review of a unit determination except (1) when the board in response to a petition from an employer or employee organization, agrees that the case is one of special importance and joins in the request for such review, or (2) when the issue is raised as a defense to an unfair practice complaint A board order directing an election shall not be stayed pending judicial review.

Upon receipt of a board order joining in the request for judicial review, a party to the case may petition for a writ of extraordinary relief from the unit determination decision or order

(b) Any charging party, respondent, or intervenor aggrieved by a final decision or order of the board in an unfair practice case, except a decision of the board not to issue a complaint in such a case, may petition for a writ of extraordinary relief from such decision or order

(c) Such petition shall be filed in the district court of appeal in the appellate district where the unit determination or unfair practice dispute occurred The petition shall be filed within 30 days after issuance of the board's final order, order denying reconsideration, or order joining in the request for judicial review, as applicable Upon the filing of such petition, the court shall cause notice to be served upon the board and thereupon shall have jurisdiction of the proceeding The board shall file in the court the record of the proceeding, certified by the board, within 10 days after the clerk's notice unless such time is extended by the court for good cause shown The court shall have jurisdiction to grant to the board such temporary relief or restraining order it deems just and proper and in like manner to make and enter a decree enforcing, modifying, or setting aside the order of the board The findings of the board with respect to questions of fact, including ultimate facts, if supported by substantial evidence on the record considered as a whole, are conclusive The provisions of Title 1 (commencing with Section 1067) of Part 3 of the Code of Civil Procedure relating to writs shall, except where specifically superseded herein, apply to proceedings pursuant to this section

(d) If the time to petition for extraordinary relief from a board decision has expired, the board may seek enforcement of any final decision or order in a district court of appeal or a superior court in the district where the unit determination or unfair practice case occurred If, after hearing, the court determines that the order was

issued pursuant to procedures established by the board and that the person or entity refuses to comply with the order, the court shall enforce such order by writ or mandamus The court shall not review the merits of the order

SEC. 49 7 Section 3564 of the Government Code is amended to read.

3564 (a) No employer or employee organization shall have the right to judicial review of a unit determination except· (1) when the board in response to a petition from an employer or employee organization, agrees that the case is one of special importance and joins in the request for such review, or (2) when the issue is raised as a defense to an unfair practice complaint. A board order directing an election shall not be stayed pending judicial review

Upon receipt of a board order joining in the request for judicial review, a party to the case may petition for a writ of extraordinary relief from the unit determination decision or order

(b) Any charging party, respondent, or intervenor aggrieved by a final decision or order of the board in an unfair practice case, except a decision of the board not to issue a complaint in such a case, may petition for a writ of extraordinary relief from such decision or order.

(c) Such petition shall be filed in the district court of appeal in the appellate district where the unit determination or unfair practice dispute occurred The petition shall be filed within 30 days after issuance of the board's final order, order denying reconsideration, or order joining in the request for judicial review, as applicable. Upon the filing of such petition, the court shall cause notice to be served upon the board and thereupon shall have jurisdiction of the proceeding. The board shall file in the court the record of the proceeding, certified by the board, within 10 days after the clerk's notice unless such time is extended by the court for good cause shown The court shall have jurisdiction to grant to the board such temporary relief or restraining order it deems just and proper and in like manner to make and enter a decree enforcing, modifying, or setting aside the order of the board The findings of the board with respect to questions of fact, including ultimate facts, if supported by substantial evidence on the record considered as a whole, are conclusive The provisions of Title 1 (commencing with Section 1067) of Part 3 of the Code of Civil Procedure relating to writs shall, except where specifically superseded herein, apply to proceedings pursuant to this section

(d) If the time to petition for extraordinary relief from a board decision has expired, the board may seek enforcement of any final decision or order in a district court of appeal or a superior court in the district where the unit determination or unfair practice case occurred If, after hearing, the court determines that the order was issued pursuant to procedures established by the board and that the person or entity refuses to comply with the order, the court shall enforce such order by writ of mandamus The court shall not review the merits of the order

SEC 50 Section 3569 5 of the Government Code is amended 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) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to this chapter, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act

SEC 50 5 Section 3572 5 of the Government Code is amended to read

3572 5 In the case where the following provisions of law are in conflict with a memorandum of understanding, the memorandum of understanding shall be controlling

(a) Part 13 (commencing with Section 22000) of Division 1 of Title 1 of, Sections 66609, 89007, 89039, 89500, 89502, 89503, 89504, 89505, 89506, 89507, 89508, 89509, 89510, 89512, 89513, 89514, 89515, 89516, 89517, 89518, 89519, 89520, 89531, 89532, 89533, 89534, 89537, 89541, 89542, 89542 5, 89543, 89544, 89545, 89546, 89550, 89551, 89552, 89553, 89554, 89555, 89556, 89700 and 89701 of, the Education Code

(b) Sections 825, 825 2, 825 6, 3569 5, 6700, 11020, 11021, 13926, 18005, 18006, 18007, 18020, 18020.1, 18022, 18023, 18025, 18025 1, 18050, 18051 5, 18053, 18100, 18100.5, 18101, 18102, 18102 5, 18103, 18105 and 18106 of, Chapter 3 5 (commencing with Section 18120), Chapter 3 6

(commencing with Section 18135) of Part 1 of Division 5 of Title 2 of, Chapter 4 (commencing with Section 18150) of Part 1 of Division 5 of Title 2 of, Sections 18200, 18853 and 18853.5, Article 6 (commencing with Section 19460) of Chapter 7 of Part 2 of Division 5 of Title 2 of, the Government Code.

(c) Sections 395, 395 01, 395.05, 395.1 and 395.3 of the Military and Veterans Code

SEC. 51 Section 6700 of the Government Code is amended to read

6700. The holidays in this state are·

(a) Every Sunday

(b) January 1st.

(c) February 12th, known as "Lincoln Day"

(d) The third Monday in February.

(e) The last Monday in May.

(f) July 4th

(g) First Monday in September.

(h) September 9th, known as "Admission Day"

(i) The second Monday in October, known as "Columbus Day"

(j) November 11th, known as "Veterans Day"

(k) December 25th

(*l*) Good Friday from 12 noon until 3 p.m

(m) Every day appointed by the President or Governor for a public fast, thanksgiving, or holiday

Except for the Thursday in November appointed as Thanksgiving Day, this subdivision shall not apply to a city, county or district unless made applicable by charter, or by ordinance or resolution of the governing body thereof

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act

SEC 52 Section 11020 of the Government Code is amended to read

11020 (a) Unless otherwise provided by law, all offices of every state agency shall be kept open for the transaction of business from 8 a.m until 5 p m of each day from Monday to Friday both inclusive, other than legal holidays, but the office of Treasurer shall close one hour earlier, provided, however, any state agency or division, branch or office thereof may be kept open for the transaction of business on other hours and on other days than those specified herein

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, the memorandum of understanding shall be controlling without

further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC 53 Section 11021 of the Government Code is amended to read

11021 (a) When a state agency is open or operates on Saturday such state agency may operate with a skeleton crew from 9 a m to 12 noon of each Saturday if the total number of hours per week of its employees is not less than the total number of office hours established in this article.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act

SEC 54 Section 13926 of the Government Code is amended to read

13926 The State Board of Control may make awards to state employees who

(a) Propose procedures or ideas which hereafter have been adopted and which will result in eliminating or reducing state expenditures or improving operations, provided, such proposals are placed in effect, or

(b) Perform special acts or special services in the public interest, or

(c) By their superior accomplishments, make exceptional contributions to the efficiency, economy or other improvement in the operations of the state government

Awards for superior accomplishments shall be made in accordance with procedures and standards established by the State Personnel Board

Any award made by the State Board of Control under the provisions of this section may be paid from the appropriation available to the state agency affected by the award

The board may adopt rules and regulations to carry out the provisions of this section, and may appoint merit award boards made up of state officers, employees or citizens to consider employee proposals, special acts, special services, or superior accomplishments, and to make recommendations to the board as to the merits of the proposals, special acts, special services, or superior accomplishments, and whether or not the proposals, special acts, special services or superior accomplishments, justify an award

Any award granted under the provisions of this section shall be limited to one thousand dollars ($1,000) unless a larger award is approved by concurrent resolution of the Legislature

Any expenditures made or costs incurred heretofore or hereafter by the State Board of Control for the purposes of this section may be paid from funds available for the support of the State Board of Control.

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 55. Section 18005 of the Government Code is amended to read

18005. (a) Upon separation from service without fault on his part, a person is entitled to a lump-sum payment as of the time of separation for any unused or accumulated vacation or for any time off to which he is entitled by reason of previous overtime work where compensating time off for overtime work is provided for by the appointing power or by rules of the State Personnel Board Such sum shall be computed by projecting the accumulated time on a calendar basis so that the lump sum will equal the amount which the employee would have been paid had he taken the time off but not separated from the service

(b) Persons separated from service through fault of their own are entitled to a lump-sum payment for such compensating time off for overtime work, and in addition, such portion, if any, of unused vacation as the State Personnel Board may determine. The computation of such sum shall be based on actual accumulated time without projection as provided in (a)

(c) Lump-sum payment for vacation shall not be made to a person who separates from a position for the purpose of accepting another position in the state service except

(1) Upon movement to a position in which vacation credits are neither accrued nor used or (2) upon reassignment of an employee of the Trustees of the California State Colleges, subsequent to January 1, 1965, from a position other than an academic year position, to an academic year position. However, a lump-sum payment shall not be made to a person who returns to a position in the same class and agency within 15 working days of the date of his resignation

(d) Except for payment authorized or excluded under subdivision (c) an employee who returns to state service during the period through which his lump-sum payment was computed may refund the amount of lump-sum payment which exceeds his break in service and have the balance of credits restored as though he had remained in state service and taken the time off.

(e) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, or Chapter 12 (commencing with Section 3560) of

Division 4 of Title 1, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act

SEC 56 Section 18006 of the Government Code is amended to read

18006 (a) Notwithstanding the provisions of Section 11030, whenever a state officer or employee is required by the appointing power because of a change in assignment, promotion or other reason related to his duties to change his place of residence, such officer, agent or employee shall receive his actual and necessary moving, traveling, lodging and meal expenses, incurred by him both before and after and by reason of such change of residence. The maximum allowances for such expenses shall be as follows: the costs of packing, transporting, and unpacking 11,000 pounds of household effects, traveling, lodging, and meal expenses for 60 days while locating a permanent residence, storage of household effects for 60 days, and additional miscellaneous allowances not in excess of two hundred dollars ($200) The maximum allowances may be exceeded in those particular instances where the Director of General Services determines in advance that the change of residence will result in unusual and unavoidable hardship for the officer or employee, and in such cases the Director of General Services shall determine the maximum allowances to be received by such officer or employee

(b) If such change of residence reasonably requires the sale of residence or the settlement of an unexpired lease, such officer or employee may be reimbursed for any of the following expenses:

(1) The settlement of the unexpired lease to a maximum of one year Upon the date of surrender of the premises by the employee who is the lessee, the rights and obligations of the parties to the lease shall be as determined by Section 1951 2 of the Civil Code

The state shall be absolved of responsibility for an unexpired lease if the Board of Control determines the employee knew or reasonably should have known that a transfer involving physical move was imminent before entering into the lease agreement

(2) In the event of residence sale, reimbursement for brokerage and other related selling fees or charges, as determined by regulations of the Board of Control, adopted pursuant to the Administrative Procedure Act (commencing with Section 11420) customarily charged for like services in the locality where the residence is located

(c) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517 5, or Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective

unless approved by the Legislature in the annual Budget Act

SEC 57 Section 18007 of the Government Code is amended to read

18007 (a) For the purpose of facilitating the recruitment of professional and technically trained persons to fill positions for which there is a shortage of qualified applicants, the Board of Control may authorize payment of all or a part of the travel expense of applicants who are called for interview and all or a part of the travel and moving expense of persons who change their place of residence to accept employment with the state In the case of applicants for employment by the Trustees of the California State University and Colleges, such payments shall be authorized only upon the certification of the trustees that the expenditure is necessary in order to recruit qualified persons needed by the California State University and Colleges In the case of all other applicants, such payments shall be authorized only upon the certification of the appointing power and the State Personnel Board that the expenditure is necessary in order to recruit qualified persons needed by the state

If, for reasons that do not meet the approval of the state department concerned, the employee or applicant for employment does not accept or continue such employment for a period of two years, he shall reimburse the state department for such moving and travel expenses for the full or proportionate amount

For the purposes of this section satisfactory reasons for not completing two years of employment shall be death, prolonged illness, disability, unacceptability of the applicant or employee to the state department, and similar eventualities beyond the control of the applicant or employee

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517 5, or Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act

SEC 58. Section 18020 of the Government Code is amended to read·

18020 (a) It is the policy of the state that the workweek of the state employee shall be 40 hours, and the workday of state employees eight hours, except that workweeks and workdays of a different number of hours may be established in order to meet the varying needs of the different state agencies. It is the policy of the state to avoid the necessity for overtime work whenever possible This policy does not restrict the extension of regular working-hour schedules on an overtime basis in those activities and agencies where such is necessary to carry on the state business properly during a manpower shortage

(b) If the provisions of this section are in conflict with the

provisions of a memorandum of understanding reached pursuant to Section 3517.5, or Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC 59. Section 18020 1 of the Government Code is amended to read:

18020 1 (a) When the Governor determines that the best interests of the state would be served thereby, he may require that the 40-hour workweek established as the state policy in Section 18020 shall be worked in four days in any state agency or part thereof.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 60 Section 18022 of the Government Code is amended to read.

18022 (a) Every state agency in which there are employees not subject to state civil service shall submit to the State Personnel Board all information necessary for determination of the workweek for each employee. For each class or position for which a monthly or annual salary range is established by the Trustees of the California State University and Colleges, the trustees shall establish and adjust workweek groups and shall assign each class or position to a workweek group.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, or Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act

SEC 61. Section 18023 of the Government Code is amended to read.

18023. (a) The granting of compensating time off in lieu of cash compensation is not prohibited where compensating time off can be granted within 12 calendar months following the month in which the overtime was worked and without impairing the services rendered by the employing state agency.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517 5, or Chapter 12 (commencing with Section 3560) of

Division 4 of Title 1, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act

SEC 62 Section 18025 of the Government Code is amended to read

18025 (a) All employees shall be entitled to the following holidays. the first day of January, the 12th day of February, the third Monday in February, the last Monday in May, the fourth day of July, the first Monday in September, the ninth day of September, the second Monday in October, the 11th day of November, the 25th day of December, the day chosen by an employee pursuant to the provisions of Section 18025 1, and every day appointed by the Governor of this state for a public fast, thanksgiving, or holiday

When a day herein listed falls on a Sunday, the following Monday shall be deemed to be the holiday in lieu of the day observed If November 11th falls upon a Saturday, the preceding Friday shall be deemed to be the holiday in lieu of the day observed Any employee who may be required to work on any of the holidays herein mentioned, and who does work on any of said holidays, shall be entitled to be paid compensation or given compensating time off for such work within the meaning of this article. For the purpose of computing the number of hours worked, time during which an employee is excused from work because of holidays, sick leave, vacation, or compensating time off, shall be considered as time worked by the employee

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, or Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act

SEC 63. Section 18025 1 of the Government Code is amended to read.

18025 1 (a) Every employee shall be entitled to one personal holiday per calendar year. The employer may require the employee to provide five working days' notice in advance of the personal holiday The State Personnel Board may provide by rule for the granting of such holiday for employees

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517 5, or Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective

unless approved by the Legislature in the annual Budget Act.

SEC 64 Section 18050 of the Government Code is amended to read:

18050. (a) Following completion of six months of continuous service, for each completed calendar month of service, except as provided in Section 18051 5, each state officer and employee who is employed full time shall receive credit for vacation with pay in accordance with the following schedule

1 month to 3 years	5/6 days per month
37 months to 10 years	1 1/4 days per month
121 months to 15 years	1 5/12 days per month
181 months to 24 years	1 7/12 days per month
289 months and over	1 2/3 days per month

The computation of credit for the month of January, 1964 and each month thereafter shall be based upon the schedule provided by this section, provided that the rate of vacation credit allowed shall not be reduced for any officer or employee employed prior to January 1, 1964. The time when vacation shall be taken shall be determined by the appointing power of the officer or employee.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517 5, or Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act

SEC 65. Section 18051 5 of the Government Code is amended to read:

18051 5. (a) It shall be within the discretion of the State Personnel Board to define the effect of an absence from the payroll of 10 working days or less in any calendar month upon credit for vacation.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, or Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 66 Section 18053 of the Government Code is amended to read.

18053. (a) Any employee of a state college who, immediately prior to becoming such employee was an employee of a state college auxiliary organization as provided in Section 24054 of the Education Code and whose functions and employment were, subsequent to January 1, 1969, transferred to and assumed by a state college, shall

be entitled to accumulate credit for vacation at the rate to which he would have been entitled if his employment by such state college auxiliary organization had been employment by a state college

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act

SEC 67 Section 18100 of the Government Code is amended to read

18100 (a) Following completion of one month of continuous service, except as otherwise provided in Section 18102 5 of the Government Code, each state officer and employee who is employed full time shall be allowed one day of credit for sick leave with pay Thereafter, for each additional calendar month of service, except as provided in Section 18100 5, one day of credit for sick leave with pay shall be allowed Each state officer or employee is entitled to such leave with pay, on the submission of satisfactory proof of the necessity for sick leave as provided by rule of the State Personnel Board For purposes of computing sick leave, each employee shall be considered to work not more than five days each week The State Personnel Board shall provide by rule for the regulation and method of accumulation of sick leave for civil service employees, and may provide sick leave for those who work less than full time Subject to board rule sick leave may be granted to employees for the purpose of physical examinations

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517 5, or Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act

SEC 68 Section 18100 5 of the Government Code is amended to read

18100 5 (a) It shall be within the discretion of the State Personnel Board to define the effect of an absence from the payroll of 10 working days or less in any calendar month upon credit for sick leave

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517 5, or Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the

expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 69 Section 18101 of the Government Code is amended to read

18101 (a) Sick leave may be accumulated, and no additional sick leave with pay beyond that accumulated shall be granted, except as provided in Section 18102.5 of the Government Code

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517 5, or Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC 70. Section 18102 of the Government Code is amended to read·

18102 (a) A state officer or employee who is or may be entitled to temporary disability indemnity under Division 4 or Division 4 5 of the Labor Code shall receive any accumulated sick leave, or accumulated compensable overtime, or accumulated vacation for such absence. The appointing power shall decrease the charge of sick leave, or compensable overtime, or vacation in the amount of temporary disability payment received so that the state officer or employee shall not receive payment in excess of full salary or wage.

If a state officer or employee does not wish to use his accumulated sick leave, or accumulated compensable overtime, or accumulated vacation, he shall notify his appointing power within 15 days after the injury is reported to the appointing power After the 15 days his accumulations shall be used until the date he notifies the appointing power in writing that he no longer wishes to use the accumulations. When computing sick leave, or overtime, or vacation under this section the employee shall be given credit for any holidays that occur during the period of absence hereunder

He is nevertheless entitled to medical, surgical, and hospital treatment as provided in the Labor Code When his accumulated sick leave, or overtime, or vacation, or all, are exhausted, he is still entitled to receive disability indemnity

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517 5, or Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC 71 Section 18102 5 of the Government Code is amended to read

18102 5 (a) Notwithstanding any other provision of the law to

the contrary, a state officer or employee who is entitled to temporary disability indemnity under Division 4 or Division 4 5 of the Labor Code as a result of an industrial accident occurring during a period of employment for which he is not earning sick leave credit shall have sick leave credit of one day for each completed month of service during the time that he is not earning sick leave credit If the employee is disabled because of an industrial injury arising out of said employment during said period the employee may elect to draw sick leave credit during such period of disability, such credit not to exceed one day of sick leave for each completed month of service that he is not earning sick leave credit and not to exceed a total of six days

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, or Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act

SEC 72 Section 18103 of the Government Code is amended to read.

18103 (a) The board may provide by rule for sick leave without pay for those employees who have used all sick leave with pay to which they are entitled

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517 5, or Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act

SEC 73 Section 18105 of the Government Code is amended to read

18105 (a) The appointing power of any officer or employee not a member of the civil service shall administer the sick leave authorized by this part for such officers or employees in accordance with the rules of the State Personnel Board For each class or position for which a monthly or annual salary range is established by the Trustees of the California State University and Colleges, the trustees shall establish and adjust rules for the administration of sick leave

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517 5, or Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective

unless approved by the Legislature in the annual Budget Act.

SEC. 74. Section 18106 of the Government Code is amended to read

18106 (a) Any employee of a state college who, immediately prior to becoming such employee, was an employee of a state college auxiliary organization as provided in Section 24054 of the Education Code and whose functions and employment were, subsequent to January 1, 1969, transferred to and assumed by a state college, shall be entitled to retain accumulated sick leave, and to accumulate sick leave credit, as if his employment by such state college auxiliary organization had been employment by a state college

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act

SEC. 75. Section 18120 5 is added to the Government Code, to read·

18120 5. If the provisions of this chapter are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act

SEC 76. Section 18135.3 is added to the Government Code, to read

18135.3. If the provisions of this chapter are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act

SEC 77. Section 18150 5 is added to the Government Code, to read.

18150 5 If the provisions of this chapter are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act

SEC. 78 Section 18200 of the Government Code is amended to read

18200. A person shall not be knowingly employed by any state agency or court who either directly or indirectly carries on, advocates, teaches, justifies, aids, or abets a program of sabotage, force and violence, sedition, or treason against the Government of the United States or of this state.

Any person employed by any state agency or court shall be immediately discharged from his employment when it becomes known to his appointing power that he has, during the period of his employment, committed any such act.

Money appropriated from the treasury shall not be expended to compensate any person whose employment is forbidden by this section

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC 79 Section 18853 of the Government Code is amended to read

18853. (a) The minimum and maximum salary limits for laborers, workmen, and mechanics employed on an hourly or per diem basis need not be uniform throughout the state, but the appointing power shall ascertain and report to the board, as to each such position, the general prevailing rate of such wages in the various localities of the state.

In fixing such minimum and maximum salary limits within the various localities of the state, the board shall take into account the prevailing rates of wages in the localities in which the employee is to work and other relevant factors, and shall not fix the minimum salary limits below the general prevailing rate so ascertained and reported for the various localities

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, or Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC 80 Section 18853 5 of the Government Code is amended to read.

18853.5. (a) The board may authorize payments into a private fund to provide health and welfare benefits to nonpermanent employees in classes compensated in accordance with the provisions

of Section 18853 where the board finds as to any such position that:

(1) Such payments by employers are the prevailing practice in comparable employment in the locality of the work and the payments are for the purpose of providing to employees specified benefits such as, but not limited to, hospital, medical, surgical and life insurance, sick leave, vacation allowance, pensions, supplementary unemployment and disability compensation, and other similar or related health and welfare benefits, or any combination thereof

(2) Participation in the benefits provided by such funds is not limited to state employees

(3) The provisions of the plans which provide the benefits meet the standards established by the board.

(b) Payments made by the state to any such fund on behalf of any employee shall be in lieu of benefits such as vacation allowance, sick leave, and retirement which are now or may hereafter be granted directly by the state in accordance with law

(c) The board is empowered to determine the equitable application of this section to insure that the employees receive benefits comparable to, but not in excess of those provided in comparable private employment

(d) The payments authorized by this section shall be a proper charge against any funds available for the support of the employing agency

(e) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517 5, or Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act

SEC. 81. Section 19460.5 is added to the Government Code, to read.

19460 5 If the provisions of this article are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act

SEC 82 Section 395 of the Military and Veterans Code is amended to read

395. Any public employee who is a member of the reserve corps of the armed forces of the United States or of the National Guard or the Naval Militia shall be entitled to a temporary military leave of absence while engaged in military duty ordered for purposes of active military training, encampment, naval cruises, special exercises or like activity as such member, providing that the period of ordered

duty does not exceed 180 calendar days, including time involved in going to and returning from such duty, and provided that military leave of absence is not authorized for periods of inactive military duty

He shall have an absolute right to be restored to his former office or position and status formerly had by him in the same locality and in the same office, board, commission, agency, or institution of the public agency upon the termination of such temporary military duty If the office or position has been abolished or otherwise has ceased to exist during his absence, he shall be reinstated to a position of like seniority, status, and pay if such position exists, or if no such position exists he shall have the same rights and privileges that he would have had if he occupied the position when it ceased to exist and had not taken temporary military leave of absence

Any public employee who has been in the service of the public agency from which the leave is taken for a period of not less than one year immediately prior to the date upon which his temporary military leave of absence begins, shall receive the same vacation, sick leave, and holiday privileges and the same rights and privileges to promotion, continuance in office, employment, reappointment to office, or reemployment that he would have enjoyed had he not been absent therefrom; excepting that an uncompleted probationary period if any in the public agency must be completed upon reinstatement as provided by law or rule of the agency. For the purposes of this section, in determining the one year of service in a public agency all service of said public employee in recognized military service shall be counted as public agency service

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 83. Section 395.01 of the Military and Veterans Code is amended to read:

395 01. (a) Any public employee who is on temporary military leave of absence and who has been in the service of the public agency from which the leave is taken for a period of not less than one year immediately prior to the day on which the absence begins shall be entitled to receive his salary or compensation as such public employee for the first 30 calendar days of any such absence Pay for such purposes shall not exceed 30 days in any one fiscal year. For the purposes of this section, in determining the one year of public agency service, all service of said public employee in the recognized military service shall be counted as public agency service

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to

Chapter 12 (commencing with Section 3560) of Division 4, of Title 1 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 84 Section 395.05 of the Military and Veterans Code is amended to read

395 05 (a) Any public employee who is a member of the National Guard, shall be entitled to absent himself from his duties or service, without regard to the length of his public service, while engaged in the performance of ordered military or naval duty and while going to and returning from such duty, provided such duty is performed during such time as the Governor may have issued a proclamation of a state of extreme emergency or during such time as the National Guard may be on active duty in one or more of the situations described or included in Section 146 of this code provided such absence does not exceed the duration of such emergency During the absence of such officer or employee while engaged in such military service during such emergency and while going to and returning from such duty, and for a period not to exceed 30 calendar days, he shall receive his salary or compensation as such officer or employee and shall not be subjected by any person directly or indirectly by reason of such absence to any loss or diminution of vacation or holiday privilege or be prejudiced by reason of such absence with reference to promotion or continuance in office, employment, reappointment to office, or reemployment.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act

SEC 85 Section 395 1 of the Military and Veterans Code is amended to read

395 1 (a) Notwithstanding any other provision of law to the contrary, any officer or employee of the state not subject to civil service, or any public officer, deputy, assistant, or employee of any city, county, city and county, school district, water district, irrigation district, or any other district, political corporation, political subdivision, or governmental agency thereof who, in time of war or national emergency as proclaimed by the President or Congress, or when any of the armed forces of the United States are serving outside of the United States or their territories pursuant to order or request of the United Nations, or while any national conscription act is in effect, leaves or has left his office or position prior to the end of the war, or the termination of the national emergency or during the

effective period of any such order or request of the United Nations or prior to the expiration of the National Conscription Act, to join the armed forces of the United States and who does or did without unreasonable and unnecessary delay join the armed forces or, being a member of any reserve force or corps of any of the armed forces of the United States or of the militia of this state, is or was ordered to duty therewith by competent military authority and served or serves in compliance with such orders, shall have a right, if released, separated or discharged under conditions other than dishonorable, to return to and reenter upon the office or position within six months after the termination of his active service with the armed forces, but not later than six months after the end of the war or national emergency or military or police operations under the United Nations or after the Governor finds and proclaims that, for the purposes of this section, the war, national emergency, or United Nations military or police operation no longer exists, or after the expiration of the National Conscription Act, if the term for which he was elected or appointed has not ended during his absence; provided, that such right to return to and reenter upon the office or position shall not extend to or be granted to such officer or employee of the state not subject to civil service or any public officer, deputy, assistant, or employee of any city, county, city and county, school district, water district, irrigation district or any other district, political corporation, political subdivision or governmental agency thereof, who shall fail to return to and reenter upon his office or position within 12 months after the first date upon which he could terminate or could cause to have terminated his active service with the armed forces of the United States or of the militia of this state He shall also have a right to return to and reenter upon the office or position during terminal leave from the armed forces and prior to discharge, separation or release therefrom.

(b) Upon such return and reentry to the office or employment the officer or employee shall have all of the rights and privileges in, connected with, or arising out of the office or employment which he would have enjoyed if he had not been absent therefrom; provided, however, such officer or employee shall not be entitled to sick leave, vacation or salary for the period during which he was on leave from such governmental service and in the service of the armed forces of the United States

If the office or position has been abolished or otherwise has ceased to exist during his absence, he shall be reinstated in a position of like seniority, status and pay if such position exists, or to a comparable vacant position for which he is qualified

(c) Any officer or employee other than a probationer who is restored to his office or employment pursuant to this act shall not be discharged from such office or position without cause within one year after such restoration, and shall be entitled to participate in insurance or other benefits offered by the employing governmental agency pursuant to established rules and practices relating to such

officers or employees on furlough or leave of absence in effect at the time such officer or employee left his office or position to join the armed forces of the United States

(d) Notwithstanding any other provisions of this code, any enlisted person who was involuntarily ordered to active duty (other than for training) for a stated duration shall not lose any right or benefit conferred under the provisions of this code if he voluntarily elects to complete the period of such duty

(e) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act

SEC 86 Section 395 3 of the Military and Veterans Code is amended to read

395 3. In the event that any public officer or employee has resigned or resigns his office or employment to serve or to continue to serve in the armed forces of the United States or in the armed forces of this state, he shall have a right to return to and reenter the office or employment prior to the time at which his term of office or his employment would have ended if he had not resigned, on serving a written notice to that effect upon the authorized appointing power, or if there is no authorized appointing power, upon the officer or agency having power to fill a vacancy in the office or employment, within six months of the termination of his active service with the armed forces; provided, that such right to return and reenter upon the office or position shall not extend to or be granted to such public officer or employee, who shall fail to return to and reenter upon his office or position within 12 months after the first date upon which he could terminate or could cause to have terminated his active service with the armed forces of the United States or of the militia of this state

As used in this section, "public officers and employees" includes all of the following

(a) Members of the Senate and of the Assembly

(b) Justices of the Supreme Court and the courts of appeal, judges of the superior courts and of the municipal courts, and all other judicial officers

(c) All other state officers and employees not within the state civil service, including all officers for whose selection and term of office provision is made in the Constitution and laws of this state

(d) All officers and employees of any county, city and county, city, township, district, political subdivision, authority, commission, board, or other public agency within this state

The right of reentry into public office or employment provided for in this section shall include the right to be restored to such civil

service status as the officer or employee would have if he had not so resigned; and no other person shall acquire civil service status in the same position so as to deprive such officer or employee of his right to restoration as provided for herein

This section shall be retroactively applied to extend the right of reentry into public office or employment to public officers and employees who resigned prior to its effective date

This section does not apply to any public officer or employee to whom the right to reenter public office or employment after service in the armed forces has been granted by any other provision of law

If any provision of this section, or the application of this section to any person or circumstance, is held invalid, the remainder of this section, or the application of this section to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act

SEC 87 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 higher education employer-employee relations law, contained in Chapter 744 of the Statutes of 1978, will become operative on July 1, 1979. In order for this act to become operative at the same time as the higher education employer-employee relations law, it is necessary that this act take effect immediately

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CHAPTER 1073

An act to amend Sections 33080.3, 33334 2, 33782, and 33792 of, to add Section 50508 5 to, and to add Chapter 5 5 (commencing with Section 50640) to Part 2 of Division 31 of, the Health and Safety Code, relating to local development.

[Approved by Governor September 27, 1979 Filed with Secretary of State September 28, 1979]

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

SECTION 1 Section 33080 3 of the Health and Safety Code is amended to read·

33080 3 Notwithstanding the provisions of Section 33080 or

33080 1, an opinion of the agency's compliance with laws, regulations and administrative requirements governing activities of the agency, as required by subdivision (a) of Section 33080.1, shall be included for the first time in the first report filed with the department and presented to the agency's legislative body for the agency's last fiscal year ended prior to March 1, 1980. The State Controller shall develop guidelines for the content of such portion of the report not later than July 1, 1979. The State Controller shall appoint an advisory committee to advise the State Controller in the development of the guidelines, consisting of one member of a city council which serves as the governing body of its redevelopment agency, who shall be nominated by the League of California Cities, one member of a county board of supervisors which serves as the governing body of its redevelopment agency, who shall be nominated by the County Supervisors Association of California, and two representatives each from (1) the department, (2) the California Society of Certified Public Accountants, (3) municipal finance officers, (4) redevelopment agencies, and (5) independent authorities in the field.

That portion of the report required by subdivisions (b), (c), and (d) of Section 33080 1 for the fiscal year 1977–78, shall be filed with the department and presented to the agency's legislative body on or before March 1, 1979

SEC. 1.2. Section 33334.2 of the Health and Safety Code is amended to read·

33334 2 (a) Not less than 20 percent of all taxes which are allocated to the agency pursuant to Section 33670 shall be used by the agency for the purposes of increasing and improving the community's supply of housing for persons and families of low or moderate income, as defined in Section 50093, and very low income households, as defined in Section 50105, unless one of the following findings are made:

(1) That no need exists in the community, the provision of which would benefit the project area to improve or increase the supply of housing for persons and families of low or moderate income or very low income households, or

(2) That some stated percentage less than 20 percent of the taxes which are allocated to the agency pursuant to Section 33670 is sufficient to meet such housing need, or

(3) That a substantial effort to meet low- and moderate-income housing needs in the community is being made, and that this effort, including the obligation of funds currently available for the benefit of the community from state, local, and federal sources for low- and moderate-income housing alone or in combination with the taxes allocated under this section, is equivalent in impact to the funds otherwise required to be set aside pursuant to this section The legislative body shall consider the need that can be reasonably foreseen because of displacement of persons and families of low or moderate income or very low income households from within, or

adjacent to the project area, because of increased employment opportunities, or because of any other direct or indirect result of implementation of the redevelopment plan

(b) Within 10 days following the making of a finding under subdivision (a), the agency shall send the Department of Housing and Community Development a copy of such finding, including the factual information supporting such finding.

(c) In any litigation to challenge or attack a finding made under subdivision (a), (b), or (c), the burden shall be upon the agency to establish that the finding is supported by substantial evidence in light of the entire record before the agency

(d) Nothing in this section shall be construed as relieving any other public entity or entity with the power of eminent domain of any legal obligations for replacement or relocation housing arising out of its activities.

(e) In carrying out the purpose of this section, the agency may exercise any or all of its powers, including the following:

(1) Acquire land or building sites

(2) Improve land or building sites with onsite or offsite improvements

(3) Donate land to private or public persons or entities

(4) Construct buildings or structures.

(5) Acquire buildings or structures

(6) Rehabilitate buildings or structures.

(7) Provide subsidies to, or for the benefit of, persons or families of low or moderate income, or very low income households

(8) Develop plans, pay principal and interest on bonds, loans, advances or other indebtedness, or pay financing or carrying charges

(f) The agency may use these funds to meet, in whole or in part, the replacement housing provisions in Section 33413 However, nothing in this section shall be construed as limiting in any way the requirements of that section

(g) The agency may use these funds inside or outside the project area The agency may only use these funds outside the project area upon a resolution of the agency and the legislative body that such use will be of benefit to the project Such determination by the agency and the legislative body shall be final and conclusive as to the issue of benefit to the project area. The Legislature finds and declares that the provision of replacement housing pursuant to Section 33413 is always of benefit to a project Unless the legislative body finds before the redevelopment plan is adopted, that the provision of low- and moderate-income housing outside the project area will be of benefit to the project, the project area shall include property suitable for low- and moderate-income housing

(h) The Legislature finds and declares that expenditures or obligations incurred by the agency pursuant to this section shall constitute an indebtedness of the project

(i) The requirements of this section shall only apply to taxes

allocated to a redevelopment agency for which a final redevelopment plan is adopted on or after the effective date of this section, or for any area which is added to a project by an amendment to a redevelopment plan, which amendment is adopted on or after the effective date of this section An agency may, by resolution, elect to make all or part of the requirements of this section applicable to any redevelopment project for which a redevelopment plan was adopted prior to the effective date of this section, subject to any indebtedness incurred prior to such election

SEC 1 3 Section 33782 of the Health and Safety Code is amended to read

33782 Any agency may provide for the issuance of the revenue bonds of the agency for the purpose of refunding any revenue bonds of the agency then outstanding, including the payment of any redemption premiums thereof and any interest accrued or to accrue to the earliest or subsequent date of redemption, purchase, or maturity of such bonds, and, if deemed advisable by the agency, for the additional purpose of paying all or any part of the cost of additional residential construction.

The proceeds of revenue bonds issued pursuant to this section may, in the discretion of the agency, be applied to the purchase or retirement at maturity or redemption of outstanding revenue bonds, either at their earliest or any subsequent redemption date or upon the purchase or retirement at the maturity thereof and, pending such application, that portion of the proceeds allocated for such purpose may be placed in escrow, to be applied to such purchase or retirement at maturity or redemption on such date, as may be determined by the agency Pending use for purchase, retirement at maturity, or redemption of outstanding revenue bonds, any proceeds held in such an escrow may be invested and reinvested as provided in the resolution authorizing the issuance of the refunding bonds Any interest or other increment earned or realized on any such investment may also be applied to the payment of the outstanding revenue bonds to be refunded After the terms of the escrow have been fully satisfied and carried out, any balance of such proceeds and any interest or increment earned or realized from the investment thereof may be returned to the agency to be used by it for any lawful purpose under this chapter That portion of the proceeds of any revenue bonds issued pursuant to this section which is designated for the purpose of paying all or any part of the cost of additional residential construction may be invested and reinvested in obligations of, or guaranteed by, the United States of America or in certificates of deposit or time deposits secured by obligation of, or guaranteed by, the United States of America, maturing not later than the time or times when such proceeds will be needed for the purpose of paying all or any part of such cost.

All revenue bonds issued pursuant to this section shall be subject to the provisions of this chapter in the same manner and to the same extent as other bonds issued pursuant to this chapter

SEC 1 5 Section 33792 of the Health and Safety Code is amended to read

33792 All moneys received pursuant to the provisions of this chapter, whether revenues or proceeds from the sale of revenue bonds or proceeds of mortgage insurance or guarantee claims, shall be deemed to be trust funds to be held and applied solely for the purposes of this chapter Any bank or trust company in which such moneys are deposited shall act as trustee of such moneys and shall hold and apply the same for the purposes specified in this chapter, subject to the terms of the resolution authorizing the revenue bonds

SEC 2 Section 50508 5 is added to the Health and Safety Code, to read

50508 5 The department shall compile, analyze, and report upon the use in redevelopment project areas, of federal funds granted under Title I of the Housing and Community Development Act of 1974 (Public Law 93-383), as amended The department shall report the amounts and percentage of such funds used for the purpose of (1) principally benefiting persons of low and moderate income, (2) aiding in the prevention or elimination of slums and blight, or (3) meeting other community development needs having a particular urgency Such analysis shall include an assessment of the extent to which the application of such funds meet the specified purposes Redevelopment agencies and other local agencies shall promptly respond to any requests for information from the department in connection with its duties under this section

The department shall publish its analysis and assessment annually

SEC 3 Chapter 5 5 (commencing with Section 50640) is added to Part 2 of Division 31 of the Health and Safety Code, to read

CHAPTER 5 5 CENTURY FREEWAY HOUSING PROGRAM

50640 The department shall establish a program to replace housing units to be removed from the corridor of the Interstate Route 105 in accordance with, and conditioned upon, the final consent decree issued by the United States District Court for the Southern District of California in Civil Number 72-355-HP

50641 The Governor shall appoint, upon recommendation of the director and subject to confirmation of the Senate, an executive director and an associate director to administer the program established pursuant to Section 50640 The executive director shall be responsible to the director, shall serve at his or her pleasure, and shall be in charge of the program established pursuant to Section 50640 The executive director and associate director shall receive a salary as shall be fixed by the director with the approval of the Department of Finance, however, in no case shall the salary for the executive director and associate director exceed that of the Director of Housing and Community Development

SEC 4 As to findings under Section 33334 2 of the Health and Safety Code made prior to the effective date of this act, each agency

shall send the Department of Housing and Community Development notification of such findings, including the factual information supporting them, within 30 days after the effective date of this act.

CHAPTER 1074

An act to amend Section 2118 of, and to add Sections 2118.2, 2118 3, and 2118 4 to, the Fish and Game Code, relating to animals, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1979 Filed with Secretary of State September 28, 1979]

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

SECTION 1 Section 2118 of the Fish and Game Code is amended to read

2118 It is unlawful to import, transport, possess, or release alive into this state, except under a revocable, nontransferable permit as provided in this chapter and the regulations pertaining thereto, any wild animal of the following species

(a) Class Aves· (birds)

Family Cuculidae (cuckoos)
All species.
Family Alaudidae (larks)
Skylark, Alauda arvensis
Family Corvidae (crows, jays, magpies)
All species
Family Turdidae (thrushes)
European blackbird, Turdus merula
Missel (or mistle), thrush, Turdus viscivorus
Family Sturnidae (starlings and mynas or mynahs)
All species of the family, except hill myna (or hill mynah),
Gracula religiosa (sometimes referred to as Eulabes religiosa)
Family Ploceidae (weavers)
The following species
Spanish sparrow, Passer hispaniolensis
Italian sparrow, Passer italiae
European tree sparrow, Passer montanus
Cape sparrow, Passer capensis
Madagascar weaver, Foudia madagascariensis
Baya weaver, Ploceus baya
Hawaiian rice bird, Munia nisoria
Red-billed quelea, Quelea quelea
Red-headed quelea, Quelea erythrops

Family Fringillidae (sparrows, finches, buntings)
Yellowhammer, Emberiza citrinella

(b) Class Mammalia (mammals)

Order Primates
All species except those in family Homonidae

Order Edentata (sloths, anteaters, armadillos, etc.)
All species

Order Marsupialia (marsupials or pouched mammals)
All species.

Order Insectivora (shrews, moles, hedgehogs, etc.)
All species

Order Dermoptera (gliding lemurs)
All species.

Order Chiroptera (bats)
All species.

Order Monotremata (spiny anteaters, platypuses)
All species.

Order Pholidota (pangolins, scaly anteaters)
All species

Order Lagomorpha (pikas, rabbits, hares)
All species, except domesticated races of rabbits.

Order Rodentia (rodents)
All species, except domesticated golden hamsters, also known as Syrian hamster, Mesocricetus auratus, domesticated races of rats or mice (white or albino; trained, dancing or spinning, laboratory-reared), and domestic strains of guinea pig (Cavia porcellus)

Order Carnivora (carnivores)
All species, except domestic dogs (Canis familiaris) and domestic cats (Felis catus).

Order Tubulidentata (aardvarks)
All species

Order Proboscidea (elephants)
All species

Order Hyracoidea (hyraxes)
All species

Order Sirenia (dugongs, manatees)
All species

Order Perissodactyla (horses, zebras, tapirs, rhinoceroses, etc.)
All species except those of the family Equidae

Order Artiodactyla (swine, peccaries, camels, deer, elk, except elk (genus Cervus) which are subject to Section 2118.2, moose, antelopes, cattle, goats, sheep, etc.)
All species except, domestic swine of the family Suidae, American bison, and domestic cattle, sheep and goats of the family Bovidae, races of big-horned sheep (Ovis canadensis) now or formerly indigenous to this state.

Mammals of the orders Primates, Edentata, Dermoptera,

Monotremata, Pholidota, Tubulidentata, Proboscidea, Perissodactyla, Hyracoidea, Sirenia and Carnivora are restricted for the welfare of the animals, except animals of the families Viverridae and Mustelidae in the order Carnivora are restricted because such animals are undesirable and a menace to native wildlife, the agricultural interests of the state, or to the public health or safety

(c) Class amphibia (frogs, toads, salamanders)
Family Bufonidae (toads)
Giant toad or marine toad, Bufo marinus

(d) Class Monorhina (lampreys)
All species.

(e) Class Osteichthyes (bony fishes)
Family Serranidae (bass)
White perch, Morone or Roccus americana
Family Clupeidae (herring)
Gizzard shad, Dorosoma cepedianum
Family Sciaenidae (croakers)
Freshwater sheepshead, Aplodinotus grunniens
Family Characidae (characins)
Banded tetra, Astyanax fasciatus
All species of piranhas
Family Lepisosteidae (gars)
All species
Family Amiidae (bowfins)
All species

(f) Class Reptilia (snakes, lizards, turtles, alligators)
Family Crocodilidae
All species

(g) Class Crustacea (crustaceans)
Genus Cambarus (crayfishes)
All species
Genus Astacus (crayfishes)
All species
Genus Astacopsis (crayfishes)
All species

(h) Class Gastropoda (slugs, snails, clams)
All species of slugs
All species of land snails

(i) Such other classes, orders, families, genera, and species of wild animals which may be designated by the commission in cooperation with the Department of Food and Agriculture, (a) when such class, order, family, genus or species is proved undesirable and a menace to native wildlife or the agricultural interests of the state, or (b) to provide for the welfare of wild animals

(j) Classes, families, genera, and species in addition to those listed above may be added to or deleted from the above lists from time to time by commission regulations in cooperation with the Department of Food and Agriculture

SEC 2 Section 2118 2 is added to the Fish and Game Code, to

read·

2118 2 Except as provided in Section 1007, it is unlawful to import any elk (genus Cervus) into this state The department may import elk pursuant to Section 1007, if prior to such importation, the department issues written findings justifying the need for and explaining the purpose of the importation.

This section shall not apply to zoos certified by the United States Department of Agriculture.

SEC 3 Section 2118.3 is added to the Fish and Game Code, to read

2118 3 No part of any elk horn or antler shall be removed from any live elk for commercial purposes.

SEC 4 Section 2118 4 is added to the Fish and Game Code, to read

2118 4 The department shall seize any elk imported in violation of Section 2118 2

SEC 4 5 Any person prior to January 1, 1980, may apply to the State Board of Control for, and the board shall pay, compensation for actual damages, which shall not include any anticipated loss of profits, not to exceed one hundred fifty thousand dollars ($150,000), as a result of establishing a business in reliance on a permit issued by the Department of Fish and Game, pursuant to approval granted by the Fish and Game Commission, when it is no longer legal to conduct such business

SEC 5 Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to those sections because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code

SEC 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 to avoid unnecessary expense and valuable court time being spent on litigation as a result of a suit filed by the County of Marin, Marin County Humane Society, and the Humane Society of the United States to prevent the importation of elk into Marin County, it is necessary that the act take effect immediately

CHAPTER 1075

An act to amend Section 16140 of the Government Code, and to amend Section 423 of, and to add Section 14212 to, the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1979 Filed with Secretary of State September 28, 1979]

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

SECTION 1. Section 16140 of the Government Code is amended to read·

16140. There is hereby continuously appropriated to the Controller from the State General Fund a sum sufficient to make the payments required by this chapter

The payments provided by this chapter shall be made only when the value of each parcel of open-space land assessed under Sections 423 and 423.5 of the Revenue and Taxation Code is less than the value that would have resulted if the valuation of the property was made pursuant to Section 110 1 of the Revenue and Taxation Code, as though the property were not subject to an enforceable restriction in the base year

SEC 2. Section 423 of the Revenue and Taxation Code is amended to read.

423 Except as provided in Section 423.7, when valuing enforceably restricted open-space land, other than land used for the production of timber for commercial purposes, the board for purposes of surveys required by Section 1815 of this code and the county assessor shall not consider sales data on lands, whether or not enforceably restricted, but shall value such lands by the capitalization of income method in the following manner

(a) The annual income to be capitalized shall be determined as follows·

(1) Where sufficient rental information is available the income shall be the fair rent which can be imputed to the land being valued based upon rent actually received for the land by the owner and upon typical rentals received in the area for similar land in similar use, where the owner pays the property tax. Any cash rent or its equivalent considered in determining the fair rent of the land shall be the amount for which comparable lands have been rented, determined by average rents paid to owners as evidenced by typical land leases in the area, giving recognition to the terms and conditions of the leases and the uses permitted within the leases and within the enforceable restrictions imposed

(2) Where sufficient rental information is not available, the income shall be that which the land being valued reasonably can be expected to yield under prudent management and subject to

applicable provisions under which the land is enforceably restricted. There shall be a rebuttable presumption that "prudent management" does not include use of the land for a recreational use, as defined in subdivision (n) of Section 51201 of the Government Code, unless the land is actually devoted to such use

(3) Notwithstanding any other provision herein, if the parties to an instrument which enforceably restricts the land stipulate therein an amount which constitutes the minimum annual income per acre to be capitalized, then the income to be capitalized shall not be less than the amount so stipulated

For the purposes of this section income shall be determined in accordance with rules and regulations issued by the board and with this section and shall be the difference between revenue and expenditures Revenue shall be the amount of money or money's worth, including any cash rent or its equivalent, which the land can be expected to yield to an owner-operator annually on the average from any use of the land permitted under the terms by which the land is enforceably restricted including, but not limited to, that from the production of salt and from typical crops grown in the area during a typical rotation period as evidenced by historic cropping patterns and agricultural commodities grown When the land is planted to fruit-bearing or nut-bearing trees, vines, bushes or perennial plants, the revenue shall not be less than the land would be expected to yield to an owner-operator from other typical crops grown in the area during a typical rotation period, as evidenced by historic cropping patterns and agricultural commodities grown. Proceeds from the sale of the land being valued shall not be included in the revenue from the land

Expenditures shall be any outlay or average annual allocation of money or money's worth that has been charged against the revenue received during the period used in computing such revenue Those expenditures to be charged against revenue shall be only those which are ordinary and necessary in the production and maintenance of the revenue for that period Expenditures shall not include depletion charges, debt retirement, interest on funds invested in the land, interest on funds invested in trees and vines valued as land as provided by Section 429, property taxes, corporation income taxes, or corporation franchise taxes based on income When the income used is from operating the land being valued or from operating comparable land, amounts shall be excluded from the income to provide a fair return on capital investment in operating assets other than the land, to amortize depreciable property, and to fairly compensate the owner-operator for his operating and managing services

(b) The capitalization rate to be used in valuing land pursuant to this article shall not be derived from sales data and shall be the sum of the following components

(1) An interest component to be determined by the board and announced no later than September 1 of the year preceding the

assessment year and which was the yield rate for long-term United States government bonds, as most recently published by the Federal Reserve Board, rounded to the nearest one-quarter (¼) percent

(2) A risk component which shall be a percentage determined on the basis of the location and characteristics of the land, the crops to be grown thereon and the provisions of any lease or rental agreement to which the land is subject; and

(3) A component for property taxes which shall be a percentage equal to the estimated total tax rate applicable to the land for the assessment year times the assessment ratio The estimated total tax rate shall be the cumulative rates used to compute the state's reimbursement of local governments for revenues lost on account of homeowners' property tax exemptions in the tax rate area in which the enforceably restricted land is situated

(4) A component for amortization of any investment in perennials over their estimated economic life when the total income from land and perennials other than timber exceeds the yield from other typical crops grown in the area.

(c) The value of the land shall be the quotient for the income determined as provided in subdivision (a) divided by the capitalization rate determined as provided in subdivision (b).

(d) The ratio prescribed in Section 401 shall be applied to the value of the land determined in subdivision (c) to obtain its assessed value

(e) Unless a party to an instrument which creates an enforceable restriction expressly prohibits such a valuation, the valuation resulting from the capitalization of income method described in this section shall not exceed the valuation that would have resulted by calculation under Section 110 1, as though such property was not subject to an enforceable restriction in the base year

The county assessor shall notify annually the parties to an instrument which creates an enforceable restriction that unless either party expressly prohibits such a valuation, the valuation resulting from the capitalization of income method shall not exceed the valuation that would have resulted by calculation under Section 110 1, as though such property was not subject to an enforceable restriction in the base year

In determining the 1975 base year value under Article XIII A of the California Constitution for any parcel for comparison, the county may charge a contract holder a fee limited to the reasonable costs of such determination not to exceed twenty dollars ($20) per parcel

(f) If the parties to an instrument which creates an enforceable restriction expressly so provide therein, the assessor shall assess those improvements which contribute to the income of land in the manner provided herein As used in this subdivision "improvements which contribute to the income of the land" shall include, but are not limited to, wells, pumps, pipelines, fences, and structures which are necessary or convenient to the use of the land within the enforceable restrictions imposed

SEC. 3 Section 14212 is added to the Revenue and Taxation Code, to read:

14212 If the Controller finds, upon a showing, that the inheritance tax was not paid prior to the delinquent date solely because of a failure of a public official to perform his or her duties in a timely manner, the Controller shall waive the interest under Section 14211

SEC. 4. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because local governmental entities have the option to prohibit computation of the lower of Williamson Act values determined according to capitalization rates or Article XIII A, and thus, this act does not itself impose additional duties or result in loss of revenues.

SEC 5. Sections 1 and 2 of this act shall be applicable to the 1979–80 fiscal year and thereafter Section 3 shall take effect on January 1, 1980.

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 as follows·

In order for the provisions of this act to apply to the 1979–80 fiscal year, it is necessary that this act take effect immediately

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CHAPTER 1076

An act to amend Sections 221, 1016, 1052, 1500, 2542, 3031, and 7162 of, and to add Section 203 1 to, the Fish and Game Code, and to repeal Section 3786 of the Public Resources Code, relating to fish and game

[Approved by Governor September 27, 1979 Filed with Secretary of State September 28, 1979]

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

SECTION 1 Section 203 1 is added to the Fish and Game Code, to read

203 1 When adopting regulations pursuant to Section 203, the commission shall consider populations, habitat, food supplies, the welfare of individual animals, and other pertinent facts and testimony

SEC 1 5 Section 221 of the Fish and Game Code is amended to read

221 The provisions of this article are effective until January 1, 1985, and thereafter shall have no force or effect.

SEC 2 Section 1016 of the Fish and Game Code is amended to read

1016 (a) Whenever the department determines that an oil

sump, as defined by Section 3780 of the Public Resources Code, is hazardous to wildlife, but does not constitute an immediate and grave danger to wildlife, the department shall forthwith notify the State Oil and Gas Supervisor of such condition in order that he may take action pursuant to Section 3783 of the Public Resources Code to have such condition cleaned up or abated. The department in making such notification shall specify the hazardous conditions.

(b) Whenever the department determines that an oil sump, as defined by Section 3780 of the Public Resources Code, constitutes an immediate and grave danger to wildlife, the department shall forthwith notify the State Oil and Gas Supervisor of such condition in order that he may take action pursuant to Section 3784 of the Public Resources Code to have such condition cleaned up or abated. The department, in making such notification, shall specify the immediate and grave danger.

(c) The commission shall promulgate such rules and regulations as are necessary to implement the provisions of this section, including a reasonable definition of the term "hazardous" for the purposes of this section. It is the intent of the Legislature that the department adopt, as a part of such rules and regulations, a definition of the term "wildlife," as herein employed, which will provide for reasonable exclusions consistent with effectuating the wildlife protection purposes of this section.

(d) No provision of this section shall be construed as a limitation on the authority or responsibilities of the department with respect to the enforcement or administration of any provision of state law which it is authorized or required to enforce or administer

SEC 2 5 Section 1052 of the Fish and Game Code is amended to read·

1052 It is unlawful for any person to do any of the following

(a) Transfer any license, license tag, license stamp, or permit

(b) Use, or possess any license, license tag, license stamp, or permit which was not lawfully issued to the user thereof or which was obtained by fraud, deceit, or the use of a fake or counterfeit application form

(c) Use or possess any fake or counterfeit license, license tag, license stamp, permit, permit application form, band or seal, made or used for the purpose of evading any of the provisions of this code, or regulations adopted pursuant thereto

(d) Predate or postdate any license, license tag, or permit

(e) Alter, mutilate, deface, duplicate, or counterfeit any license, license tag, permit, permit application form, band or seal, or entries thereon, to evade the provisions of this code, or any regulations adopted thereto

SEC 3 Section 1500 of the Fish and Game Code is amended to read

1500 The department may, with the approval of the commission and the Department of General Services, exchange any portion of the property lying within the boundaries of any area or range

referred to in this section for any property within or contiguous to such area or range or may sell any portion of the property within such boundaries and with the proceeds thereof acquire any property within or contiguous to such area or range; provided, that no exchange or sale of property authorized in this section shall materially reduce the total area of any range or area referred to in this section A copy of each deed of conveyance executed and delivered by the department, and of each deed conveying lands to the state, pursuant to this section shall be delivered to the State Lands Commission

The provisions of this section apply to all of the following:

(a) The Doyle Deer Winter Range, located in Lassen County.

(b) The Tehama Deer Winter Range, located in Tehama County.

(c) The Honey Lake Waterfowl Management Area, located in Lassen County

(d) The Imperial Waterfowl Management Area, located in Imperial County.

(e) The Mendota Waterfowl Management Area, located in the County of Fresno.

SEC 4 Section 2542 of the Fish and Game Code is amended to read·

2542 Each applicant for a guide license shall submit a surety bond in the amount of not less than one thousand dollars ($1,000) which shall insure faithful performance of such guide and his agents or employees in fulfilling their responsibilities to their clients. No license shall be issued to any applicant who does not submit proof of having such a bond valid for the term of the license

SEC. 5 Section 3031 of the Fish and Game Code, as amended by Chapter 855 of the Statutes of 1978, is amended to read

3031. A hunting license, granting the privilege to take birds and mammals, shall be issued·

(a) To any resident of this state, over the age of 16 years, upon the payment of ten dollars ($10)

(b) To any resident of this state, under the age of 16 years, upon the payment of two dollars ($2)

(c) To any person not a resident of this state, upon the payment of thirty-five dollars ($35)

(d) To any person not a resident of this state, valid for one day and only for the taking of domesticated game birds and pheasants while on the premises of a licensed pheasant club, or for the taking of domesticated migratory game birds on areas licensed for shooting such birds, upon the payment of five dollars ($5)

(e) To any person not a resident of this state, valid only at an organizational field trial under the provisions of Section 3510, upon the payment of five dollars ($5)

This section is repealed as of July 1, 1980

SEC 6 Section 3031 of the Fish and Game Code, as added by Chapter 855 of the Statutes of 1978, is amended to read

3031 A hunting license, granting the privilege to take birds and

mammals, shall be issued

(a) To any resident of this state, over the age of 16 years, upon the payment of a base fee of ten dollars ($10) plus an amount calculated in accordance with Section 713

(b) To any resident of this state, under the age of 16 years, upon the payment of a base fee of two dollars ($2) plus an amount calculated in accordance with Section 713

(c) To any person not a resident of this state, upon the payment of a base fee of thirty-five dollars ($35) plus an amount calculated in accordance with Section 713

(d) To any person not a resident of this state, valid for one day and only for the taking of domesticated game birds and pheasants while on the premises of a licensed pheasant club, or for the taking of domesticated migratory game birds on areas licensed for shooting such birds, upon the payment of a base fee of five dollars ($5) plus an amount calculated in accordance with Section 713

(e) To any person not a resident of this state, valid only at an organizational field trial under the provisions of Section 3510, upon the payment of a base fee of five dollars ($5) plus an amount calculated in accordance with Section 713

This section shall become operative July 1, 1980

SEC 6.5 Section 3031 of the Fish and Game Code, as added by Chapter 855 of the Statutes of 1978, is amended to read

3031 (a) A hunting license, granting the privilege to take birds and mammals, shall be issued

(1) To any resident of this state, over the age of 16 years, upon the payment of a base fee of ten dollars ($10) plus an amount calculated in accordance with Section 713

(2) To any resident of this state, under the age of 16 years, upon the payment of a base fee of two dollars ($2) plus an amount calculated in accordance with Section 713

(3) To any person not a resident of this state, upon the payment of a base fee of thirty-five dollars ($35) plus an amount calculated in accordance with Section 713

(4) To any person not a resident of this state, valid for one day and only for the taking of domesticated game birds and pheasants while on the premises of a licensed pheasant club, or for the taking of domesticated migratory game birds on areas licensed for shooting such birds, upon the payment of a base fee of five dollars ($5) plus an amount calculated in accordance with Section 713

(5) To any person not a resident of this state, valid only at an organizational field trial under the provisions of Section 3510, upon the payment of a base fee of five dollars ($5) plus an amount calculated in accordance with Section 713

(b) Upon application to the Department of Fish and Game, Headquarters Office, Sacramento, the following persons shall be issued a hunting license authorizing the licensee to take birds and mammals free of charge

(1) 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.

(2) 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 March 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 March 1 of each year shall be the amount used to determine eligibility for a free license during the following license year. All licenses issued pursuant to subdivision (b) shall be valid for the period of one year from July 1st to June 30th or, if issued after the beginning of such term, for the remainder of the term.

This section shall become operative July 1, 1980.

SEC 7 Section 7162 of the Fish and Game Code is amended to read:

7162 Any person who is a ward of the state and who is a patient in, and resides in, a state institution, or any developmentally disabled person receiving services from a regional center for the developmentally disabled, shall be issued a fishing permit, on application therefor, by the department, in lieu of a fishing license and appropriate stamps, authorizing the taking of any fish and amphibia which may be taken under a sport fishing license anywhere in this state for purposes other than profit, free of charge

Such permit shall be valid only during the period of time such person is a ward of the state and residing in the state institution or is a recipient of services from the regional center for the developmentally disabled. Certification by the person in charge of the state institution shall be sufficient proof of the person's status as a ward and the period of time of residency in the institution Certification by the person in charge of the regional center for the developmentally disabled shall be sufficient proof of the person's status as a recipient of services from the regional center

All persons while using such permit shall be accompanied by an adult person except where a representative of the Department of Mental Hygiene or the regional center for the developmentally disabled certifies this requirement is unnecessary in a particular case.

SEC 8 Section 3786 of the Public Resources Code is repealed

SEC 9 It is the intent of the Legislature, if this bill and Assembly Bill 91 are both chaptered and become effective January 1, 1980, both bills amend Section 3031 of the Fish and Game Code, as added by Chapter 855 of the Statutes of 1978, and this bill is chaptered after Assembly Bill 91, that the amendments to Section 3031, as added by Chapter 855 of the Statutes of 1978, proposed by both bills be given effect and incorporated in Section 3031, as added by Chapter 855 of the Statutes of 1978, in the form set forth in Section 6.5 of this act Therefore, Section 6 5 of this act shall become operative only if this

bill and Assembly Bill 91 are both chaptered and become effective January 1, 1980, both amend Section 3031, as added by Chapter 855 of the Statutes of 1978, and this bill is chaptered after Assembly Bill 91, in which case Section 6 of this act shall not become operative.

CHAPTER 1077

An act to add Section 149 5 to the Labor Code, relating to occupational safety and health, and making an appropriation therefor

[Approved by Governor September 27, 1979 Filed with Secretary of State September 28, 1979]

The people of the State of California do enact as follows

SECTION 1 Section 149 5 is added to the Labor Code, to read

149 5 The appeals board may award reasonable costs, including attorney's fees, consultant's fees, and witness' fees, not to exceed five thousand dollars ($5,000) in the aggregate, to any employer who appeals a citation resulting from an inspection or investigation conducted on or after January 1, 1980, issued for violation of an occupational safety and health standard, rule, order, or regulation established pursuant to Chapter 6 (commencing with Section 140) of Division 1, if (1) either the employer prevails in the appeal, or the citation is withdrawn, and (2) the appeals board finds that the issuance of the citation was the result of arbitrary or capricious action or conduct by the division

The appeals board shall adopt rules of practice and procedure to implement this section

The payment of costs pursuant to this section shall be from funds in the regular operating budget of the division The division shall show in its proposed budget for each fiscal year the following information with respect to the prior fiscal year

(a) The total costs paid

(b) The number of cases in which costs were paid.

SEC 2 The sum of one hundred twenty-six thousand five hundred dollars ($126,500) is hereby appropriated from the General Fund to the Department of Industrial Relations for the purposes of this act

CHAPTER 1078

An act to add Article 8.6 (commencing with Section 5115) to Chapter 1 of Division 3 of, the Vehicle Code, relating to methanol

[Approved by Governor September 27, 1979 Filed with Secretary of State September 28, 1979]

The people of the State of California do enact as follows

SECTION 1 Article 8 6 (commencing with Section 5115) is added to Chapter 1 of Division 3 of the Vehicle Code, to read

Article 8 6 Methanol Fuel Experimental Program

5115. Notwithstanding any other provision of law or any regulation, methanol fuel or methanol fuel and gasoline blends, shall be considered a legal fuel in California

However, nothing in this article shall be construed to authorize the use of other fuels or fuel additives not otherwise approved for use in this state

Except for a manufacturer of new motor vehicles or a dealer of new motor vehicles with respect to new motor vehicles, any person manufacturing more than 1,000 devices, or any seller of more than 1,000 devices that are not manufactured in this state, shall submit the device to the State Air Resources Board for testing The state board shall submit a report of its findings on the testing of the device to the Legislature within 120 days after receiving the device

For purposes of this section, "device" is any apparatus for installation on a used motor vehicle that requires modification of the motor vehicle engine or pollution control system, or both, so that methanol or methanol fuels and gasoline blends may be used as fuel for the motor vehicle

5115.5 The Legislature hereby declares that it is the policy of the state to foster the use of methanol, on an experimental basis, as a complete replacement for gasoline and diesel fuels In support of that policy and in compliance with Chapter 1192 of the Statutes of 1978, a 10-year experimental program is authorized by this article and shall begin on January 1, 1980, and continue until December 31, 1990

5116 The Department of Motor Vehicles shall establish a Methanol Fuel Experimental Program

5117 In order to participate in the experimental program the owner or lessee of the vehicle shall

(a) Certify that the vehicle is operated solely on methanol fuel or operated on methanol fuel using specified quantities of gasoline or diesel fuel as additives to the methanol mixture

(b) Annually, obtain a valid certificate of compliance from a licensed motor vehicle pollution control device installation and inspection station indicating that the vehicle's emissions are in

compliance with the provisions of Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code.

5118. The Department of Motor Vehicles shall maintain information on the program, including the following:

(a) The names of persons owning vehicles registered in the experimental program

(b) The make and model year of experimental vehicles.

(c) Emission certificate information similar to that used in vehicle transfers.

(d) Any other information the department determines to be of value for government or public use

5120 This article shall remain in effect only until January 1, 1990, and as of that date is repealed unless a later enacted statute which is chaptered before January 1, 1990, deletes or extends that date

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CHAPTER 1079

An act to amend Sections 67501, 67504, 67506, 67508, 67509, 67522, 67525, 67537, 67538, 67539, 67540, 67550, 67551, 67552, 67553, 67554, 67555, 67556, 67557, 67558, 67559, 67560, 67561, 67562, 67563, 67564, 67565, 67566, 67567, 67568, 67570, 67571, 67572, 67573, 67575, 67576, 67577, 67578, 67579, 67580, 67582, 67584, 67587, 67588, 67589, 67590, 67591, 67610, 67611, 67613, 67620, 67630, 67633, and 67634 of, to add Sections 67511 and 67512 to, and to repeal and add Section 67535 of, the Government Code, relating to the San Francisco Bay Area Transportation Terminal Authority

[Approved by Governor September 27, 1979 Filed with Secretary of State September 28, 1979]

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

SECTION 1 Section 67501 of the Government Code is amended to read:

67501 It is hereby declared to be the policy of the State of California to facilitate the development of regional mass transportation facilities to the maximum extent possible. To that end, it is hereby declared that it is the policy of this state that a new transit terminal should be developed in the San Francisco Bay area and that such development should be undertaken as rapidly as possible

SEC 2 Section 67504 of the Government Code is amended to read

67504 "Bonds" means the written evidence of any obligation incurred by the commission payable out of revenues as provided in Chapter 3 (commencing with Section 67520) in order to secure funds with which to carry out the purposes of this chapter, irrespective of the form of such obligation whether in the form of bonds, notes, debentures, interest-bearing certificates, or other forms prescribed

by the commission Bonds shall not be deemed outstanding within the meaning of this section or other sections of Chapter 3 if moneys sufficient to pay the same, and all interest thereon, have been set aside irrevocably in a special or trust fund for that purpose and the indenture under which such bonds were issued provides that such bonds shall not be deemed to be outstanding in such event

SEC 3 Section 67506 of the Government Code is amended to read

67506 "Transbay transit terminal" means the existing bus terminal under the jurisdiction of the commission located at First and Mission Streets in the City and County of San Francisco

SEC 4 Section 67508 of the Government Code is amended to read

67508 "Revenues" means all rates, rentals, fees, charges, or other income or revenue actually received or receivable from the operation of the regional transit terminal, including, without limiting the generality of the foregoing, interest allowed on any moneys or securities and any profits derived from the sale of any securities and any consideration in any way derived from any properties owned, operated, or at any time maintained by the commission or in connection with the operation of the regional transit terminal

SEC 5 Section 67509 of the Government Code is amended to read

67509 "Indenture" means any resolution, agreement, or other document in writing under which bonds of the commission are authorized to be issued

SEC 6 Section 67511 is added to the Government Code, to read

67511 "Commission" means the California Transportation Commission

SEC 7 Section 67512 is added to the Government Code, to read

67512 "Department" means the Department of Transportation

SEC 8 Section 67522 of the Government Code is amended to read

67522 The authority's purpose shall be to develop plans for a regional transit terminal in the City and County of San Francisco on and immediately adjacent to the site of the existing transbay transit terminal The terminal may be developed in conjunction with such other facilities as, in the judgment of the authority, are necessary and proper to develop the site to its highest and best use The terminal and facilities shall be designed and developed in full compliance so that it will conform with the municipal code and master plan of the City and County of San Francisco

SEC 9 Section 67525 of the Government Code is amended to read

67525 (a) The authority shall be governed by a board composed of

(1) One member appointed by the Board of Directors of the Alameda-Contra Costa Transit District

(2) One member appointed by the Board of Directors of the

Golden Gate Bridge, Highway and Transportation District.

(3) One member appointed by the Mayor of the City of San Francisco.

(4) One member appointed by the Board of Directors of the San Francisco Bay Area Rapid Transit District.

(5) The Director of Transportation of the State of California or any representative duly authorized by him in writing.

(6) One member appointed by the Metropolitan Transportation Commission.

(7) One member, representing private transportation interests, appointed by the Governor.

(8) One member appointed by the Board of Directors of the San Mateo County Transit District.

(b) All public agency members of the board shall be officers of the agency by which they are appointed.

(c) Any member of the board may designate, in writing, an alternate who may attend meetings and act in his place and stead.

(d) All board members shall serve at the pleasure of the agency by which they are appointed

(e) At least three of the eight members of the board shall be residents of the City and County of San Francisco.

SEC 10. Section 67535 of the Government Code is repealed.

SEC. 11 Section 67535 is added to the Government Code, to read·

67535. The authority shall terminate no later than December 31, 1981. The authority may terminate itself prior to that date if the following conditions are satisfied:

(a) The authority has completed its design work and transmitted to the department the final plans and specifications for the construction of the regional transit terminal

(b) The department accepts the final plans and specifications developed by the authority.

SEC 12. Section 67537 of the Government Code is amended to read:

67537. (a) The authority shall investigate and evaluate various reasonable alternatives for the development of the regional transit terminal and, after public hearing, shall adopt one alternative for implementation. The authority shall consult with the department during the design phase regarding design criteria and construction procedures. Final plans and specifications shall be submitted to the department for review and acceptance. The department shall accept the plans and specifications within 90 days of receiving the documents or shall transmit its concerns and reasons for not accepting the documents within 90 days.

(b) The authority and the department may acquire by grant, purchase, lease, gift, devise, or otherwise any property, or interests in property, necessary to the development of the regional transit terminal

SEC 13 Section 67538 of the Government Code is amended to read

67538 (a) The authority itself may develop, or may contract for the development of, plans and specifications for the regional transit terminal.

(b) The department shall construct and operate the regional transit terminal or it may contract for such construction and operation

(c) The regional transit terminal shall be so designed and constructed as to facilitate the transfer of passengers between carriers and between different modes of transit

(d) Financing and programming of the regional transit terminal shall be subject to review and approval by the Metropolitan Transportation Commission consistent with its planning and programming authority for the region, as defined in Section 66502

SEC 14 Section 67539 of the Government Code is amended to read

67539 (a) The authority and the department shall have the power to apply for and accept grants and loans from any department or agency of the United States of America to be used for the development of the regional transit terminal, or of any facilities ancillary thereto, and to enter into any agreement with such department or agency in relation to such grants or loans, provided, however, that such agreement shall not conflict with any of the provisions of any indenture under which bonds of the commission are then outstanding.

(b) The authority and the department may accept contributions of money or property from any city, city and county, district, or political subdivision of the state for the development of the regional transit terminal

SEC 15 Section 67540 of the Government Code is amended to read

67540. The department may construct or may assist other public districts or agencies or carriers operating under a certificate of public convenience and necessity issued by the Public Utilities Commission in the construction of such connections as may be necessary or desirable to facilitate the transfer of passengers between different carriers or modes of transit, including, but not limited to, a connection with facilities of the San Francisco Bay Area Rapid Transit District

SEC 16 Section 67550 of the Government Code is amended to read

67550 The commission may issue bonds for the acquisition, construction, reconstruction, completion, addition, betterment, improvement, extension, or repair of the regional transit terminal or any part thereof, and any indenture under which bonds are issued may provide for the payment of any incidental expenses, including legal, engineering, fiscal, financial consultant, and other expenses, connected with issuing and disposing of the bonds, for all amounts required for the creation of an operating fund, or construction fund reserve fund, sinking fund, or other special fund, for all other

incidental expenses connected with the acquisition, construction, or completion of the regional transit terminal or any part thereof, for reimbursement of advances by the commission or by others for such purposes and for working capital The total amount of bonds that may be issued by the commission shall not be limited as to aggregate principal amount, except as the commission may provide in any indenture.

SEC. 17. Section 67551 of the Government Code is amended to read:

67551. The validity of the authorization and issuance of any bonds by the commission is not dependent on or affected in any way, except to the extent provided in the indenture by:

(a) Proceedings taken by the commission or the department for the acquisition, construction, or completion of the regional transit terminal or any part thereof.

(b) Any contracts made by the commission or the department in connection with the acquisition, construction, or completion of the regional transit terminal or any part thereof.

(c) The failure to complete any part of the regional transit terminal for which bonds are authorized to be issued

SEC. 18. Section 67552 of the Government Code is amended to read:

67552 The commission shall issue bonds in its name. These bonds shall constitute obligations of the commission only, and neither the payment of the principal of any such bond nor the payment of interest thereon constitutes a debt, liability, or obligation of any county, city, city and county, district, or political subdivision, or of the State of California. All bonds issued by the commission shall contain a recital on their face that neither the payment of the principal, or any part thereof, nor the payment of any interest thereon constitutes a debt, liability, or obligation of any county, city, city and county, district, or political subdivision, or of the State of California

SEC 19. Section 67553 of the Government Code is amended to read·

67553 The commission shall determine the time, form, and manner of the issuance of bonds The bonds shall be payable only out of specified revenues as the commission shall determine at the time of their issuance.

SEC 20 Section 67554 of the Government Code is amended to read·

67554. The commission may enter into indentures providing for the principal amount, date or dates, maturities, interest rate, denominations, form, registration, transfer, interchange, and other provisions of such bonds and coupons, and the terms and conditions upon which the bonds shall be executed, issued, secured, sold, paid, redeemed, funded, and refunded. Reference on the face of the bonds to such indenture by its date of adoption, or the apparent date on the face thereof, is sufficient to incorporate all of the provisions thereof

and of this chapter into the body of the bonds and their appurtenant coupons Each taker and subsequent holder of the bonds or coupons whether the coupons are attached to or detached from the bonds, has recourse to all of the provisions of the indenture and of this chapter and is bound thereby

SEC 21 Section 67555 of the Government Code is amended to read

67555 An indenture may include such covenants and agreements on the part of the commission as the commission deems necessary or advisable for the issue, payment, better security, or protection of the bonds issued thereunder

SEC 22 Section 67556 of the Government Code is amended to read.

67556 An indenture may include a clause requiring the commission to pay, or cause to be paid, punctually the principal of all such bonds and the interest thereon on the date or dates, at the place or places, and in the manner mentioned in such bonds and in the coupons appertaining thereto, all in accordance with such indenture

SEC 23 Section 67557 of the Government Code is amended to read

67557 An indenture may include a clause requiring the department to continuously operate the regional transit terminal and other facilities in an efficient and economical manner

SEC 24 Section 67558 of the Government Code is amended to read

67558 An indenture may include a clause requiring the department to make all necessary repairs, renewals, and replacements to the regional transit terminal and to keep it at all times in good repair, working order, and condition

SEC 25 Section 67559 of the Government Code is amended to read.

67559 An indenture may include a clause requiring the commission to preserve and protect the security of the bonds and the rights of the holders thereof and to warrant and defend such rights

SEC 26 Section 67560 of the Government Code is amended to read

67560 An indenture may include a clause requiring the commission to pay and discharge, or cause to be paid and discharged, all lawful claims for labor, materials, and supplies, or other charges which, if unpaid, might become a lien or charge upon the revenues, or any part thereof, of the regional transit terminal or which might impair the security of the bonds

SEC 27 Section 67561 of the Government Code is amended to read

67561 An indenture may include a clause which limits, restricts, or prohibits any right, power, or privilege of the commission to mortgage or otherwise encumber, sell, lease, or dispose of all, or any part, of the regional transit terminal, or to enter into any other

agreement which impairs or impedes the operation of the terminal, or any part thereof, necessary to secure adequate revenues or which otherwise impairs or impedes the rights of the holders of the bonds with respect to such revenues

SEC. 28. Section 67562 of the Government Code is amended to read

67562 An indenture may include a clause requiring the commission to fix, prescribe, and collect rates, rents, fees, or other charges in connection with the regional transit terminal and, in addition, to provide a margin of safety in the collection thereof as further security for the bonds

SEC 29. Section 67563 of the Government Code is amended to read·

67563. An indenture may include a clause requiring the commission to hold in trust the proceeds of the bonds and the revenues pledged to the payment of such bonds and the interest thereon, or to any reserve or other fund created for the further protection of the bonds, and to apply such revenues or cause them to be applied only as provided in the indenture.

SEC. 30. Section 67564 of the Government Code is amended to read:

67564 An indenture may include a clause limiting the power of the commission to apply the proceeds of the sale of any issue of bonds except as provided in the indenture.

SEC. 31. Section 67565 of the Government Code is amended to read·

67565 An indenture may include a clause limiting the power of the commission to issue additional bonds except upon such terms and conditions as are set forth in the indenture.

SEC 32. Section 67566 of the Government Code is amended to read

67566 An indenture may include a clause requiring, specifying, or limiting the kind, amount, and character of insurance to be maintained by the department on the regional transit terminal, or any part thereof, and the use and disposition of the proceeds of any such insurance thereafter collected Such insurance may include fire, casualty, fidelity, public liability, property damage, or any other type or kind of insurance deemed desirable by the department, including use and occupancy insurance or insurance against loss of revenues from any cause.

SEC 33. Section 67567 of the Government Code is amended to read

67567 An indenture may include a clause providing the events of default and the terms and conditions upon which such default and its consequences may be waived. An indenture may include a clause designating the rights, limitations, power, and duties arising upon breach by the commission or department of any of the covenants, conditions, or obligations contained in any indenture; provided, that no indenture shall limit or restrict the rights granted to bondholders

by Article 7 (commencing with Section 67620).

SEC 34. Section 67568 of the Government Code is amended to read·

67568. An indenture may include a clause prescribing a procedure by which the terms and conditions of the indenture may be subsequently amended or modified with the consent of the commission and the vote or written assent of the holders of a specified principal amount of the bonds issued and outstanding. Such clause may provide for meetings of bondholders and for the manner in which the consent of the bondholders may be given. Such clause shall specifically state the effect of such amendment or modification upon the rights of the holders of all of the bonds and interest coupons appertaining thereto, whether attached thereto or detached therefrom.

With respect to any clause providing for the modification or amendment of an indenture, the commission may agree that bonds held by the commission, by any department or agency of the State of California, or by any public corporation, shall not be counted as outstanding bonds, or be entitled to vote or assent, but shall, nevertheless, be subject to any such modification or amendment.

SEC. 35. Section 67570 of the Government Code is amended to read.

67570. The commission may designate a bank or trust company, qualified to do business in this state, as a trustee for the commission and the holders of bonds issued hereunder, and may authorize the trustee to act on behalf of the holders of the bonds, or any stated percentage thereof, and to exercise and prosecute on behalf of the holders of the bonds such rights and remedies as may be available to the holders.

SEC. 36. Section 67571 of the Government Code is amended to read:

67571 The commission shall fix and determine, in an indenture, the conditions upon which any indenture trustee shall receive, hold, or disburse any or all revenues collected for, or on account of, the commission. The commission shall, in an indenture, prescribe the duties and powers of such indenture trustee with respect to the issuance, authentication, sale, and delivery of the bonds and the payment of principal and interest thereof, the redemption of the bonds, the registration and discharge from registration of the bonds, and the management of any sinking fund or other funds provided as security for the bonds.

SEC. 37 Section 67572 of the Government Code is amended to read:

67572 The commission may issue bonds in series and may divide any series into one or more divisions and fix different maturities or dates of such bonds, different rates of interest, or prescribe different terms and conditions for the bonds of the several series or divisions. It is not necessary that all bonds of the same authorized issue be of the same kind or character, have the same security, or be of the same

interest rate, but the terms thereof shall in each case be provided for by the commission, at or prior to the issue thereof The commission may provide for successive issues or may provide for one maximum issue The commission may provide that all bonds, or the bonds of any specified issue, shall be paid from and secured by the revenues of the specified facilities, all in the manner and upon the terms set forth in the indenture

SEC. 38 Section 67573 of the Government Code is amended to read:

67573. Bonds may be issued as coupon bonds or as registered bonds The commission may provide for the interchange of coupon bonds for registered bonds and registered bonds for coupon bonds, and may provide that the bonds shall be registered as to principal only, or as to both principal and interest, or otherwise as the commission may determine

SEC 39 Section 67575 of the Government Code is amended to read

67575 Bonds may be callable upon such terms and conditions and upon such notice as the commission may determine, and upon the payment of the premium fixed by the commission in the proceedings for the issuance of the bonds No 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 bond

SEC 40 Section 67576 of the Government Code is amended to read

67576 The commission may provide for the payment of the principal and interest of bonds at any place or places within or without the State of California, and in any specified lawful coin or currency of the United States of America

SEC. 41. Section 67577 of the Government Code is amended to read

67577 The commission may provide for the execution and authentication of bonds by the manual, lithographed, or printed facsimile signature of officers of the commission, and by additional authentication by a trustee or fiscal agent appointed by the commission If any of the officers whose signatures or countersignatures appear upon the bonds or coupons cease to be officers before the delivery of the bonds or coupons, their signatures or countersignatures are nevertheless valid and of the same force and effect as if the officers had remained in office until the delivery of the bonds and coupons.

SEC 42 Section 67578 of the Government Code is amended to read

67578 Bonds shall bear dates prescribed by the commission Bonds may be serial bonds or sinking fund bonds with such maturities as the commission may determine No bond by its terms shall mature in more than 50 years from its own date and, in the event any authorized issue is divided into two or more series or divisions, the maximum maturity date herein authorized shall be

calculated from the date on the face of each bond separately, irrespective of the fact that different dates may be prescribed for the bonds of each separate series or division of any authorized issue

SEC 43. Section 67579 of the Government Code is amended to read.

67579 The commission may fix terms and conditions for the sale or other disposition of any authorized issue of bonds The commission may sell bonds at less than their par or face value, but no issue of bonds may be sold at an aggregate price below the par or face value thereof if such sale would result in a net interest cost to the commission, calculated upon the entire issue so sold, of more than 7 percent per annum, payable semiannually, according to standard tables of bond values All bonds issued and sold for cash pursuant to this chapter shall be sold on sealed proposals to the highest bidder, either bidding alone or in conjunction with others, after advertising for bids by publication of notice of sale once, not less than 10 days prior to the date of sale, in a newspaper of general circulation printed and published in the City and County of San Francisco The commission may reject any and all bids submitted and may thereafter sell the bonds so advertised for sale at private sale to any financially responsible bidder, either bidding alone or in conjunction with others, under such terms and conditions as it deems most advantageous to its own interest, but the bonds shall not be sold at a price below that of the highest bid which was rejected The commission may contract loans and borrow money through the sale of bonds to the United States of America or any of its departments or agencies, upon such terms and conditions as may be agreed to Such bonds shall be subject to all other provisions of this chapter, except the requirement that bonds be sold on sealed proposals to the highest bidder after advertising for bids.

SEC 44. Section 67580 of the Government Code is amended to read·

67580 The commission may provide, in the proceedings for the issuance of bonds, that the bonds and the interest thereon constitute such lien upon the revenues of the regional transit terminal or any part thereof acquired, constructed, or completed, improved, or extended, by the department as may be provided for in the indenture The indenture may provide that the bonds shall be secured by the revenues derived from the entire regional transit terminal or from revenues of only certain designated facilities therein

SEC. 45. Section 67582 of the Government Code is amended to read·

67582. Pending the actual issuance or delivery of definitive bonds, the commission may issue temporary or interim bonds, certificates or receipts of any denominations whatsoever, and with or without coupons, to be exchanged for definitive bonds when ready for delivery

SEC. 46 Section 67584 of the Government Code is amended to

read.

67584. The commission may provide for the issuance, sale, or exchange of refunding bonds for the purpose of redeeming or retiring any bonds issued by the commission All provisions of this chapter applicable to the issuance of bonds are applicable to the refunding bonds and to the issuance, sale, or exchange thereof.

SEC. 47 Section 67587 of the Government Code is amended to read.

67587. The commission may apply to the State Treasurer under the Districts Securities Law (Division 10 (commencing with Section 20000) of the Water Code), as such law now reads or may hereafter be amended to read, for the certification of any bonds issued by it as legal investments for savings banks and other funds, but such certification shall not be a condition precedent to the issuance of any bonds by the commission nor shall the State Treasurer have any jurisdiction over the expenditure of any proceeds of bonds certified by it. If the State Treasurer determines that the bonds are adequately secured and that the revenues of the commission applicable to the payment thereof are, or probably will be, sufficient to pay the principal and interest on the bonds, and if the State Treasurer certifies to that effect, the bonds so certified shall be eligible as legal investments for both public and private funds in the same manner as provided in the Districts Securities Law The commission may issue bonds with or without such certification and shall not be precluded from issuing bonds subsequently without such certification, notwithstanding the fact that earlier issues of bonds may have been certified as legal investments

SEC 48 Section 67588 of the Government Code is amended to read

67588 Prior to the issuance of any bonds, the commission may commence in the Superior Court of the State of California, in and for the City and County of San Francisco, a special proceeding to determine the right to issue the bonds and their validity. Such proceedings shall be instituted and prosecuted in the same manner as provided by Sections 860 to 870, inclusive, of the Code of Civil Procedure, as these sections now read or may hereafter be amended to read, and these sections shall apply to and govern all such proceedings instituted under this chapter. Such proceeding shall be a proceeding in rem and the judgment rendered therein shall be conclusive against all persons whomsoever.

SEC 49 Section 67589 of the Government Code is amended to read·

67589. No indenture need be recorded or filed in any public office, other than the office of the commission The pledge of revenues provided in any indenture shall take effect forthwith as provided therein, and irrespective of the date of receipt of such revenues by the commission or the indenture trustee Such pledge shall be effective as provided in the indenture without physical delivery of the revenues to the commission or to the indenture

trustee.

SEC. 50 Section 67590 of the Government Code is amended to read

67590. Subject to any applicable provisions which may be contained in an indenture, the commission may invest any available funds in bonds issued by it and may hold, cancel, or resell such bonds.

SEC 51 Section 67591 of the Government Code is amended to read·

67591. While any bonds issued by the commission remain outstanding and unpaid, the power of the department to establish, levy, and collect rents, fees, and other charges in connection with the regional transit terminal shall not be diminished or impaired.

SEC 52. Section 67610 of the Government Code is amended to read·

67610 (a) If the department contracts with a developer for the design, construction, operation, and management of the regional transit terminal, the contract shall require the developer to make annual payments to the commission sufficient in amount to meet all obligations assumed by the commission under the provisions of any bond indenture, including, but not limited to, annual interest, principal payments, and operating and maintenance costs of the terminal

(b) If the department itself undertakes operation of the regional transit terminal, it shall fix rents, rates, fees, and charges for occupancy or use of the facilities thereof in compliance with the terms of any applicable indenture.

SEC 53. Section 67611 of the Government Code is amended to read:

67611 Subject to such contractual obligations as may be entered into by the commission and the holders of bonds issued under this chapter, the department is authorized to change such rates, rents, fees, and charges from time to time as conditions warrant.

SEC 54 Section 67613 of the Government Code is amended to read·

67613. The commission may provide in an indenture that the rates, rents, fees, and charges established are minimum rates, rents, fees, and charges and subject to increase or decrease in accordance only with the terms of the indenture.

SEC 55 Section 67620 of the Government Code is amended to read·

67620. The holder of any bond may, for the equal benefit and protection of all holders of bonds similarly situated, do either of the following:

(a) By mandamus or other appropriate proceedings, require and compel the performance of any of the duties imposed upon the commission or department or assumed by it, its officers, agents, or employees under the provisions of any indenture, in connection with the acquisition, construction, operation, maintenance, repair, reconstruction, or insurance of the regional transit terminal, or in

connection with the collection, deposit, investment, application, and disbursement of the rates, rents, fees, charges, and other revenues derived from the operation and use of the terminal, or in connection with the deposit, investment, and disbursement of the proceeds received from the sale of bonds

(b) By action or suit in equity, require the commission or department to account as if it were the trustee of an express trust, or enjoin any acts or things which may be unlawful or in violation of the rights of the holders of the bonds.

SEC 56 Section 67630 of the Government Code is amended to read

67630 The proceeds from the sale of bonds shall be paid to any bank or trust company designated as the fiscal agent, trustee, or depositary of the commission, as provided in this chapter If a part of the cash proceeds of the sale or exchange of bonds is to be used for operating funds of the regional transit terminal, such proceeds or part thereof shall be placed in any fund designated in the indenture pursuant to which the bonds are issued

SEC 57. Section 67633 of the Government Code is amended to read

67633 The commission shall, in any indenture, designate a trustee or fiscal agent, which shall be a bank or trust company, or banks or trust companies, duly qualified to do business in this state, to receive the proceeds of such bonds and to hold the same separate and apart from all other funds of the commission Such moneys shall be paid out and disbursed as provided in the indenture

SEC 58 Section 67634 of the Government Code is amended to read

67634 The proceeds of the sale of bonds, held by any fiscal agent, trustee, or depositary of the commission, not currently required to meet acquisition or construction costs or expenses payable from the construction fund, or interest on the bonds, may be invested in bonds and other obligations eligible for investment of surplus county moneys, subject to such limitations as may be provided in the indenture. Any income or interest thereon shall be added to, and become a part of, the particular fund upon which such interest or income accrues

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CHAPTER 1080

An act to amend Section 15853 of the Government Code, and to amend Section 5006 of, and to repeal Section 5018.5 of, the Public Resources Code, relating to public resources

[Approved by Governor September 27, 1979 Filed with Secretary of State September 28, 1979]

The people of the State of California do enact as follows

SECTION 1. Section 15853 of the Government Code is amended to read:

15853. (a) The board is authorized to select and acquire, in the name of and on behalf of the state, with the consent of the state agency concerned, the fee or any lesser right or interest in any real property necessary for any state purpose or function.

(b) Where moneys are appropriated by the Budget Act for any fiscal year or by any other act for the acquisition of land or other real property, either (1) subject to the provisions of the Property Acquisition Law or (2) for any state agency for whom property is acquired by the board, such moneys and acquisitions shall be subject to the provisions of this part and such moneys shall be expended in accordance with the provisions of this part, notwithstanding any other provisions of law.

(c) Notwithstanding any other provisions of law, all land and other real property to be acquired by or for any state agency, other than the Department of Transportation, the Department of Water Resources, the State Reclamation Board, the Department of Fish and Game, the Wildlife Conservation Board, the Public Employees' Retirement System, and the State Lands Commission, except for property to be acquired for the State Lands Commission pursuant to an appropriation from the General Fund, shall be acquired by the State Public Works Board in accordance with the provisions of the Property Acquisition Law.

(d) (1) Notwithstanding subdivision (a), the board shall acquire, on behalf of and for the Department of Parks and Recreation, in accordance with this part, land or other real property or interests in real property, including options to purchase, which have been appraised and selected by the Department of Parks and Recreation pursuant to subdivisions (b) and (c) of Section 5006 of the Public Resources Code. Out of moneys appropriated for the acquisition of such options to purchase, no more than ten thousand dollars ($10,000) may be expended for the acquisition of any single option unless otherwise provided by the Legislature.

(2) Notwithstanding Section 15854, purchase negotiations for the acquisition of any land or other real property for the state park system shall be initiated within six months of the effective date of the act which appropriates funds for the acquisition and either title shall be conveyed or a written agreement to transfer title shall be executed within one year of the initiation of purchase negotiations unless the Department of Parks and Recreation formally abandons the acquisition prior to the conclusion of such one-year period For the purposes of this section, in order for the Department of Parks and Recreation to "formally abandon" an acquisition, it shall transmit written notification to the board of its intent not to proceed with the acquisition

(3) The board may, at any time during the periods specified in

paragraph (2) of this subdivision, commence condemnation proceedings if it finds it to be appropriate. However, if, within six months of the initiation of purchase negotiations, title is not conveyed or a written agreement to transfer title is not executed, the acquisition has not been formally abandoned, or condemnation proceedings have not been commenced, the board shall immediately notify the chairman of the committee in each house of the Legislature which considers appropriations, the chairman of the committee in each house of the Legislature which considers park and recreation policy, the Chairman of the Joint Legislative Budget Committee, and the Members of the Legislature within whose district any part of the land or other real property is located of those facts. For the purposes of this paragraph, condemnation proceedings shall be deemed "commenced" as of the date the board authorizes acquisition by condemnation.

(4) Six months from the date of the notification required by paragraph (3), the board shall notify those persons specified in paragraph (3) of the status of the acquisition project.

(5) The board may schedule such special meetings as are necessary to expedite the acquisition of options to purchase land or other real property for the state park system.

(e) The board may acquire furnishings which the owner thereof agrees to sell and which are contained within improvements acquired by the board. Cost of acquisition of such furnishings shall be charged to the appropriation available for acquisition of the real property

SEC 2 Section 5006 of the Public Resources Code is amended to read·

5006. (a) The department, with the consent of the Department of Finance, and subject to Section 15853 of the Government Code, may acquire title to or any interest in real and personal property which the department deems necessary or proper for the extension, improvement, or development of the state park system

(b) The department may select land or other real property for the purpose of acquiring, pursuant to paragraph (1) of subdivision (d) of Section 15853 of the Government Code, an option to purchase such land or other real property for the state park system and appraise such options either by utilizing the services of the Real Estate Services Division of the Department of General Services or by contract with independent appraisers approved by the Real Estate Services Division.

(c) The department may select land or other real property to be acquired for the state park system and appraise such land or other real property either by utilizing the services of the Real Estate Services Division of the Department of General Services or by contract with independent appraisers approved by the Real Estate Services Division. Prior to commencing such appraisal, the Department of Parks and Recreation shall notify the Legislature of each proposed acquisition project and shall notify all owners of land

and other real property lying within the tentative boundaries of the proposed acquisition project, as shown on the most recent tax assessment rolls in the county of record, of the fact that the department has selected the property for acquisition. The State Public Works Board shall prescribe the form and manner of giving such notice.

(d) All appropriations for state park system acquisition project planning costs, and for costs of site selection and appraisal pursuant to subdivision (c), shall be submitted by the department for inclusion in the Governor's Budget for each fiscal year.

(e) The department shall submit a proposal for an appropriation for the acquisition of options to purchase land or other real property for the state park system for inclusion in the Governor's Budget for each fiscal year based upon its estimate of the amount needed for such purpose. The expenditure of such moneys shall be subject to the limitation specified in paragraph (1) of subdivision (d) of Section 15853 of the Government Code unless otherwise provided by the Legislature.

(f) (1) All appropriations for state park system acquisition projects proposed by the department shall be submitted by the department for inclusion in the Governor's Budget for each fiscal year. Such projects shall have been selected and appraised by the department pursuant to subdivision (c) prior to such inclusion The Governor's Budget shall contain a separate description of each such project and its appraised value

(2) Where an option to purchase land or other real property for the state park system has been acquired, the appropriation proposed by the department for the acquisition of such land or other real property shall be its appraised value less the sum expended for the acquisition of the option

(g) The requirements imposed by subdivisions (d), (e), and (f) are in addition to any other provisions of law requiring the inclusion of state park system acquisition projects in the Governor's Budget

SEC 3 Section 5018.5 of the Public Resources Code is repealed

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CHAPTER 1081

An act to add Sections 3 8, 3 9, 3.10, 3 11, 3.12, 3.13, 3.14, 3.15, 3 16, 3 17, 3 18, 3 19, 3 20, 3.21, 3 22, 3 23, 3.24, 3 25, 3 26, 27.6, 27 7, 27.8, 27.9, 27 10, 27 11, and 27 12 to the Yolo County Flood Control and Water Conservation District Act (Chapter 1657 of the Statutes of 1951), relating to the Yolo County Flood Control and Water Conservation District.

[Approved by Governor September 27, 1979 Filed with Secretary of State September 28, 1979]

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

SECTION 1. Section 3 8 is added to the Yolo County Flood Control and Water Conservation District Act (Chapter 1657 of the Statutes of 1951), to read:

Sec 3 8 Territory within the district may be annexed to a zone or an improvement district whether or not contiguous thereto, provided that such territory is not part of a zone or an improvement district constituted for a similar purpose.

SEC 2. Section 3 9 is added to the Yolo County Flood Control and Water Conservation District Act (Chapter 1657 of the Statutes of 1951), to read

Sec. 3 9. Except as provided in Section 3.20, to commence the procedure for annexation to a zone or an improvement district, the board shall adopt a resolution initiating proceedings for an annexation, which resolution shall include the following information·

(a) A description of the exterior boundaries of the territory proposed to be annexed

(b) Whether the territory proposed to be annexed is inhabited, in that there reside within the territory 12 or more persons who have been registered to vote within such territory for at least 54 days prior to the date of adoption of the resolution, or uninhabited, in that there reside within the territory less than 12 persons who have been registered to vote within such territory for at least 54 days prior to the date of adoption of the resolution

(c) The reason or reasons for the proposed annexation.

(d) Any terms or conditions of the proposed annexation

(e) A time, date, and place of hearing on the proposed annexation.

(f) That any interested person desiring to make written protest against the annexation shall do so by written communication filed with the secretary not later than the hour set for the hearing. A written protest by a landowner shall contain a description sufficient to identify the land owned by him A written protest by a voter shall contain the residential address of the voter

SEC 3 Section 3.10 is added to the Yolo County Flood Control and Water Conservation District Act (Chapter 1657 of the Statutes of 1951), to read·

Sec 3 10 The secretary shall give notice of any such hearing by all of the following:

(a) Publication of the resolution initiating proceedings for annexation pursuant to Section 6066 of the Government Code in a newspaper of general circulation within the zone or improvement district, or if none, then within the district

(b) Posting of the resolution initiating proceedings for annexation on or near the doors of the meeting place of the board or on any official bulletin board customarily used for the purpose of public notices

(c) Mailing of the resolution initiating proceedings for annexation to all landowners owning land within the territory proposed to be

annexed as shown upon the last equalized assessment roll of the county, at the address shown upon such assessment roll, and to all persons and counties, cities, or districts, which shall have theretofore filed a written request for special notice with the secretary

Publication, posting, and mailing shall be completed at least seven days prior to the date set for hearing Mailed notice shall be sent by first-class mail and deposited, postage prepaid, in the United States mails and shall be deemed to have been given when so deposited.

SEC 4 Section 3 11 is added to the Yolo County Flood Control and Water Conservation District Act (Chapter 1657 of the Statutes of 1951), to read

Sec 3 11 The hearing on the proposed annexation shall be held by the board upon the date and time specified in the resolution initiating proceedings for such annexation. The hearing may be continued from time to time but not to exceed 60 days from the date specified in such resolution

SEC 5 Section 3 12 is added to the Yolo County Flood Control and Water Conservation District Act (Chapter 1657 of the Statutes of 1951), to read

Sec 3 12 At such hearing the board shall hear and receive any oral or written protests, objections, or evidence which shall be made, presented, or filed Any person who shall have filed a written protest may withdraw the same at any time prior to the conclusion of the hearing

SEC 6 Section 3 13 is added to the Yolo County Flood Control and Water Conservation District Act (Chapter 1657 of the Statutes of 1951), to read

Sec 3 13 Factors to be considered by the board in a proposed annexation shall include the following

(a) Whether the proposed annexation will be for the interest of landowners and present or future inhabitants within the zone or improvement district and within the territory proposed to be annexed

(b) Any other matters which the board deems material Except as hereinafter provided, the board shall not be required to make any express recitals or findings concerning any of the factors considered by it

SEC 7 Section 3 14 is added to the Yolo County Flood Control and Water Conservation District Act (Chapter 1657 of the Statutes of 1951), to read

Sec 3 14 In any proceedings for the annexation of territory, the board shall have the power and duty to exclude any lands proposed to be annexed which it finds will not be benefited by becoming a part of such zone or improvement district

For the purpose of completing any such proceedings, any land so excluded shall no longer be considered a part of the territory proposed to be annexed

SEC 8 Section 3 15 is added to the Yolo County Flood Control and Water Conservation District Act (Chapter 1657 of the Statutes

of 1951), to read:

Sec 3 15 A majority protest shall be deemed to exist and the proposed annexation shall be abandoned if the board shall find and declare by resolution that written protests filed not later than the hour set for the hearing, and not withdrawn prior to the conclusion of the hearing, represent the following:

(a) In the case of the annexation of inhabited territory, more than 50 percent of the registered voters residing within such territory.

(b) In the case of the annexation of uninhabited territory, more than 50 percent of the assessed value of land therein.

SEC. 9. Section 3.16 is added to the Yolo County Flood Control and Water Conservation District Act (Chapter 1657 of the Statutes of 1951), to read:

Sec. 3.16. (a) A written protest by a resident voter shall contain his signature and a street and number or designation sufficient to enable the place of residence to be readily ascertained A protest by a landowner shall contain his signature and a description of the land owned by him sufficient to identify the same. A public agency owning land shall be deemed a landowner for the purpose of making a written protest and determining the existence of a majority protest.

(b) The board shall determine the sufficiency of written protests as follows·

(1) If the protests are signed by resident voters, the secretary shall compare the names of the signers on the protests against the voters' register in the office of the county clerk or registrar of voters and ascertain therefrom the number of qualified signers appearing upon the protests.

(2) If the protests are signed by landowners, the secretary shall compare the names of the signers on the protests against the names of the persons shown as owners of land on the last equalized assessment roll of the county and ascertain therefrom·

(A) The total number of landowners owning land within the territory which is the subject of the proposed annexation and the total assessed valuation of all land within such territory

(B) The total number of landowners represented by qualified signers and the total assessed valuation of land owned by qualified signers

(3) If a protest is signed by a landowner which is a public agency owning land within the territory which is the subject of the proposed annexation, such public agency shall be deemed a landowner for the purpose of the signing and certification of such protest Any such public agency may authorize such protest to be signed for and on its behalf by any duly authorized officer or employee.

(4) In examining any petition signed by a landowner, the secretary shall disregard the signature of any person not shown as owner on the last equalized assessment roll unless prior to certification the secretary shall be furnished with written evidence, satisfactory to the secretary, that such signer is a legal representative of the owner, is entitled to be shown as owner of land on the next

assessment roll, is a purchaser of land under a recorded written agreement of sale, or is authorized to sign for and on behalf of any public agency owning land.

(5) If any person signing a protest as a landowner shall appear as owner on the last equalized assessment roll but be shown thereon as a partner, joint tenant, tenant in common or as husband or wife, the signature of such person shall be counted as if all such owners shown on such roll had signed.

SEC. 10. Section 3.17 is added to the Yolo County Flood Control and Water Conservation District Act (Chapter 1657 of the Statutes of 1951), to read·

Sec. 3 17. In an annexation proceeding, if a majority protest shall not have been filed, the board, not later than 30 days after the conclusion of the hearing, shall adopt a resolution and make one of the following determinations:

(a) Disapproving the proposed annexation.

(b) Ordering the annexation in accordance with Sections 3.18, 3.19, and 3 20.

SEC 11 Section 3.18 is added to the Yolo County Flood Control and Water Conservation District Act (Chapter 1657 of the Statutes of 1951), to read:

Sec. 3.18 The board may order such territory annexed to the zone or improvement district either without election or subject to confirmation by the voters upon the question of such annexation The board shall not order any such annexation without election unless the board finds

(a) In the case of uninhabited territory, that written protests filed and not withdrawn represent less than 25 percent of the number of landowners within such territory, owning not more than 25 percent of the assessed value of land therein.

(b) In the case of inhabited territory, that written protests filed and not withdrawn represent less than 25 percent of the number of landowners within such territory owning not more than 25 percent of the assessed value of land therein and less than 25 percent of the registered voters residing within such territory

SEC. 12 Section 3.19 is added to the Yolo County Flood Control and Water Conservation District Act (Chapter 1657 of the Statutes of 1951), to read

Sec 3 19 In any such resolution ordering an annexation of territory subject to confirmation by the voters, the board may provide for an election or elections to be called, held, and conducted upon such question only within the territory ordered to be annexed, or both within the territory ordered to be annexed and within all of the zone or improvement district

SEC 13 Section 3 20 is added to the Yolo County Flood Control and Water Conservation District Act (Chapter 1657 of the Statutes of 1951), to read

Sec 3 20 If all the owners of land within the territory proposed to be annexed have given their written consent to such annexation,

the board may, by resolution, order such an annexation (1) without notice and hearing by the board, (2) without an election, or (3) without notice and hearing by the board and without an election.

SEC 14. Section 3 21 is added to the Yolo County Flood Control and Water Conservation District Act (Chapter 1657 of the Statutes of 1951), to read·

Sec 3.21 A resolution ordering an annexation shall describe the exterior boundaries of the territory annexed and shall contain all terms and conditions imposed upon such annexation.

SEC 15 Section 3 22 is added to the Yolo County Flood Control and Water Conservation District Act (Chapter 1657 of the Statutes of 1951), to read·

Sec 3 22 After the canvass of the returns of the election or elections on the question of the annexation, the board shall declare by resolution the total number of votes cast in the election or elections, and the number of votes cast for and against the annexation The board shall adopt a resolution confirming the order of annexation, if a majority of the votes cast upon such questions are in favor of such annexation (a) at an election called only within the territory ordered to be annexed, or (b) at each election where one election was called within the territory ordered to be annexed and another election within all the zone or improvement district

SEC 16 Section 3 23 is added to the Yolo County Flood Control and Water Conservation District Act (Chapter 1657 of the Statutes of 1951), to read

Sec 3 23 If the proceedings for annexation are terminated, either by majority protest as provided in Section 3 15 or failure of the majority of voters to confirm the order at an election held pursuant to Section 3 19, no new proposal for the same or substantially the same plan of annexation may be initiated within one year after the date of adoption of the resolution terminating such proceedings.

SEC 17 Section 3 24 is added to the Yolo County Flood Control and Water Conservation District Act (Chapter 1657 of the Statutes of 1951), to read

Sec. 3 24 After the adoption of a resolution ordering such annexation, or a resolution confirming an order of annexation following an election thereon, the secretary shall file a certified copy thereof with a map of the territory thus annexed with the county tax collector and shall also make such filings as may be required by Chapter 8 (commencing with Section 54900) of Part 1 of Division 2 of Title 5 of the Government Code

SEC 18 Section 3 25 is added to the Yolo County Flood Control and Water Conservation District Act (Chapter 1657 of the Statutes of 1951), to read

Sec 3 25 Territory annexed to a zone or an improvement district shall be subject to existing bond issues and indebtedness of the zone or improvement district from and after the filing with the county tax collector specified in Section 3 24

SEC 19 Section 3 26 is added to the Yolo County Flood Control

and Water Conservation District Act (Chapter 1657 of the Statutes of 1951), to read:

Sec 3 26 (a) Any zones or improvement districts created pursuant to this act may be dissolved in the following manner:

(1) The board may adopt a resolution specifying its intention to dissolve a zone or improvement district and fixing the time and place for a public hearing on the resolution; or

(2) A petition requesting dissolution signed by not less than 25 percent of the owners of the total assessed valuation of the real property within the zone or improvement district as shown by the last equalized assessment roll, or 25 percent of the registered voters residing within the zone or improvement district, may be addressed to and filed with the board The petition may be filed in sections. Each section shall comply with all the requirements for a petition, except that any one section need not contain or repeat all the signatures required for the entire petition Upon presentation and filing of a proper petition, the board shall fix the time and place for a public hearing thereon

(b) A resolution or petition shall state the following:

(1) The name and number of the zone or improvement district.

(2) The reasons for dissolving the zone or improvement district

(3) The facts showing compliance with subdivisions (e), (f), and (g) of this section.

(c) The board shall give notice of the resolution or petition prior to the date set for hearing by publication thereof in a newspaper of general circulation within the zone or improvement district, or if none, within the district, pursuant to Section 6066 of the Government Code The notice shall state the following:

(1) The name of the zone or improvement district.

(2) That a resolution has been passed by the board declaring its intention to dissolve the zone or improvement district, or that a petition has been filed with the board requesting dissolution of the zone or improvement district.

(3) That the resolution or petition may be inspected at the district's office.

(4) The time and place for the public hearing on the resolution or petition

(5) That protests will be considered at the hearing.

(d) At the time and place fixed for the hearing or at any time to which the hearing may be continued, the board shall consider all written and oral objections to the dissolution of the zone or improvement district After the conclusion of the hearing, the board may by resolution dissolve the zone or improvement district If no effective date for the dissolution is specified in the resolution, the dissolution shall be deemed effective as of the date of the resolution. If the zone or improvement district is not so dissolved, it shall be deemed to be continued in uninterrupted existence

(e) A zone or improvement district may not be dissolved pursuant to this section until one of the following conditions exists

(1) All debts, obligations and liabilities are paid in full.

(2) There is sufficient cash in the county or district treasury standing to the credit of such zone or improvement district to pay all debts, obligations, and liabilities in full as they become due.

(f) The dissolution of a zone or improvement district shall not relieve the property in such zone or improvement district from any debts, obligations, or liabilities for which it was liable at the time of the dissolution.

(g) Upon dissolution of a zone or improvement district, the right, title, and interest to any property or funds owned or controlled by, or held for or for the benefit of the zone or improvement district, whether in the county or district treasury or in any other place or manner, shall vest absolutely in the district and may be used for any district purposes. The successor district shall, immediately following the dissolution of a zone or improvement district, record with the county recorder of any county in which real property is located, a memorandum describing by metes and bounds all parcels of real property which have by reason of this section vested in the successor district and the name of the zone or improvement district which is dissolved

SEC 20. Section 27.6 is added to the Yolo County Flood Control and Water Conservation District Act (Chapter 1657 of the Statutes of 1951), to read:

Sec. 27.6 (a) The board may fix a water standby or availability charge for land within the district to which water is made available for any purpose by the district, whether the water is actually used or not Such charges may be restricted to lands lying within one or more improvement districts or zones or any portion thereof within the district. The board may establish schedules varying the charges depending upon, but not limited to, factors such as land uses, water uses, the cost of transporting the water to the land, and the degree of water availability.

(b) In order to fix such charges, the board shall first adopt a resolution initiating proceedings which resolution shall include the following information

(1) A description of the area to be subject to such charges

(2) Whether the area is inhabited, in that there are 12 or more persons who reside and have been registered to vote within such area for at least 54 days prior to the date of adoption of the resolution, or uninhabited, in that there are less than 12 persons who reside and have been registered to vote within such area for at least 54 days prior to the date of adoption of the resolution.

(3) The proposed charges

(4) A time, date, and place of hearing

(5) That any interested person desiring to make written protest shall do so by written communication filed with the district not later than the hour set for the hearing A written protest by a landowner shall contain a description sufficient to identify the land owned by him. A written protest by a voter shall contain the residential address

of the voter.

(c) The secretary shall give notice of any such hearing by the following:

(1) Publication of the resolution initiating proceedings pursuant to Section 6066 of the Government Code in a newspaper of general circulation within the area, or if none, within the district.

(2) Posting of the resolution initiating proceedings on or near the doors of the meeting place of the board or on any official bulletin board customarily used for the purpose of posting of public notices.

Publication and posting shall be completed at least seven days prior to the date set for hearing.

(d) The hearing on the proposed charges shall be held by the board upon the date and time specified in the resolution initiating proceedings The hearing may be continued from time to time. At such hearing, the board shall hear and receive any oral or written protests, objections, or evidence which shall be made, presented, or filed Any person who shall have filed a written protest may withdraw the protest at any time prior to the conclusion of the hearing.

(e) A majority protest shall be deemed to exist and the proposed charges shall not be adopted if the board shall find and declare by resolution that written protests filed not later than the hour set for the hearing, and not withdrawn prior to the conclusion of the hearing, represent the following

(1) In the case of an inhabited area, more than 50 percent of the registered voters residing within such area.

(2) In the case of an uninhabited area, more than 50 percent of the assessed value of land therein

A written protest by a resident voter shall contain his signature and a street and number of designation sufficient to enable the place of residence to be readily ascertained. A protest by a landowner shall contain his signature and a description of the land owned by him sufficient to identify the same. A public agency owning land shall be deemed a landowner for the purpose of making a written protest and determining the existence of a majority protest.

(f) The board shall determine the sufficiency of written protests as follows

(1) If the protests are signed by resident voters, the secretary shall compare the names of the signers on the protests against the voters' register in the office of the county clerk or registrar of voters and ascertain therefrom the number of qualified signers appearing upon the protests

(2) If the protests are signed by landowners, the secretary shall compare the names of the signers on the protests against the names of the persons shown as owners of land on the last equalized assessment roll of the county and ascertain therefrom.

(A) The total number of landowners owning land within the area which is the subject of the proposed charges and the total assessed valuation of all land within such area.

(B) The total number of landowners represented by qualified signers and the total assessed valuation of land owned by qualified signers

(3) If a protest is signed by a landowner which is a public agency owning land within the area which is the subject of the proposed charges, such public agency shall be deemed a landowner for the purpose of the signing and certification of such protest. Any such public agency may authorize such protest to be signed for and on its behalf by any duly authorized officer or employee.

(4) In examining any petition signed by a landowner, the secretary shall disregard the signature of any person not shown as owner on the last equalized assessment roll unless prior to certification the secretary shall be furnished with written evidence, satisfactory to the secretary, that such signer is a legal representative of the owner, is entitled to be shown as owner of land on the next assessment roll, is a purchaser of land under a recorded written agreement of sale, or is authorized to sign for and on behalf of any public agency owning land.

(5) If any person signing a protest as a landowner shall appear as owner on the last equalized assessment roll but be shown thereon as a partner, joint tenant, tenant in common or husband or wife, the signature of such person shall be counted as if all such owners shown on such roll had signed

(g) If a majority protest shall not have been filed, the board, not later than 30 days after the conclusion of the hearing, shall adopt a resolution and make one of the following determinations.

(1) Disapproving the proposed charges

(2) Fixing the proposed charges in the area described

SEC 21 Section 27.7 is added to the Yolo County Flood Control and Water Conservation District Act (Chapter 1657 of the Statutes of 1951), to read

Sec 27 7 The board may elect to have all, or any standby or availability charges or delinquent charges collected on the tax roll in the same manner, by the same persons, and at the time as, together with and not separately from, taxes for county purposes In such event, the district shall cause a written report to be prepared and filed with the secretary which report shall contain a description of each parcel of real property and the amount of the standby or availability charge, or delinquency for each parcel for the year

SEC 22 Section 27 8 is added to the Yolo County Flood Control and Water Conservation District Act (Chapter 1657 of the Statutes of 1951), to read·

Sec 27 8 The board shall cause notice of the filing of the report and of a time and place of hearing thereon to be published, pursuant to Section 6066 of the Government Code, prior to the date set for hearing, in a newspaper of general circulation printed and published within the district, and shall cause a notice in writing of the filing of the report and of the time and place of hearing to be mailed to each person to whom any parcel or parcels of real property described in

such report is assessed in the last equalized assessment roll available on the date the report is prepared, at the address shown on the assessment roll or as known to the district.

SEC 23 Section 27.9 is added to the Yolo County Flood Control and Water Conservation District Act (Chapter 1657 of the Statutes of 1951), to read·

Sec. 27.9 At the time stated in the notice, the board shall hear and consider all objections or protests, if any, to the report referred to in the notice and may continue the hearing from time to time. Upon the conclusion of the hearing, the board may adopt, revise, change, reduce, or modify any charges or delinquencies, or overrule any or all objections The board shall make its determination upon each charge or delinquency as described in the report, which determination shall be final.

SEC 24 Section 27 10 is added to the Yolo County Flood Control and Water Conservation District Act (Chapter 1657 of the Statutes of 1951), to read:

Sec 27 10 On or before the tenth day of August of each year following such final determination, the board will cause a copy of the report to be filed with the county auditor with the statement endorsed thereon over an authorized signature that it has been finally adopted by the board and the auditor shall enter the amount of the charges or delinquencies against the respective lots or parcels of land as they appear on the current assessment roll

SEC 25. Section 27 11 is added to the Yolo County Flood Control and Water Conservation District Act (Chapter 1657 of the Statutes of 1951), to read

Sec 27 11 The amount of the charges or delinquencies shall constitute a lien against the lot or parcel of land against which the charge has been imposed as of the first day of March immediately preceding the fiscal year for which the charges are levied; provided, however, if the real property to which such charge relates has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon, prior to the date on which the first installment of such taxes appears on the roll, then the charge or delinquency assessed pursuant to this section shall not result in a lien against such property, but instead shall be transferred to the unsecured roll for collection.

SEC 26 Section 27.12 is added to the Yolo County Flood Control and Water Conservation District Act (Chapter 1657 of the Statutes of 1951), to read:

Sec 27 12 The county tax collector shall include the amounts of the charges or delinquencies on bills for taxes levied against the respective lots and parcels of land The amount of the charges or delinquencies shall be collected at the same time and in the same manner and by the same persons as, together with and not separately from, taxes for county purposes, and shall be delinquent at the same time and thereafter be subject to the same delinquency penalties All laws applicable to the levy, collection and enforcement of taxes for

county purposes, including, but not limited to, those pertaining to the matters of delinquency, correction, cancellation, refund, and redemption, are applicable to such charges or delinquencies.

SEC. 27. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because this act is in accordance with the request of a local governmental entity or entities which desired legislative authority to carry out the program specified in this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code

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CHAPTER 1082

An act to amend Section 18826 of the Revenue and Taxation Code, to amend Sections 410, 803, 821, 844, 991, 1035, 1055, 1114, 1115, 1131, 1135, 1137, 1176.5, 1179, 1180, 1180.5, 1184, 1733, and 1735 of, to add Article 10 (commencing with Section 1206), Article 11 (commencing with Section 1221), and Article 12 (commencing with Section 1241) to Chapter 4 of Part 1 of Division 1 of, and to repeal Sections 1038, 1133, 1134, 1138, 1139, 1140, 1182, and 1183 of, the Unemployment Insurance Code, and to amend Section 1703 of the Unemployment Insurance Code as amended by Section 20 of Chapter 322 of the Statutes of 1979, relating to unemployment insurance.

[Approved by Governor September 27, 1979 Filed with Secretary of State September 28, 1979]

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

SECTION 1 Section 18826 of the Revenue and Taxation Code is amended to read·

18826 (a) If the Franchise Tax Board delegates its powers and duties as provided in Section 15702.1 of the Government Code, the following provisions of the Unemployment Insurance Code shall apply to any amount required to be deducted and paid to the Franchise Tax Board under Section 18806 of this code·

(1) Sections 1110.6, 1112, 1113, 1113.1, 1115, and 1116, relating to the payment of reported contributions

(2) Article 8 (commencing with Section 1126) of Chapter 4 of Part 1 of Division 1, relating to assessments.

(3) Article 9 (commencing with Section 1176), except Section 1176, of Chapter 4 of Part 1 of Division 1, relating to refunds and overpayments

(4) Article 10 (commencing with Section 1206) of Chapter 4 of Part 1 of Division 1, relating to notice.

(5) Article 11 (commencing with Section 1221) of Chapter 4 of

Part 1 of Division 1, relating to administrative appellate review.

(6) Article 12 (commencing with Section 1241) of Chapter 4 of Part 1 of Division 1, relating to judicial review

(7) Sections 403 to 411, inclusive, Section 1336, and Chapter 8 (commencing with Section 1951) of Part 1 of Division 1, relating to appeals and hearing procedures.

(8) Chapter 7 (commencing with Section 1701) of Part 1 of Division 1, relating to collections

(b) If the Franchise Tax Board delegates its powers and duties as provided in Section 15702.1 of the Government Code, the following provisions of this code shall not apply to any amount required to be deducted and paid to the Franchise Tax Board under Section 18806 of this code.

(1) Subdivision (d) of Section 18491, relating to employer reporting,

(2) Section 18492, relating to deposits in banks of unpaid taxes,

(3) Sections 18685.1, 18685 2 and 19413, relating to penalties,

(4) Subdivisions (b) and (d) of Section 18815, relating to employer liability, and Section 18816.5, relating to successor liability,

(5) Section 19063, relating to overpayments.

SEC. 2 Section 410 of the Unemployment Insurance Code is amended to read:

410 A decision of the appeals board is final, except for such action as may be taken by a judicial tribunal as permitted or required by law

A decision of the appeals board is binding on the director with respect to the parties involved in the particular appeal.

The director shall have the right to seek judicial review from an appeals board decision irrespective of whether or not he or she appeared or participated in the appeal to the referee or to the appeals board

Notwithstanding any other provision of law, the right of the director, or of any other party except as provided by Sections 1241, 1243, and 5313, to seek judicial review from an appeals board decision shall be exercised not later than six months after the date of the decision of the appeals board or the date on which the decision is designated as a precedent decision, whichever is later

The appeals board shall attach to all of its decisions where a request for review may be taken, an explanation of the party's right to seek such review

SEC 3 Section 803 of the Unemployment Insurance Code is amended to read

803 (a) As used in this section "entity" means any employing unit that is authorized by any provision of Article 4 (commencing with Section 701) of this chapter or by Section 801 or 802 to elect a method of financing coverage permitted by this section

(b) In lieu of the contributions required of employers, an entity may elect any one of the following

(1) To pay into the Unemployment Fund the cost of benefits,

including extended duration benefits and federal-state extended benefits, paid based on base period wages with respect to employment for the entity and charged to its account in the manner provided by Section 1026, pursuant to authorized regulations which shall prescribe the rate or amount, time, manner, and method of payment or advance payment or providing a good and sufficient bond to guarantee payment of contributions.

(2) Two or more entities may, pursuant to authorized regulations, file an application with the director for the establishment of a joint account for the purpose of determining the rate of contributions they shall pay into the Unemployment Fund to reimburse the fund for benefits paid with respect to employment for such entities The members of the joint account may share the cost of benefits, including extended duration benefits and federal-state extended benefits, paid based on the base period wages with respect to employment for such members and charged to the joint account in the manner provided by Section 1026 The director shall prescribe authorized regulations for the establishment, maintenance, and dissolution of joint accounts, and for the rate or amount, time, manner, and method of payment or advance payment or providing a good and sufficient bond to guarantee payment of contributions by the members of joint accounts, on the cost of benefits charged in the manner provided by Section 1026

(c) Sections 1030, 1031, 1032, and 1032 5, and any provision of this division for the noncharging of benefits to the account of an employer, shall not apply to an election under subdivision (b) of this section The cost of benefits charged to an entity under this section shall include, but not be limited to, benefits or payments improperly paid in excess of a weekly benefit amount, or in excess of a maximum benefit amount, or otherwise in excess of the amount which should have been paid, due to any computational or other error of any type by the Employment Development Department or the Department of Benefit Payments, whether or not such error could be anticipated

(d) In making the payments prescribed by subdivision (b) there shall be paid or credited to the Unemployment Fund, either in advance or by way of reimbursement, as may be determined by the director, such sums as he or she estimates the Unemployment Fund will be entitled to receive from each entity for each calendar quarter, reduced or increased by any sum by which he or she finds that his or her estimates for any prior calendar quarter were greater or less than the amounts which should have been paid to the fund Such estimates may be made upon the basis of such statistical sampling, or other method as may be determined by the director

Upon making such determination, the director shall give notice of the determination, pursuant to Section 1206, to the entity The director may cancel any contributions or portion thereof which he or she finds has been erroneously determined The director shall charge to any special fund, which is responsible for the salary of any employee of an entity, the amount determined by the director for

which the fund is liable pursuant to this section. The contributions due from the entity shall be paid from the liable special fund, the General Fund, or other liable fund to the Unemployment Fund by the Controller or other officer or person responsible for disbursements on behalf of the entity within 30 days of the date of mailing of the director's notice of determination to the entity. The director for good cause may extend for not to exceed 60 days the time for paying without penalty the amount determined and required to be paid. Contributions are due upon the date of mailing of the notice of determination and are delinquent if not paid on or before the 30th day following the date of mailing of such notice. Any entity which fails to pay the contributions required within the time required shall be liable for interest on the contributions at the rate of 1 percent per month or fraction thereof from and after the date of delinquency until paid, and any entity which without good cause fails to pay any contributions required within the time required shall pay a penalty of 10 percent of the amount of such contributions If the entity fails to pay the contributions required on or before the delinquency date, the director may assess the entity for the amount required by the notice of determination The provisions of Article 8 (commencing with Section 1126) of Chapter 4 of Part 1 of this division with respect to the assessment of contributions, and the provisions of Chapter 7 (commencing with Section 1701) of Part 1 of this division with respect to the collection of contributions, shall apply to the assessments provided by this section. The provisions of Sections 1177 to 1184, inclusive, relating to refunds and overpayments, shall apply to amounts paid to the Unemployment Fund pursuant to this section. The provisions of Sections 1222, 1223, 1224, 1241, and 1242 shall apply to matters arising under this section.

(e) The director may terminate the election of any entity for financing under this section if the entity is delinquent in the payment of advances or reimbursements required by the director under this section. After any such termination the entity may again make an election pursuant to this section but only if it is not delinquent in the payment of contributions and not delinquent in the payment of advances or reimbursements required by the director under this section.

(f) Notwithstanding any other provision of this section, no entity shall be liable for that portion of any extended duration benefits or federal-state extended benefits which is reimbursed or reimbursable by the federal government to the State of California

(g) After the termination of any election under this section, the entity shall remain liable for its proportionate share of the cost of benefits paid and charged to its account in the manner provided by Section 1026, which are based on wages paid for services during the period of the election. Any such liability may be charged against any remaining balance of a prior reserve account used by the entity pursuant to Section 712 or 713. Any portion of such remaining balance shall be included in the reserve account of the entity

following any termination of an election under this section which occurs prior to the expiration of a period of three consecutive years commencing with the effective date of such election. For purposes of Section 982, the period of an election under Section 803 shall, to the extent permitted by federal law, be included as a period during which a reserve account has been subject to benefit charges.

SEC. 4. Section 821 of the Unemployment Insurance Code is amended to read.

821 (a) Each school employer may, in lieu of the contributions required of employers, elect to pay into the Unemployment Fund the cost of benefits, including extended duration benefits and federal-state extended benefits, paid based on base period wages with respect to employment for such employing unit and charged to its account in the manner provided by Section 1026, pursuant to authorized regulations which shall prescribe the rate or amount, time, manner, and method of payment or advance payment or providing a good and sufficient bond to guarantee payment of contributions The provisions of this article shall apply to school employers who have elected financing under this section.

(b) Sections 1030, 1031, 1032, and 1032 5, and any provision of this division for the noncharging of benefits to the account of an employer, shall not apply to an employing unit under subdivision (a) of this section The cost of benefits charged to a school employer under this section shall include, but not be limited to, benefits or payments improperly paid in excess of a weekly benefit amount, or in excess of a maximum benefit amount, or otherwise in excess of the amount which should have been paid, due to any computational or other error of any type by the Employment Development Department or the Department of Benefit Payments, whether or not such error could be anticipated

(c) In making the payments prescribed by subdivision (a), there shall be paid or credited to the Unemployment Fund, either in advance or by way of reimbursement, as may be determined by the director, such sums as he or she estimates the Unemployment Fund will be entitled to receive from each employing unit for each calendar quarter, reduced or increased by any sum by which he or she finds that his or her estimates for any prior calendar quarter were greater or less than the amounts which should have been paid to the fund Such estimates may be made upon the basis of such statistical sampling, or other method as may be determined by the director.

Upon making such determination, the director shall mail notice of the determination, pursuant to Section 1206, to the employing unit.

The director may cancel any contributions or portion thereof which he or she finds have been erroneously determined The contributions due from the employing units shall be paid, transferred or credited from the School Employees Fund established in the State Treasury by Section 822 to the Unemployment Fund by the State Treasurer, State Controller, or other officer or person responsible for disbursements on behalf of the employing unit within 30 days of the

date of mailing of the director's notice of determination to the employing unit.

Each employing unit shall send a copy of any and all notices, billings, or correspondence not normally routed to the administrator and the Superintendent of Public Instruction, regarding unemployment insurance for the school employees to the administrator, the Superintendent of Public Instruction, and county superintendent of schools, or agent thereof with timely documentation of charges or determination The provisions of Article 8 (commencing with Section 1126) of Chapter 4 of this part with respect to the assessment of contributions, and the provisions of Chapter 7 (commencing with Section 1701) of this part with respect to the collection of contributions, shall apply to the assessments provided by this article. The provisions of Sections 1177 to 1184, inclusive, relating to refunds and overpayments, shall apply to amounts paid to the Unemployment Fund pursuant to this section The provisions of Sections 1222, 1223, 1224, 1241, and 1242 shall apply to matters arising under this section.

(d) Notwithstanding any other provision of this section, no employing unit shall be liable for that portion of any extended duration benefits or federal-state extended benefits which is reimbursed or reimbursable by the federal government to the State of California.

(e) To the extent permitted by federal law, including Section 121(e) of Public Law 94-566, any school employer which elects a method of financing under this article shall not be liable to reimburse the cost of benefits paid to any individual whose base period wages include wages for services performed prior to January 1, 1978, if such benefits are reimbursable by the federal government under Section 121 of Public Law 94-566 and to the extent that such individual would not have been eligible for such benefits had this state not provided for benefits payable based on services performed prior to January 1, 1978

(f) The administrator and the Superintendent of Public Instruction shall adopt rules and regulations for the administration of their respective functions under this article in accordance with Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code Regulations of the administrator shall be subject to the provisions of Article 1 (commencing with Section 301) of Chapter 2 of Part 1 of Division 1 Rules and regulations of the Superintendent of Public Instruction shall not be subject to the provisions of Article 1 (commencing with Section 301) of Chapter 2 of Part 1 of Division 1

(g) Any election for financing coverage under this section shall take effect with respect to services performed from and after the first day of the calendar quarter in which the election is filed with the director, and shall continue in effect for not less than two full calendar years Thereafter, the election under this section may be terminated as of January 1 of any calendar year only if the school

employer, on or before the 31st day of January of that year has filed with the director a written application for termination. The director may for good cause waive the requirement that a written application for termination shall be filed on or before the 31st day of January. An election for financing coverage under this section is deemed to have been filed by every school employer effective as of January 1, 1976, is deemed to have been in effect for two calendar years prior to January 1, 1978, and may be terminated as of January 1, 1978, or as of January 1, 1980, or any later January 1 pursuant to this section. Upon the termination of any election under this section, the school employer shall be and remain liable for all benefits paid based upon wages paid by such school employer during the period of an election under this section.

SEC. 5. Section 844 of the Unemployment Insurance Code is amended to read:

844 In making the payments prescribed by Section 842, there shall be paid or credited to the Unemployment Fund, either in advance or by way of reimbursement, as may be determined by the director, such sums as he or she estimates the Unemployment Fund will be entitled to receive from each local public entity for each calendar quarter, reduced or increased by any sum by which he or she finds that his or her estimates for any prior calendar quarter were greater or less than the amounts which should have been paid to the fund. Such estimates may be made upon the basis of such statistical sampling, or other method as may be determined by the director

Upon making such determination, the director shall mail notice of the determination, pursuant to Section 1206, to the local public entity.

The director may cancel any contributions or portion thereof which he or she finds have been erroneously determined. The contributions due from the local public entities shall be paid, transferred or credited from the Local Public Entity Employees Fund established in the State Treasury by Section 847 to the Unemployment Fund by the State Treasurer, State Controller, or other officer or person responsible for disbursements on behalf of the local public entity within 30 days of the date of mailing of the director's notice of determination to the local public entity. The provisions of Article 8 (commencing with Section 1126) of Chapter 4 of this part with respect to the assessment of contributions, and the provisions of Chapter 7 (commencing with Section 1701) of this part with respect to the collection of contributions, shall apply to the payments to the Unemployment Fund required by this article. The provisions of Sections 1177 to 1184, inclusive, relating to refunds and overpayments, shall apply to amounts paid to the Unemployment Fund pursuant to this article The provisions of Sections 1222, 1223, 1224, 1241, and 1242 shall apply to matters arising under this section.

SEC. 6. Section 991 of the Unemployment Insurance Code is amended to read.

991. (a) Any contributions paid to the Unemployment Fund or

Disability Fund either with respect to wages on which contributions previously have been paid in error and without negligence on the part of the employing unit to another state having an unemployment compensation law, or with respect to wages on which contributions computed under the Federal Unemployment Tax Act previously have been paid in error and without negligence on the part of the employing unit to an agency of the federal government, shall be deemed for the purposes of this division to have been paid to the department at the time of the erroneous payment to the other state or to the federal agency, if payment is made to the department by the employing unit within 30 days after the employing unit is given notice pursuant to Section 1206 by the director of the determination that payment shall be made to the department The 30-day period for payment may be extended by the director for good cause for a period not to exceed an additional 90 days

(b) Any contributions paid to the Unemployment Fund or Disability Fund with respect to wages on which contributions computed under this division previously have been paid in error and without negligence on the part of the employing unit to an admitted disability insurer, to trustees administering a voluntary plan for the employing unit, to a self-insured plan of the employing unit, to another agency of this state, or to an agency of the federal government shall be deemed, solely to the extent of the amount of contributions previously paid in error and without negligence, for the purposes of this division to have been paid to the department at the time of the erroneous payment to the admitted disability insurer, to trustees administering a voluntary plan for the employing unit, to a self-insured plan of the employing unit, to another agency of this state, or to the federal agency, if payment is made to the department by the employing unit within 30 days after the employing unit is given notice pursuant to Section 1206 by the director of the determination that payment shall be made to the department The 30-day period for payment may be extended by the director for good cause for a period not to exceed an additional 90 days. As used in this subdivision "paid" includes credits made to a self-insured plan of the employing unit With respect to payments by an employing unit to an admitted disability insurer, to trustees administering a voluntary plan for the employing unit, or to a self-insured plan of the employing unit, this subdivision shall apply only if one or more of the following conditions are met

(1) At the time of payment the employing unit has or prior to the time of payment had an approved voluntary plan with the recipient of the payment

(2) Prior to the time of payment the employing unit had applied to the department for a voluntary plan which was subsequently approved by the department

(3) At the time of payment the employing unit is a subsidiary or affiliate of an employing unit having an approved voluntary plan

(4) At the time of payment the employing unit believed that a

voluntary plan had been acquired pursuant to Section 3254.5.

(c) If payment is not made within the 30-day period or within the period for which an extension is granted, this section shall not apply and Article 7 (commencing with Section 1110), Article 8 (commencing with Section 1126), and Chapter 7 (commencing with Section 1701), with respect to the payment of reported contributions, and the assessment and collection of contributions shall apply.

(d) If the director finds that the collection of any contributions will be jeopardized by delay this section shall not apply and the director may make a jeopardy assessment and collect the contributions pursuant to Article 8 (commencing with Section 1126), and Chapter 7 (commencing with Section 1701)

SEC. 7 Section 1035 of the Unemployment Insurance Code is amended to read:

1035. The director shall give notice pursuant to Section 1206 to the employer of his or her action on a protest filed under Section 1034.

SEC. 8. Section 1038 of the Unemployment Insurance Code is repealed.

SEC. 9. Section 1055 of the Unemployment Insurance Code is amended to read.

1055. In the event of a denial or granting of an application for transfer of reserve account, the director shall give notice pursuant to Section 1206 to the employing unit making such application, and to the predecessor employing unit to whose reserve account the application relates, if such predecessor employing unit has continued in business as an employer.

SEC. 10. Section 1114 of the Unemployment Insurance Code is amended to read·

1114 Any employer who, without good cause, fails to file within 15 days after service by the director of notice pursuant to Section 1206 of a specific written demand therefor, a report of wages of each of his or her workers required by this division, shall pay in addition to other amounts required, for each unreported wage item a penalty of one dollar ($1) per month or fraction thereof, up to a maximum of three months No penalty charged against an employer with respect to any calendar quarter under this section shall be less than four dollars ($4).

SEC 11. Section 1115 of the Unemployment Insurance Code is amended to read:

1115. (a) If the director finds that the collection of any contributions will be jeopardized in any case where an employing unit is insolvent, or is delinquent in a substantial amount of contributions due under this division, or is about to discontinue business at any of its known places of business, or the business is of a temporary or seasonal nature, the director may, upon giving the employing unit 10 days' notice pursuant to Section 1206.

(1) Require payment of contributions with respect to wages paid from the beginning date of the calendar quarter in which notice is

given to the date designated in the notice.

(2) Require payment of contributions for reporting periods less than calendar quarters.

(b) As used in this section "reporting period" means that period less than a calendar quarter which is established by the director.

(c) Contributions required under subdivision (a) (1) of this section are due and payable on the date designated in the notice and shall become delinquent if not paid within 10 days of the due date.

(d) Contributions required under subdivision (a) (2) of this section are due and payable on the first day of the reporting period following the close of each reporting period and shall become delinquent if not paid within 10 days of the due date.

(e) The employing unit shall file within the time required for payment of contributions under this section a return in such form and containing such information as the director prescribes

SEC. 12. Section 1131 of the Unemployment Insurance Code is amended to read.

1131. The director shall give to the employing unit against whom an assessment is made a written notice of the assessment pursuant to Section 1206

SEC. 13 Section 1133 of the Unemployment Insurance Code is repealed.

SEC. 14 Section 1134 of the Unemployment Insurance Code is repealed

SEC 15 Section 1135 of the Unemployment Insurance Code is amended to read·

1135 Assessments under this article become delinquent if not paid on or before the date they become final pursuant to Sections 1221, 1222, and 1224. There shall be added to the amount of each delinquent assessment a penalty of 10 percent of the amount thereof exclusive of interest and penalties.

SEC. 16. Section 1137 of the Unemployment Insurance Code is amended to read.

1137. If the director finds that the collection of any contributions will be jeopardized by delay he or she shall thereupon make an assessment of such contributions, served pursuant to Section 1206, noting upon the assessment that it is a jeopardy assessment levied under this section. The director may in levying the assessment demand a deposit of such security as he or she deems necessary to insure compliance with this division. The amount of such assessment shall be immediately due and payable, whether or not the time otherwise allowed by law or authorized regulations has expired. The penalties and interest provided in Sections 1126, 1127, 1128, 1129 and 1135 in respect to assessments shall attach to the amount of the contributions specified in the jeopardy assessment Section 1221 prescribes appeal rights relating to a jeopardy assessment.

SEC 17. Section 1138 of the Unemployment Insurance Code is repealed

SEC 18 Section 1139 of the Unemployment Insurance Code is

repealed

SEC 19. Section 1140 of the Unemployment Insurance Code is repealed

SEC. 20. Section 1176 5 of the Unemployment Insurance Code is amended to read

1176.5. (a) Except as provided by subdivision (c) of this section, refunds and credits under Section 1176 shall be claimed pursuant to Section 17061 of the Revenue and Taxation Code on the personal income tax return of the claimant for the year in which the wages in excess of the applicable limitation are received In no event shall the credit or refund be made unless the claim is made on a return filed within three years from the last day prescribed for filing the return, without regard to any extensions. The director shall transfer from the Disability Fund to the General Fund an amount equal to the amount of credits and refunds allowed by the Franchise Tax Board

(b) If the Franchise Tax Board disallows an individual's claim filed pursuant to subdivision (a) of this section, he or she may file a protest and submit the claim to the director within 30 days of the date of mailing of the notice of disallowance by the Franchise Tax Board pursuant to Section 17061 of the Revenue and Taxation Code. An additional 30 days for the filing of the protest may for good cause be granted by the director

(c) If any individual is not required to file a personal income tax return for a year with the Franchise Tax Board, he or she may, within three years after the calendar year in which the wages in excess of the applicable limitation are received, file a claim for refund or credit under Section 1176 with the director

(d) The director shall make refunds from the Disability Fund if he or she allows a claim under this section. The provisions of Sections 1180, 1222, 1223, 1224, 1241, and 1242 shall apply whenever the director denies any claim for refund or credit under this section.

SEC 20.5. Section 1176.5 of the Unemployment Insurance Code is amended to read

1176 5. (a) Except as provided by subdivision (c) of this section, refunds and credits under Section 1176 shall be claimed pursuant to Section 17061 of the Revenue and Taxation Code on the personal income tax return of the claimant for the year in which the wages in excess of the applicable limitation are received. In no event shall the credit or refund be made unless the claim is made on a return filed within three years from the last day prescribed for filing the return, without regard to any extensions The director shall transfer from the Disability Fund to the General Fund an amount equal to the amount of credits and refunds allowed by the Franchise Tax Board pursuant to Section 17061 or Section 17061 5 of the Revenue and Taxation Code

(b) If the Franchise Tax Board disallows an individual's claim filed pursuant to subdivision (a) of this section or Section 17061.5 of the Revenue and Taxation Code, he or she may file a protest and submit

the claim to the director within 30 days of the date of mailing of the notice of disallowance by the Franchise Tax Board An additional 30 days for the filing of the protest may for good cause be granted by the director

(c) If any individual is not required to file a personal income tax return for a year with the Franchise Tax Board, he or she may, within three years after the calendar year in which the wages in excess of the applicable limitation are received, file a claim for refund or credit under Section 1176 with the director

(d) The director shall make refunds from the Disability Fund if he or she allows a claim under this section The provisions of Sections 1180, 1222, 1223, 1224, 1241, and 1242 shall apply whenever the director denies any claim for refund or credit under this section or affirms the disallowance of a claim for refund or credit by the Franchise Tax Board.

SEC 21 Section 1179 of the Unemployment Insurance Code is amended to read

1179 Every claim for refund or credit shall be in writing and shall state the specific grounds upon which the claim is founded A waiver of any demand against the state or the director on account of overpayment shall apply when any of the following occur.

(a) Failure to file a claim with the director within the time prescribed by Section 1178

(b) Failure, after denial of a claim by the director, to file a petition for review with a referee within the time prescribed by Section 1222.

(c) Failure to file an appeal from an adverse referee's decision to the appeals board within the time prescribed by Section 1224

SEC. 22 Section 1180 of the Unemployment Insurance Code is amended to read·

1180 The director shall give notice pursuant to Section 1206 to the claimant whenever he or she denies any claim for refund or credit in whole or in part

SEC 23 Section 1180 5 of the Unemployment Insurance Code is amended to read·

1180 5 (a) If the director finds that a claim for refund or credit or portion thereof, including a claim deemed made and denied pursuant to subdivision (a) of Section 1179.5, has been erroneously denied, he or she may reverse the denial of the claim or portion thereof in the following cases

(1) Where no petition for review of denial of the claim has been filed or deemed filed, if the reversal is made prior to the expiration of the period within which a petition for review may be filed under Section 1222

(2) Where a petition for review of denial of the claim is filed or deemed filed, if the reversal is made prior to the mailing of a decision by the referee

(b) The director shall give notice pursuant to Section 1206 of the reversal of an erroneous denial of a claim or portion thereof under this section With respect to that portion of any such claim which

remains denied by the director, the notice of reversal shall also constitute a notice of denial of such portion and Sections 1222, 1223, 1224, 1241, and 1242 shall apply.

SEC. 24. Section 1182 of the Unemployment Insurance Code is repealed.

SEC. 25. Section 1183 of the Unemployment Insurance Code is repealed

SEC. 26. Section 1184 of the Unemployment Insurance Code is amended to read·

1184. If any refund or portion thereof is erroneously made, the director shall assess such amount to the employing unit or other person to whom the refund was made, together with any interest paid thereon, but no assessment shall be made with respect to any amount of worker contributions which the employer has refunded to his or her employees The amount of the assessment shall bear interest at the rate of 12 percent per annum commencing 30 days after the service of notice of such assessment, if not paid within such period, until the date of repayment The director shall give the employing unit against whom the assessment is made a written notice of the assessment pursuant to Section 1206.

Such notice shall be given within three years from the date the refund was made unless the employing unit waives this limitation period or consents to its extension. Sections 1135, 1136, 1222, 1223, and 1224 shall apply to assessments made under this section. The director shall collect the amount of any assessment made under this section in the same manner that other assessments are collected.

SEC 27. Article 10 (commencing with Section 1206) is added to Chapter 4 of Part 1 of Division 1 of the Unemployment Insurance Code, to read:

Article 10. Notice

1206. A notice given under this chapter by the director, a referee, or the appeals board:

(a) May be served personally or by mail, except that service by mail given by the director shall be made by certified mail in the following cases:

(1) Under Sections 1137 and 1221

(2) Under Sections 1131, 1142, 1184, 1733, and 1735 if the assessment is in excess of one thousand dollars ($1,000).

(3) Under Section 1180 if the denial of claim for refund or credit is in excess of one thousand dollars ($1,000).

(b) If served by mail, such notice shall be·

(1) Addressed to the employing unit or person at his or her address as it appears on the records of the department.

(2) Complete at the time of deposit in the United States mail.

(3) Made pursuant to Section 1013 of the Code of Civil Procedure, excepting service of notice of a hearing before or an order or a decision of a referee or of the appeals board in transfer of reserve

account, reassessment and refund matters.

SEC 28 Article 11 (commencing with Section 1221) is added to Chapter 4 of Part 1 of Division 1 of the Unemployment Insurance Code, to read:

Article 11 Administrative Appellate Review

1221. Within 15 days of service of a notice of jeopardy assessment under Section 1137, the employer may file a petition for reassessment with a referee. If the amount of contributions, interest, and penalty specified in the jeopardy assessment is not paid within 15 days of service of notice of the assessment, such assessment is final unless a petition for reassessment is filed within that time. The petition for reassessment shall not be valid unless the employer deposits with the director, within 15 days of the service upon the employer of notice of the assessment accompanied by demand for deposit, such security as the director deems necessary to insure compliance with this division Security so deposited may be sold by the director at public sale if it becomes necessary to do so to recover any contributions, interest or penalty due. The director shall give notice of the sale, pursuant to Section 1206, to the person who deposited the securities. Upon any such sale, the surplus, if any, above the amounts due under this division shall be returned to the person who deposited the security. If a valid petition for reassessment is filed within the time prescribed, Sections 1223 and 1224 shall apply.

1222 Within 30 days of service of any notice of assessment or denial of claim for refund or credit under Sections 803, 821, 844, or 991, or of any notice under Sections 1035, 1055, 1131, 1142, 1180, 1184, 1733, and 1735, any employing unit or other person given such notice, or any employing unit affected by a granting or denial of a transfer of reserve account, may file a petition for review or reassessment with a referee. The referee may for good cause grant an additional 30 days for the filing of a petition. If a petition for reassessment is not filed within the 30-day period, or within the additional period granted by the referee, an assessment is final at the expiration of the period. If the director fails to serve notice of his or her action within 60 days after a claim for refund or credit is filed, the person or employing unit may consider the claim denied and file a petition with a referee.

1223 If any petition is filed under this article within the time and meeting requirements prescribed, a referee shall review the matter and, if requested by the petitioner, shall grant a hearing. A hearing is not required on a petition if a prior hearing has been afforded the petitioner involving the same issues, but regardless of any prior proceedings, if the petitioner files an affidavit setting forth new and additional evidence in support of his or her petition, a referee may grant an additional hearing. The referee shall give at least 20 days' notice of the time and place of the hearing on a petition by delivering or mailing the notice to the petitioner and to the director. The time

of notice may be shortened with the consent of the parties The referee shall render a decision in the matter and may decrease or increase the amount of any assessment under review. Every employing unit or person which is a party to the petition and the director shall be promptly notified of the referee's decision, together with his or her reasons therefor.

1224. (a) The petitioner or the director may, within 30 days after the service of notice of a referee's decision under this article, file an appeal to the appeals board The appeals board may for good cause extend the appeal period If the referee fails to serve notice of the decision on a petition for review of denial of a claim for refund or credit within 60 days after a petition is filed, the petitioner may consider the petition denied and file an appeal with the appeals board. If an appeal is not filed within the 30-day period or within the additional period granted by the appeals board:

(1) The decision of the referee upon the petition is final in every case at the expiration of the period.

(2) Any assessment involved is final at the expiration of the period except that in cases where a decision of the referee requires an adjustment of an assessment by granting a portion of a petition or by increasing an assessment, the assessment is final 30 days after service upon the petitioner by the director of a statement of amounts due setting forth the adjusted liability pursuant to the decision

(b) In the event of an appeal to the appeals board, it may decrease or increase the amount of any assessment involved. In cases where an order or decision of the appeals board requires an adjustment of an assessment by granting a portion of a petition or by increasing an assessment, the order or decision and the assessment become final 30 days after service upon the petitioner by the director of a statement of amounts due setting forth the adjusted liability pursuant to the order or decision of the appeals board In all other cases, the order or decision of the appeals board and any assessment become final 30 days after service upon the petitioner of notice of the order or decision

SEC 29 Article 12 (commencing with Section 1241) is added to Chapter 4 of Part 1 of Division 1 of the Unemployment Insurance Code, to read

Article 12 Judicial Review

1241 No suit or proceeding shall be maintained in any court for the recovery of any amount of contributions, interest or penalties alleged to have been erroneously or illegally assessed or collected unless a claim for refund or credit has been filed pursuant to this chapter. Within 90 days after the service of the notice of the decision of the appeals board upon an appeal, the claimant may bring an action against the director on the grounds set forth in the claim in a court of competent jurisdiction in the County of Sacramento for the recovery of the whole or any part of the amount with respect to

which the claim has been denied. The director may, in writing, extend for a period of not exceeding two years the time within which such action may be instituted if written request for such extension is filed with the director within the 90-day period. Failure to bring action within the time specified constitutes a waiver of any demand against the state on account of alleged overpayments If the appeals board fails to serve notice of its decision on the appeal within 90 days after an appeal is filed, the claimant may consider the claim denied and may bring an action against the director under this section.

1242 If, in any action authorized by Section 1241, judgment is rendered for the plaintiff, the amount of the judgment shall first be credited on any contributions, interest, and penalties due from the plaintiff under this division, and the balance of the judgment shall be refunded to the plaintiff In any such judgment, interest shall be allowed and paid only to the extent that interest and penalties collected under this division are available therefor, at the rate of 12 percent per annum upon the amount of contributions found to have been illegally collected from the date of the payment of the contributions to the date of the judgment.

1243. A decision of the appeals board on an appeal from a denial of a protest under Section 1034 or on an appeal from a denial or granting of an application for transfer of reserve account under Article 5 (commencing with Section 1051) shall be subject to judicial review if an appropriate proceeding is filed by the employer within 90 days of the service of notice of the decision. The director may, in writing, extend for a period of not exceeding two years the time within which such proceeding may be instituted if written request for such extension is filed with the director within the 90-day period.

SEC. 30 Section 1703 of the Unemployment Insurance Code, as amended by Section 20 of Chapter 322 of the Statutes of 1979, is amended to read:

1703. (a) If any employing unit or other person fails to pay any amount imposed under this division at the time that it becomes due and payable, the amount thereof, including penalties and interest, together with any costs in addition thereto, shall thereupon be a perfected and enforceable state tax lien upon all property and rights to property whether real or personal, tangible or intangible, including all afteracquired property and rights to property, belonging to such person and located in the state. Such lien shall not continue for more than 10 years unless recorded or filed as provided in this section

For the purpose of this section, amounts are "due and payable" on the following dates

(1) For amounts disclosed on a return received by the director before the date the return is delinquent, the date the return would have been delinquent;

(2) For amounts disclosed on a return filed on or after the date the return is delinquent, the date the return is received by the director;

(3) For all other amounts, the date the assessment is final

(b) With respect to real property or any rights therein, at any time after creation of the lien pursuant to subdivision (a), the director may record in the office of the county recorder of the county in which such real property is located a notice of state tax lien as specified in subdivision (d).

The lien created by subdivision (a) shall not be valid against the right, title or interest of:

(1) A successor in interest of the taxpayer without knowledge of the lien,

(2) A holder of a security interest;

(3) A mechanic's lienor; or

(4) A judgment lien creditor,

where such right, title or interest was acquired or perfected prior to recording of a notice of state tax lien as provided in this subdivision.

(c) With respect to personal property, whether tangible or intangible, at any time after creation of the lien pursuant to subdivision (a) the director may file a notice of state tax lien with the Secretary of State pursuant to Chapter 14 5 (commencing with Section 7220) of Division 7 of Title 1 of the Government Code.

The lien created by subdivision (a) shall not be valid as to personal property against:

(1) The holder of a security interest therein whose interest is perfected pursuant to Section 9303 of the Uniform Commerical Code prior to the time the notice of the state tax lien is filed as herein provided;

(2) Any person, other than a person liable for the tax, who acquires his interest in the property under the law of this state without knowledge of the lien or who perfects his interest in accordance with the law of this state prior to the time that the notice of state tax lien is filed with the Secretary of State;

(3) A buyer in the ordinary course of business, as defined in subdivision (9) of Section 1201 of the Uniform Commercial Code, who, under Section 9307 of such code, would take free of a security interest created by his seller;

(4) Any person, other than a person liable for the tax, who, notwithstanding the prior filing of the notice of state tax lien:

(A) Is a holder in due course of a negotiable instrument, as defined in Section 3302 of the Uniform Commercial Code;

(B) Is a holder to whom a negotiable document of title has been duly negotiated as provided in Section 7501 of the Uniform Commercial Code;

(C) Is a bona fide purchaser of a security, as defined in Section 8302 of the Uniform Commercial Code;

(D) Is a purchaser of chattel paper, as defined in Section 9105(1) (b) of the Uniform Commerical Code, or an instrument, as defined in Section 9105(1) (i) of such code, who gives new value and takes possession of it in the ordinary course of business;

(E) Is a holder of a purchase money security interest, as defined in Section 9107 of the Uniform Commercial Code,

(F) Is a collecting bank holding a security interest in items being collected, accompanying documents and proceeds, pursuant to Section 4208 of the Uniform Commercial Code;

(G) Acquires a security interest in a deposit account, as defined in Section 9105(1)(e) of the Uniform Commerical Code, or in the beneficial interest in a trust or estate;

(H) Acquires any right or interest in letters of credit, advices of credit or money,

(I) Acquires without actual knowledge of the state tax lien a security interest in or a claim in or under any policy of insurance including unearned premiums;

(J) Acquires any right or interest in property subject to a certificate of title statute of another jurisdiction under the law of which indication of a security interest on the certificate of title is required as a condition of perfection of such security interest.

(d) The notice of state tax lien recorded or filed pursuant to subdivision (b) or (c) shall include the name and last known address of the person liable for the tax, the amount of the tax, a statement that the tax shall be a lien upon all real or personal property and rights to such property, including all afteracquired property and rights to property belonging to such person, and a statement that the director has complied with all the provisions of this part in the computation and levy of the amount assessed

(e) Any lien arising pursuant to this section shall continue for 10 years from the date of recording or filing of a notice of state tax lien pursuant to subdivision (b) or (c), unless sooner released or otherwise discharged. The lien may, within 10 years from the date of the recording or filing of the notice of state tax lien or within 10 years from the date of the last extension of the lien in the manner herein provided, be extended by recording or filing a new notice of state tax lien in the office of the county recorder of any county or with the Secretary of State as provided in subdivision (b) or (c), and from the time of such recording or filing the lien shall be extended for 10 years unless sooner released or otherwise discharged.

(f) Notwithstanding the provisions of Section 688 and 688.1 of the Code of Civil Procedure, in the event the taxpayer is a party to an action or special proceeding in which the taxpayer may become entitled to property or a money judgment, a lien created pursuant to subdivision (a) shall extend to the taxpayer's cause of action and any judgment in favor of the taxpayer subsequently procured in such action or proceeding. Notice of such a lien shall be given to all parties who prior thereto have made an appearance in the action. Such lien shall have priority from the time of filing of the notice in the action. No compromise, dismissal, settlement, or satisfaction shall be entered into by or on behalf of the taxpayer with any other party, lienor or intervenor in the action without the consent of the director unless the lien is sooner satisfied or discharged. The judge or clerk of the court shall endorse upon the judgment recovered in such action or proceeding a statement of the existence of the lien, the time of the

filing of the notice in the action and the place where entered, and any abstract issued upon the judgment shall contain, in addition to the matters set forth in Sections 674 and 688 1 of the Code of Civil Procedure, a statement of the lien in favor of the director

(g) Any lien, and any rights or causes of action under such lien, heretofore recorded in any county pursuant to former Section 1703 or filed with the Secretary of State pursuant to former Section 1703 5, shall continue in full force and effect for a period of 10 years from the date of last recordation or filing or extension thereof and may, within such period of 10 years, be further extended in the manner provided for in subdivision (e) of this section Upon recordation or filing of an extension, the lien shall have the same effect as a lien filed pursuant to this section Such extended lien shall have the same priority as it orginally had under the law in effect prior to July 1, 1978.

SEC 31 Section 1733 of the Unemployment Insurance Code is amended to read.

1733. Any person or employing unit that fails to withhold money or other property or fails to pay the amount or value of the property withheld as provided in Sections 1731 and 1732 shall be personally liable for the payment of the contributions, interest and penalties due from the employer up to but not exceeding the purchase price The director shall assess such amount to the acquiring person or employing unit and shall give a written notice of the assessment pursuant to Section 1206 Sections 1135, 1136, 1137, 1221, 1222, 1223, and 1224 apply to assessments under this section

SEC 32 Section 1735 of the Unemployment Insurance Code is amended to read.

1735 Any officer, major stockholder, or other person, having charge of the affairs of a corporate or association employing unit, who willfully fails to pay contributions required by this division or withholdings required by the Personal Income Tax Law on the date on which they become delinquent, shall be personally liable for the amount of the contributions, withholdings, penalties, and interest due and unpaid by such employing unit The director may assess such officer, stockholder, or other person for the amount of such contributions, withholdings, penalties, and interest The provisions of Article 8 (commencing with Section 1126) and Article 9 (commencing with Section 1176) of Chapter 4 of Part 1 of this division apply to assessments made pursuant to this section. Sections 1221, 1222, 1223, and 1224 shall apply to assessments made pursuant to this section With respect to such officer, stockholder, or other person, the director shall have all the collection remedies set forth in this chapter

SEC. 33 It is the intent of the Legislature, if this bill and Assembly Bill 298 are both chaptered and become effective on or before January 1, 1980, both bills amend Section 1176 5 of the Unemployment Insurance Code, and this bill is chaptered after Assembly Bill 298, that Section 1176 5 of the Unemployment Insurance Code, as amended by Section 3 of Assembly Bill 298, be

further amended on the effective date of this act in the form set forth in Section 20 5 of this act to incorporate the changes in Section 1176 5 proposed by this bill. Therefore, if this bill and Assembly Bill 298 are both chaptered and become effective on or before January 1, 1980, and Assembly Bill 298 is chaptered before this bill and amends Section 1176.5, Section 20.5 of this act shall become operative on the effective date of this act and Section 20 of this act shall not become operative.

CHAPTER 1083

An act to amend Sections 1343, 1345, 1347, 1359, 1376, 1381, 1384, 1386, 1387, and 1389 of, to add Sections 1360.1 and 1388 to, and to repeal Sections 1348, 1357, 1358, 1371, and 1388 of, and to repeal and add Section 1383 of, the Health and Safety Code, relating to health care service plans.

[Approved by Governor September 27, 1979 Filed with Secretary of State September 28, 1979]

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

SECTION 1 Section 1343 of the Health and Safety Code is amended to read:

1343. (a) The provisions of this chapter shall apply to health care service plans and specialized health care service plan contracts as defined in subdivisions (f) and (n) of Section 1345.

(b) The commissioner may by the adoption of such rules as deemed necessary and appropriate, either unconditionally or upon specified terms and conditions or for specified periods, exempt from the provisions of this chapter any class or persons or plan contracts if the commissioner finds such action to be in the public interest and not detrimental to the protection of subscribers, enrollees, or persons regulated under this chapter, and that the regulation of such persons or plan contracts is not essential to the purposes of this chapter.

(c) The commissioner, upon request of the State Director of Health Services, may exempt from the provisions of this chapter any pilot program contracting with the State Department of Health Services pursuant to Article 7 (commencing with Section 14490) of Chapter 8 of Part 3 of Division 9 of the Welfare and Institutions Code. Such exemption may be subject to such conditions as the commissioner deems appropriate

(d) The provisions of this chapter shall not apply to

(1) A person organized and operating pursuant to a certificate issued by the Insurance Commissioner unless the entity is directly providing the health care service through such entity-owned or contracting health facilities and providers, in which case the provisions of this chapter shall apply to the insurer's plan and to the

insurer.

(2) A plan directly operated by bona fide public or private institution of higher learning which directly provides health care services only to its students, faculty, staff, administration, and their respective dependents

(3) A nonprofit corporation formed under Chapter 11A (commencing with Section 11491) of Part 2 of Division 2 of the Insurance Code

SEC 2 Section 1345 of the Health and Safety Code is amended to read

1345. As used in this chapter·

(a) "Advertisement" means any written or printed communication or any communication by means of recorded telephone messages or by radio, television, or similar communications media, published in connection with the offer or sale of plan contracts

(b) "Basic health care services" means all of the following:

(1) Physician services, including consultation and referral.

(2) Hospital inpatient services and ambulatory care services.

(3) Diagnostic laboratory and diagnostic and therapeutic radiologic services.

(4) Home health services

(5) Preventive health services

(6) Emergency health care services, including ambulance services and out-of-area coverage.

(c) "Enrollee" means a person who is enrolled in a plan and who is a recipient of services from the plan

(d) "Evidence of coverage" means any certificate, agreement, contract, brochure, or letter of entitlement issued to a subscriber or enrollee setting forth the coverage to which the subscriber or enrollee is entitled

(e) "Group contract" means a contract which by its terms limits the eligibility of subscribers and enrollees to a specified group.

(f) "Health care service plan" means any person who undertakes to arrange for the provision of health care services to subscribers or enrollees, or to pay for or to reimburse any part of the cost for such services, in return for a prepaid or periodic charge paid by or on behalf of such subscribers or enrollees, and who does not substantially indemnify subscribers or enrollees for the cost of provided services.

(g) "License" means, and "licensed" refers to, a license as a plan pursuant to Section 1353 and, until September 30, 1978, unless extended by the commissioner, a transitional license as a plan pursuant to Section 1350, unless the context otherwise provides.

(h) "Provider" means any professional person, organization, health facility, or other person or institution licensed by the state to deliver or furnish health care services.

(i) "Person" means any person, individual, firm, association, organization, partnership, business trust, foundation, labor

organization, or corporation, public agency, or political subdivision of the state.

(j) "Service area" means a geographical area designated by the plan within which a plan shall provide health care services.

(k) "Solicitation" means any presentation or advertising conducted by, or on behalf of, a plan, where information regarding the plan, or services offered and charges therefor, is disseminated for the purpose of inducing persons to subscribe to, or enroll in, the plan.

(*l*) "Solicitor" means any person who engages in the acts defined in subdivision (k) of this section.

(m) "Solicitor firm" means any person, other than a plan, who through one or more solicitors engages in the acts defined in subdivision (k) of this section.

(n) "Specialized health care service plan contract" means a contract for health care services in a single specialized area of health care, including dental care, for subscribers or enrollees, or which pays for or which reimburses any part of the cost for such services, in return for a prepaid or periodic charge paid by or on behalf of such subscribers or enrollees, and which does not substantially indemnify subcribers or enrollees for the cost of provided services.

(o) "Subscriber" means the person who is responsible for payment to a plan or whose employment or other status, except for family dependency, is the basis for eligibility for membership in the plan.

(p) Unless the context indicates otherwise, "plan" refers to health care service plans and specialized health care service plans.

(q) "Plan contract" means a contract between a plan and its subscribers or enrollees or a person contracting on their behalf pursuant to which health care services, including basic health care services, are furnished; and unless the context otherwise indicates it includes specialized health care service plan contracts; and unless the context otherwise indicates it includes group contracts

(r) "Transitional license" means a license required by Section 1350 and issued by the commissioner on October 1, 1977, to a plan which was registered on June 30, 1976, under the Knox-Mills Health Plan Act and which timely filed an application for licensing as a plan under this chapter. No findings are made by the commissioner as a condition precedent to the issuance of a transitional license. Such license expires on September 30, 1978, unless such expiration date is extended by the commissioner.

(s) All references in this chapter to financial statements, assets, liabilities, and other accounting items mean such financial statements and accounting items prepared or determined in accordance with generally accepted accounting principles, and fairly presenting the matters which they purport to present, subject to any specific requirement imposed by this chapter or by the commissioner

SEC. 3. Section 1347 of the Health and Safety Code is amended to read

1347 (a) There is established in the Department of Corporations a Health Care Service Plan Advisory Committee consisting of 15 members. The members shall consist of the commissioner or the commissioner's designee; a physician and surgeon with five years' experience in providing services to enrollees of a health care service plan; a person with expertise and five years' experience in an administrative capacity of a hospital-based plan; a person with five years' experience with a corporation formed under Section 9201 of the Corporations Code; a person with five years' experience with a non-hospital-based independent practice association; a person with expertise and five years' experience in a health care service plan which is a hospital-based independent practice association; a person with five years' experience in an administrative capacity with a non-hospital-based health care service plan; a person with five years' experience in an administrative capacity with a specialized health care service plan; a certified public accountant with five years' experience in auditing plans; and six public members having no financial interest in the delivery of health care services or in plans except for being enrolled in a health care service plan or specialized health care service plan.

The members shall be appointed by the commissioner for a term of three years, except that of the members first appointed, four shall serve for a term of one year and five shall serve for a term of two years, as designated by the commissioner

The committee shall meet at least quarterly and at the call of the chairperson The commissioner or the commissioner's designee shall be chairperson of the committee. The committee may establish its own rules and procedures All members shall serve without compensation, but the six public members shall be reimbursed from department funds for expenses actually and necessarily incurred by them in the performance of their duties

(b) The purpose of the committee is to assist and advise the commissioner in the implementation of the commissioner's duties under this chapter The commissioner shall consult with the advisory committee on regulations and the recommendations of the committee shall be made a part of the record with regard to such regulations The committee shall be given at least 30 days to review and comment on regulations prior to setting a notice of hearing for proposed regulations Nothing in this subdivision prohibits the commissioner from promulgating urgency regulations pursuant to the provisions of the Administrative Procedures Act

SEC. 4 Section 1348 of the Health and Safety Code is repealed

SEC 5 Section 1357 of the Health and Safety Code is repealed

SEC 6 Section 1358 of the Health and Safety Code is repealed

SEC 7 Section 1359 of the Health and Safety Code is amended to read

1359 (a) The commissioner may require that solicitors and solicitor firms, and principal persons engaged in the supervision of solicitation for plans of solicitor firms, meet such reasonable and

appropriate standards with respect to training, experience, and other qualifications as the commissioner finds necessary and appropriate in the public interest or for the protection of subscribers, enrollees, and plans For such purposes, the commissioner may do the following:

(1) Appropriately classify such persons and individuals

(2) Specify that all or any portion of such standards shall be applicable to any such class

(3) Require individuals in any such class to pass examinations prescribed in accordance with such rules.

(b) The commissioner may prescribe by rule reasonable fees and charges to defray the costs of carrying out this section, including, but not limited to, fees for any examination administered by the commissioner or under his direction

SEC 7 5. Section 1360 1 is added to the Health and Safety Code, to read

1360 1 It is unlawful for any person licensed under this chapter to represent or imply in any manner that such person has been sponsored, recommended, or approved or that such person's abilities or qualifications have in any respect been passed upon by the commissioner Nothing in this section prohibits a statement (other than in a paid advertisement) that a person holds a license under this chapter, if such statement is true and if the effect of such licensing is not misrepresented

SEC 8 Section 1371 of the Health and Safety Code is repealed

SEC 9 Section 1376 of the Health and Safety Code is amended to read

1376. (a) No plan shall conduct any activity regulated by this chapter in contravention of such rules and regulations as the commissioner may prescribe as necessary or appropriate in the public interest or for the protection of plans, subscribers, and enrollees to provide safeguards with respect to the financial responsibility of plans Such rules and regulations may require a minimum capital or net worth, limitations on indebtedness, procedures for the handling of funds or assets, including segregation of funds, assets and net worth, the maintenance of appropriate insurance and a fidelity bond, and the maintenance of a surety bond in an amount not exceeding ten thousand dollars ($10,000).

(b) The surety bond referred to in subdivision (a) shall be conditioned upon compliance by the licensee with the provisions of this chapter and the rules and regulations adopted pursuant to this chapter and orders issued under this chapter Such bond, unless previously canceled, shall apply to the entire period that the license is in effect Every surety bond shall provide that no suit may be maintained to enforce any liability thereon unless brought within two years after the act upon which such suit is based, and shall also provide that the liability of the surety on such bond to all persons aggrieved shall, in no event, exceed in the aggregate the amount thereof Every such bond shall also contain a provision authorizing the surety thereon to cancel the bond upon 30 days' written notice

to the licensee and to the commissioner; except that such cancellation shall not affect any liability incurred or accrued prior to the effective date of such cancellation.

(c) Any appropriate deposits of cash or securities shall be accepted in lieu of the surety bond required pursuant to subdivision (a).

(d) For purposes of computing any minimum capital requirement which may be prescribed by the rules and regulations of the commissioner under subdivision (a), any operating cost assistance or direct loan made to a plan by the United States Department of Health, Education and Welfare pursuant to Public Law 93-222, as amended, may be treated as a subordinated loan, notwithstanding any express terms thereof to the contrary.

(e) Each solicitor and solicitor firm shall handle funds received for the account of plans, subscribers, or groups in accordance with such rules as the commissioner may adopt pursuant to this subdivision.

SEC. 10 Section 1381 of the Health and Safety Code is amended to read·

1381. (a) All records, books, and papers of a plan, management company, solicitor, solicitor firm, and any provider or subcontractor providing health care or other services to a plan, management company, solicitor, or solicitor firm shall be open to inspection during normal business hours by the commissioner

(b) To the extent feasible, all such records, books, and papers described in subdivision (a) shall be located in this state. In examining such records outside this state, the commissioner shall consider the cost to the plan, consistent with the effectiveness of the commissioner's examination, and may upon reasonable notice require that such records, books and papers, or a specified portion thereof, be made available for examination in this state, or that a true and accurate copy of such records, books and papers, or a specified portion thereof, be furnished to the commissioner.

SEC 11 Section 1383 of the Health and Safety Code is repealed.

SEC. 11.5 Section 1383 is added to the Health and Safety Code, to read.

1383 Every plan that is a health maintenance organization qualified under Section 1310(d) of Title XIII of the federal Public Health Service Act, shall provide the department with a copy of the reports the plan files annually with the United States Department of Health, Education, and Welfare pursuant to Title XIII of the federal Public Health Service Act

SEC 12 Section 1384 of the Health and Safety Code is amended to read

1384 (a) Within 90 days after receipt of a request from the commissioner, a plan or other person subject to this chapter shall submit to the commissioner an audit report containing audited financial statements covering the 12-calendar months next preceding the month of receipt of the request, or such other period as the commissioner may require

(b) A plan whose license has been surrendered or revoked shall submit to the commissioner on or before 105 days after the effective date of such surrender or revocation, a closing audit report containing audited financial statements as of such effective date for the 12 months ending with such effective date, or for such other period as the commissioner may specify. Such report shall include other relevant information as specified by rule of the commissioner.

(c) Each plan shall submit financial statements prepared as of the close of its fiscal year within 120 days after the close of such fiscal year. The financial statements referred to in this subdivision and in subdivisions (a) and (b) of this section shall be accompanied by a report, certificate, or opinion of an independent certified public accountant or independent public accountant. The audits shall be conducted in accordance with generally accepted auditing standards and the rules and regulations of the commissioner.

(d) A plan, solicitor, or solicitor firm shall make such special reports to the commissioner as the commissioner may from time to time require.

(e) For good cause and upon written request, the commissioner may extend the time for compliance with subdivisions (a), (b), and (h) of this section

(f) A plan, solicitor, or solicitor firm shall, when requested by the commissioner, for good cause, submit its unaudited financial statement, prepared in accordance with generally accepted accounting principles and consisting of at least a balance sheet and statement of income as of the date and for the period specified by the commissioner. The commissioner may require the submission of such reports on a monthly or other periodic basis.

(g) If the report, certificate, or opinion of the independent accountant referred to in subdivision (c) is in any way qualified, the commissioner may require the plan to take such action as the commissioner deems appropriate to permit an independent accountant to remove such qualification from the report, certificate, or opinion

(h) The commissioner may reject any financial statement, report, certificate, or opinion filed pursuant to this section by notifying the plan, solicitor, or solicitor firm required to make such filing of its rejection and the cause thereof. Within 30 days after the receipt of such notice, such person shall correct such deficiency, and the failure so to do shall be deemed a violation of this chapter. The commissioner shall retain a copy of all filings so rejected

(i) The commissioner may make rules and regulations specifying the form and content of the reports and financial statements referred to in this section, and may require that such reports and financial statements be verified by the plan or other person subject to this chapter in such manner as the commissioner may prescribe

SEC. 13. Section 1386 of the Health and Safety Code is amended to read.

1386 (a) The commissioner may suspend or revoke any license

issued under this chapter to a health care service plan or assess civil penalties if the commissioner determines that the licensee has committed any of the acts or omissions constituting grounds for disciplinary action

(b) The following acts or omissions constitute grounds for disciplinary action by the commissioner.

(1) The plan is operating at variance with the basic organizational documents as filed pursuant to Section 1351 or 1352, or with its published plan, or in any manner contrary to that described in, and reasonably inferred, from the plan as contained in its application for licensure and annual report, or any modification thereof, unless amendments allowing such variation have been submitted to, and approved by, the commissioner.

(2) The plan has issued, or permits others to use, evidence of coverage or uses a schedule of charges for health care services which do not comply with those published in the latest evidence of coverage found unobjectionable by the commissioner.

(3) The health care service plan does not provide basic health care services to its enrollees and subscribers as set forth in the evidence of coverage This subdivision shall not apply to specialized health care service plan contracts

(4) The plan is no longer able to meet the standards set forth in Article 5 (commencing with Section 1369)

(5) The continued operation of the plan will constitute a substantial risk to its subscribers and enrollees.

(6) The plan has violated or attempted to violate, or conspired to violate, directly or indirectly, or assisted in or abetted a violation or conspiracy to violate any provision of this chapter or any rule or regulation adopted by the commissioner pursuant to this chapter

(7) The plan has engaged in any conduct which constitutes fraud or dishonest dealing or unfair competition, as defined by Section 17200 of the Business and Professions Code

(8) The plan has permitted, or aided or abetted any violation by an employee or contractor who is a holder of any certificate, license, permit, registration or exemption issued pursuant to the Business and Professions Code, or the Health and Safety Code which would constitute grounds for discipline against such certificate, license, permit, registration, or exemption

(9) The plan has aided or abetted or permitted the commission of any illegal act

(10) The engagement of a person as an officer, director, employee, associate, or provider of the plan contrary to the provisions of an order issued by the commissioner pursuant to subdivision (c) of this section or subdivision (d) of Section 1388

(11) The engagement of a person as a solicitor or supervisor of solicitation contrary to the provisions of an order issued by the commissioner pursuant to Section 1388

(12) The plan, its management company, or any other affiliate of the plan, or any controlling person, officer, director, or other person

occupying a principal management or supervisory position in such plan, management company or affiliate, has been convicted of either a misdemeanor involving moral turpitude or a felony and the commissioner finds that the misdemeanor or felony is reasonably related to the administration of the law. A plea or verdict of guilty or a conviction following a plea of nolo contendere is a conviction within the meaning of this subdivision. The commissioner may revoke or deny a license hereunder irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(c) The commissioner may prohibit any person from serving as an officer, director, employee, associate, or provider of any plan or solicitor firm, or as a solicitor, if such person was an officer, director, employee, associate, or provider of a plan whose license has been suspended or revoked pursuant to this section and such person had knowledge of, or participated in, any of the prohibited acts for which such license was suspended or revoked. A proceeding for the issuance of an order under this subdivision may be included with a proceeding against a plan under this section or may constitute a separate proceeding, subject in either case to appropriate notice and opportunity for hearing to the person affected in accordance with the provisions of subdivision (a) of Section 1397.

SEC 14 Section 1387 of the Health and Safety Code is amended to read:

1387 (a) In addition to suspension or revocation of a plan license issued under this chapter, the commissioner may levy any civil penalty The civil penalty may be in lieu of, or in addition to, the penalties of suspension or revocation

(b) In addition to an order prohibiting a person from serving as an officer, director, employee, associate, or provider of any plan or solicitor firm, or as a solicitor, pursuant to subdivision (c) of Section 1386 or subdivision (d) of Section 1388, the commissioner may levy any civil penalty against such person The civil penalty may be in lieu of, or in addition to, such order of prohibition.

(c) In addition to an order censuring a person in connection with, or suspending or barring a person from engaging in, operations as a solicitor or solicitor firm pursuant to Section 1388, the commissioner may levy any civil penalty The civil penalty may be in lieu of, or in addition to, the penalties or censure or suspension or bar from employment or operations as a solicitor or solicitor firm

(d) The amount of the civil penalty may not be less than one hundred dollars ($100) nor more than two thousand five hundred dollars ($2,500) for each violation of this chapter

SEC 15 Section 1388 of the Health and Safety Code is repealed.

SEC 16. Section 1388 is added to the Health and Safety Code, to read

1388 (a) The commissioner may, after appropriate notice and opportunity for hearing, by order, censure a person acting as a solicitor or solicitor firm, or suspend for a period not exceeding 24 months or bar a person from operating as a solicitor or solicitor firm,

or assess civil penalties against a person acting as a solicitor or solicitor firm if the commissioner determines that such person has committed any of the acts or omissions constituting grounds for disciplinary action.

(b) The following acts or omissions constitute grounds for disciplinary action by the commissioner·

(1) The continued operation of the solicitor or solicitor firm in a manner which may constitute a substantial risk to a plan or subscribers and enrollees.

(2) The solicitor or solicitor firm has violated or attempted to violate, or conspired to violate, directly or indirectly, or assisted in or abetted a violation or conspiracy to violate any provision of this chapter or any rule or regulation adopted by the commissioner pursuant to the chapter.

(3) The solicitor or solicitor firm has engaged in any conduct which constitutes fraud or dishonest dealing or unfair competition, as defined by Section 17200 of the Business and Professions Code

(4) The engagement of a person as an officer, director, employee, or associate of the solicitor firm contrary to the provisions of an order issued by the commissioner pursuant to subdivision (d) of this section or subdivision (c) of Section 1386

(5) The solicitor or solicitor firm, or its management company, or any other affiliate of the solicitor firm, or any controlling person, officer, director, or other person occupying a principal management or supervisory position in such solicitor firm, management company or affiliate, has been convicted of either a misdemeanor involving moral turpitude or a felony and the commissioner finds that the misdemeanor or felony is reasonably related to the administration of the law A plea or verdict of guilty or a conviction following a plea of nolo contendere is a conviction within the meaning of this subdivision. The commissioner may issue an order hereunder irrespective of a subsequent order under the provisions of Section 1203 4 of the Penal Code.

(c) The commissioner shall notify plans of any order issued pursuant to subdivision (a) which suspends or bars a person from engaging in operations as a solicitor or solicitor firm It shall be unlawful for any plan, after receipt of notice of such an order, to receive any new subscribers or enrollees through such a person or to otherwise utilize any solicitation services of such person in violation thereof.

(d) The commissioner may prohibit any person from serving as an officer, director, employee, or associate of any plan or solicitor firm, or as a solicitor, if such person was an officer, director, employee, or associate of a solicitor firm which has been the subject of an order of suspension or bar from engaging in operations as a solicitor firm pursuant to this section and such person had knowledge of, or participated in, any of the prohibited acts for which such order was issued A proceeding for the issuance of an order under this subdivision may be included with a proceeding against a solicitor

firm under this section or may constitute a separate proceeding, subject in either case to appropriate notice and opportunity for hearing to the person affected in accordance with the provisions of subdivision (a) of Section 1397.

SEC 17. Section 1389 of the Health and Safety Code is amended to read.

1389. (a) A person whose license has been revoked, or suspended for more than one year, may petition the commissioner to reinstate the license as provided by Section 11522 of the Government Code No petition may be considered if the petitioner is under criminal sentence for a violation of this chapter, or any offense which would constitute grounds for discipline, or denial of licensure under this chapter, including any period of probation or parole.

(b) A person who is barred, or suspended for more than one year, from acting as a solicitor or solicitor firm pursuant to Section 1388, or who is subject to an order, pursuant to subdivision (c) of Section 1386 or subdivision (d) of Section 1388, which by its terms is effective for more than one year, may petition the commissioner to reduce by order such penalty in a manner generally consistent with the provisions of Section 11522 of the Government Code. No petition may be considered if the petitioner is under criminal sentence for a violation of this chapter, or any offense which would constitute grounds for discipline under this chapter, including any period of probation or parole.

(c) The petition for restoration shall be in the form prescribed by the commissioner and the commissioner may condition the granting of such petition upon such additional information and undertakings as the commissioner may require in order to determine whether such person, if restored, would engage in business in full compliance with the objectives and provisions of this chapter and the rules and regulations adopted by the commissioner pursuant to this chapter.

(d) The commissioner may, by rule, prescribe a fee not to exceed five hundred dollars ($500) for the filing of a petition for restoration pursuant to this section In addition, the commissioner may condition the granting of such a petition to a plan upon payment of the assessment due and unpaid pursuant to subdivision (b) of Section 1356 as of the 15th day of December occurring within the preceding 12-calendar months and, if the plan's suspension or revocation was in effect for more than 12 months, upon the filing of a new plan application and the payment of the fee prescribed by subdivision (a) of Section 1356

SEC 18 Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of

Division 1 of that code.

CHAPTER 1084

An act to amend Sections 16430 and 53651 of the Government Code, relating to the investment of public funds.

[Approved by Governor September 27, 1979 Filed with Secretary of State September 28, 1979]

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

SECTION 1 Section 16430 of the Government Code is amended to read.

16430 Eligible securities for the investment of surplus moneys shall be

(a) Bonds or interest-bearing notes or obligations of the United States, or those for which the faith and credit of the United States are pledged for the payment of principal and interest

(b) Bonds or interest-bearing notes on obligations that are guaranteed as to principal and interest by a federal agency of the United States

(c) Bonds of this state, or those for which the faith and credit of this state are pledged for the payment of principal and interest.

(d) Bonds or warrants, including, but not limited to, revenue warrants, of any county, city, metropolitan water district, California water district, California water storage district, irrigation district in the State of California, municipal utility district, or school district of this state

(e) Bonds, consolidated bonds, collateral trust debentures, consolidated debentures, or other obligations issued by federal land banks or federal intermediate credit banks established under the Federal Farm Loan Act, as amended, in debentures and consolidated debentures issued by the Central Bank for Cooperatives and banks for cooperatives established under the Farm Credit Act of 1933, as amended, in bonds or debentures of the Federal Home Loan Bank Board established under the Federal Home Loan Bank Act, in stock, bonds, debentures and other obligations of the Federal National Mortgage Association established under the National Housing Act as amended, and in the bonds of any federal home loan bank established under said act, obligations of the Federal Home Loan Mortgage Corporation, and in bonds, notes, and other obligations issued by the Tennessee Valley Authority under the Tennessee Valley Authority Act as amended

(f) Commercial paper of "prime" quality as defined by a nationally recognized organization which rates such securities Eligible paper is further limited to issuing corporations (1) organized and operating within the United States; (2) having total

assets in excess of five hundred million dollars ($500,000,000); and (3) approved by the Pooled Money Investment Board Purchases of eligible commercial paper may not exceed 180 days' maturity, represent more than 10 percent of the outstanding paper of an issuing corporation, nor exceed 30 percent of the resources of an investment program. At the request of the Pooled Money Investment Board, such investment shall be secured by the issuer by depositing with the Treasurer securities authorized by Section 53651 of a market value at least 10 percent in excess of the amount of the state's investment

(g) Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as bankers acceptances, which are eligible for purchase by the Federal Reserve System.

(h) Negotiable certificates of deposits issued by a nationally or state-chartered bank or savings and loan association. For the purposes of this section, negotiable certificates of deposits do not come within the provisions of Chapter 4 (commencing with Section 16500) and Chapter 4.5 (commencing with Section 16600).

(i) The portion of bank loans and obligations guaranteed by the United States Small Business Administration or the United States Farmers Home Administration.

(j) Student loan notes insured under the Guaranteed Student Loan Program established pursuant to the Higher Education Act of 1965, as amended (20 U S C. 1001, et seq.) and eligible for resale to the Student Loan Marketing Association established pursuant to Section 133 of the Education Amendments of 1972, as amended (20 U S C 1087-2)

(k) Obligations issued, assumed, or guaranteed by the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, or the Government Development Bank of Puerto Rico

SEC 2 Section 16430 of the Government Code is amended to read

16430 Eligible securities for the investment of surplus moneys shall be·

(a) Bonds or interest-bearing notes or obligations of the United States, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(b) Bonds or interest-bearing notes on obligations that are guaranteed as to principal and interest by a federal agency of the United States

(c) Bonds of this state, or those for which the faith and credit of this state are pledged for the payment of principal and interest.

(d) Bonds or warrants, including, but not limited to, revenue warrants, of any county, city, metropolitan water district, California water district, California water storage district, irrigation district in the State of California, municipal utility district, or school district of this state

(e) Bonds, consolidated bonds, collateral trust debentures,

consolidated debentures, or other obligations issued by federal land banks or federal intermediate credit banks established under the Federal Farm Loan Act, as amended, in debentures and consolidated debentures issued by the Central Bank for Cooperatives and banks for cooperatives established under the Farm Credit Act of 1933, as amended, in bonds or debentures of the Federal Home Loan Bank Board established under the Federal Home Loan Bank Act, in stock, bonds, debentures and other obligations of the Federal National Mortgage Association established under the National Housing Act as amended, and in the bonds of any federal home loan bank established under said act, obligations of the Federal Home Loan Mortgage Corporation, and in bonds, notes, and other obligations issued by the Tennessee Valley Authority under the Tennessee Valley Authority Act as amended.

(f) Commercial paper of "prime" quality as defined by a nationally recognized organization which rates such securities. Eligible paper is further limited to issuing corporations: (1) organized and operating within the United States; (2) having total assets in excess of five hundred million dollars ($500,000,000); and (3) approved by the Pooled Money Investment Board. Purchases of eligible commercial paper may not exceed 180 days' maturity, represent more than 10 percent of the outstanding paper of an issuing corporation, nor exceed 30 percent of the resources of an investment program. At the request of the Pooled Money Investment Board, such investment shall be secured by the issuer by depositing with the Treasurer securities authorized by Section 53651 of a market value at least 10 percent in excess of the amount of the state's investment

(g) Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as bankers acceptances, which are eligible for purchase by the Federal Reserve System.

(h) Negotiable certificates of deposits issued by a nationally or state-chartered bank or savings and loan association. For the purposes of this section, negotiable certificates of deposits do not come within the provisions of Chapter 4 (commencing with Section 16500) and Chapter 4.5 (commencing with Section 16600).

(i) The portion of bank loans and obligations guaranteed by the United States Small Business Administration or the United States Farmers Home Administration.

(j) Student loan notes insured under the Guaranteed Student Loan Program established pursuant to the Higher Education Act of 1965, as amended (20 U.S.C. 1001, et seq.) and eligible for resale to the Student Loan Marketing Association established pursuant to Section 133 of the Education Amendments of 1972, as amended (20 U.S.C. 1087-2).

(k) Obligations issued, assumed, or guaranteed by the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, or the Government Development Bank of Puerto Rico.

(*l*) Bonds, debentures, and notes issued by corporations organized and operating within the United States. Securities eligible for investment under this subdivision shall be within the top three ratings of a nationally recognized rating service.

SEC. 3 Section 53651 of the Government Code is amended to read.

53651 Eligible securities are any of the following:

(a) United States Treasury notes, bonds, bills or certificates of indebtedness, or obligations for which the faith and credit of the United States are pledged for the payment of principal and interest, including the guaranteed portions of small business administration loans, so long as such loans are obligations for which the faith and credit of the United States are pledged for the payment of principal and interest

(b) Notes or bonds or any obligations of a local public agency (as defined in the United States Housing Act of 1949) or any obligations of a public housing agency (as defined in the United States Housing Act of 1937) for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Bonds of this state or of any local agency or district of the State of California having the power, without limit as to rate or amount, to levy taxes to pay the principal and interest of such bonds upon all property within its boundaries subject to taxation by such local agency or district, and in addition, sales tax revenue bonds, and revenue bonds and other obligations payable solely out of the revenues from a revenue-producing property owned, controlled or operated by such state, local agency or district or by a department, board, agency or authority thereof

(d) Bonds of any public housing agency (as defined in the United States Housing Act of 1937, as amended) as are secured by a pledge of annual contributions under an annual contribution contract between such public housing agency and the Public Housing Administration if such contract shall contain the covenant by the Public Housing Administration which is authorized by subsection (b) of Section 22 of the United States Housing Act of 1937, as amended, and if the maximum sum and the maximum period specified in such contract pursuant to said subsection 22(b) shall not be less than the annual amount and the period for payment which are requisite to provide for the payment when due of all installments of principal and interest on such obligations

(e) Registered warrants of this state.

(f) Bonds, consolidated bonds, collateral trust debentures, consolidated debentures, or other obligations issued by the United States Postal Service, federal land banks or federal intermediate credit banks established under the Federal Farm Loan Act, as amended, debentures and consolidated debentures issued by the Central Bank for Cooperatives and banks for cooperatives established under the Farm Credit Act of 1933, as amended, consolidated obligations of the Federal Home Loan Banks

established under the Federal Home Loan Bank Act, bonds, debentures and other obligations of the Federal National Mortgage Association or of the Government National Mortgage Association established under the National Housing Act, as amended, bonds of any federal home loan bank established under said act, bonds, debentures and other obligations of the Federal Home Loan Mortgage Corporation established under the Emergency Home Finance Act of 1970, and obligations of the Tennessee Valley Authority

(g) Notes, tax anticipation warrants or other evidence of indebtedness issued pursuant to Article 7 (commencing with Section 53820), Article 7.5 (commencing with Section 53840) or Article 7 6 (commencing with Section 53850) of this Chapter 4

(h) State of California notes

(i) Bonds, notes, certificates of indebtedness, warrants or other obligations issued by (1) any state of the United States (except this state), or the Commonwealth of Puerto Rico, or any local agency thereof having the power to levy taxes, without limit as to rate or amount, to pay the principal and interest of such obligations, or (2) any state of the United States (except this state), or the Commonwealth of Puerto Rico, or a department, board, agency or authority thereof except bonds which provide for or are issued pursuant to a law which may contemplate a subsequent legislative appropriation as an assurance of the continued operation and solvency of such department, board, agency or authority but which does not constitute a valid and binding obligation for which the full faith and credit of such state or the Commonwealth of Puerto Rico are pledged, which are payable solely out of the revenues from a revenue-producing source owned, controlled or operated thereby, provided such obligations issued by an entity described in (1), above, are rated in one of the three highest grades, and such obligations issued by an entity described in (2), above, are rated in one of the two highest grades by a nationally recognized investment service organization that has been engaged regularly in rating state and municipal issues for a period of not less than five years

(j) Obligations issued, assumed or guaranteed by the International Bank for Reconstruction and Development, Inter-American Development Bank, the Government Development Bank of Puerto Rico, or the Asian Development Bank

(k) Participation certificates of the Export-Import Bank of the United States

(*l*) Bonds and notes of the California Housing Finance Agency issued pursuant to Chapter 7 (commencing with Section 51350) of Part 3 of Division 31 of the Health and Safety Code

(m) Promissory notes secured by first mortgages and first trust deeds upon improved residential real property located in California, provided that

(1) The promissory notes are, notwithstanding Section 53652, at all times in an amount in value at least 50 percent in excess of the

amount deposited with the depository;

(2) The State Treasurer issues regulations establishing procedures for determining the value of the promissory notes, and the local agency administrator develops standards and procedures necessary to protect the security of the deposits so collateralized;

(3) The depository may exercise, enforce, or waive any right or power granted to it by the promissory note, mortgage, or deed of trust, and

(4) The following may not be used as security for deposits:

(A) Any promissory note on which any payment is more than 90 days past due,

(B) Any promissory note secured by a mortgage or deed of trust as to which there is a lien prior to the mortgage or deed of trust, or

(C) Any promissory note secured by a mortgage or deed of trust as to which a notice of default has been recorded pursuant to Section 2924 of the Civil Code or an action has been commenced pursuant to Section 725a of the Code of Civil Procedure.

(5) The local agency is a county, city, or city and county having a population of 650,000 or more, on July 1, 1978.

SEC 4 It is the intent of the Legislature, if this bill and Senate Bill 391 are both chaptered and become effective January 1, 1980, both bills amend Section 16430 of the Government Code, and this bill is chaptered after Senate Bill 391, that the amendments to Section 16430 proposed by both bills be given effect and incorporated in Section 16430 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 391 are both chaptered and become effective January 1, 1980, both amend Section 16430, and this bill is chaptered after Senate Bill 391, in which case Section 1 of this act shall not become operative.

CHAPTER 1085

An act amending Section 2 9F of the Budget Act of 1978, and amending and supplementing the Budget Act of 1979 by adding Section 2 5B thereto, relating to parks, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately

[Approved by Governor September 27, 1979 Filed with Secretary of State September 28, 1979]

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

SECTION 1 Section 2 9F of the Budget Act of 1978, as added by Chapter 1257 of the Statutes of 1978, is amended 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 1979–80, 1980–81, and 1981–82 fiscal years, unless otherwise provided herein, for the programs contemplated by Section 5096 124 of the Public Resources Code. 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 ... 14,750,000

(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 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 . . . 14,750,000

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 Section 2 5B is added to the Budget Act of 1979, to read:

STATE BEACH, PARK, RECREATIONAL, AND HISTORICAL FACILITIES BOND ACT OF 1964 PROGRAM

Sec. 2.5B. The following sums of money or so much thereof, as may be necessary, unless otherwise provided herein, are hereby appropriated for expenditure during the 1979–80, 1980–81, and 1981–82 fiscal years. Appropriations for studies, planning, and working drawings shall be available for expenditure only during the 1979–80 fiscal year All such appropriations, unless otherwise herein provided, shall be paid out of the State Beach, Park, Recreational, and Historical Facilities Fund of 1964.

CAPITAL OUTLAY

RESOURCES

495.5B—For capital outlay, Department of Parks and Recreation, for purposes set forth in subdivisions (a) and (b) of Section 5096.15 of the Public Resources Code, payable from the State Beach, Park, Recreational, and Historical Facilities Fund of 1964 1,300,000

Schedule:

(a) Secombe Park—acquisition 1,200,000

(b) Secombe Park—general plan development 100,000

provided, that funds appropriated by category (b) shall be transferred to the City of San Bernardino to reimburse the city for costs incurred in the development of the general plan.

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

Provided, further, that none of the funds appropriated by this item for the project set forth herein shall be available for expenditure unless and

until such project is recommended by the State Park and Recreation Commission and reviewed by the Secretary of the Resources Agency.

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 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 1086

An act to add Section 53066.1 to the Government Code, relating to community antenna television.

[Approved by Governor September 27, 1979. Filed with Secretary of State September 28, 1979.]

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

SECTION 1. Section 53066.1 is added to the Government Code, to read:

53066.1 (a) Notwithstanding the provisions of Section 53066, any cable television system which:

(1) Provides 20 or more channels to the cable television subscriber,

(2) Receives or has contracted to receive television signals by satellite earth receiving station,

(3) Has a subscriber penetration ratio of less than 70 percent certified by the cable television system, subject to review by the franchisor or licensor,

(4) Is located in a county or portion of a county which has available three significantly viewed television stations, as defined by the Federal Communications Commission, or two significantly viewed television stations and an educational television station, and

(5) Is providing or has agreed promptly to provide a community services channel program as defined in subdivision (d),

shall, upon election by the cable television system and upon the filing of a declaration to that effect with the franchisor, be exempt from regulation or control by a city, county, city and county, or other authority as to rates, charges and rate structures, except for the first

year following the date of delivery of service pursuant to the initial grant of a franchise.

(b) Notwithstanding the provisions of Section 53066, any cable television system which.

(1) Otherwise meets the requirements of subdivision (a) except for the requirement of paragraph (3) of subdivision (a), or

(2) Provides between 12 and 20 channels of television service in a franchise area with fewer than 3,500 subscribers in a community of less than 20,000 in population, and otherwise meets the requirements of paragraphs (4) and (5) of subdivision (a),

may, upon election by the cable television system and declaration filed with the franchisor, adjust its rate by an amount not to exceed 75 percent of the percentage increase in the Consumer Price Index for the period since the date of the last previous rate increase, or December 31, 1975, if there have been no increases since December 31, 1975 A system may make a rate adjustment under the preceding sentence only for the period occurring within three years from the date a system would be entitled under such sentence to make an adjustment A cable television system which, prior to January 1, 1980, had 12 or fewer channels, and subsequently rebuilds its system to 20 or more channels, may raise its rates to a level, within three years of completion of the rebuild, not to exceed the statewide average rate for those cable television systems having 20 or more channels.

(c) (1) Prior to April 15, 1982, the California Public Broadcasting Commission shall report to the Legislature concerning the effect upon subscribers and upon the telecommunications policy of the state of the rate adjustments by cable television systems as a consequence of this section, including such recommendations for legislative modification as may appear desirable. Each cable television system adjusting its rates pursuant to this section shall file with the California Public Broadcasting Commission prior to September 15, 1981, the rates of the system on January 1, 1980, and all subsequent adjustments, and information concerning number of subscribers and services provided. After the required filing on September 15, 1981, all systems shall promptly file any subsequent rate adjustments with the California Public Broadcasting Commission

(2) This section shall cease to be operative on January 1, 1984, unless on or before such date its operative date is extended by the Legislature, except that rates in effect on January 1, 1984, shall not be subject to reduction by local authorities having rate reduction authority in their franchise below the average rate in the state on that date for the class of service provided

(d) A cable television system shall be deemed to be offering a community service channel program if the system does all of the following·

(1) (A) Provides for those systems which furnish between 12 and 20 channels, one dedicated channel for local community, public access, educational and government access purposes, except that the

one channel may be a composite containing the functional equivalent of a single community service channel; or (B) provides for those systems which furnish more than 20 channels, in addition to the first dedicated channel, a second such channel if the first channel is in use during 80 percent of the weekdays for 80 percent of the time during any consecutive 13-hour period for 10 consecutive weeks, except that for systems with 24 or fewer channels, the second channel, if required, may be a composite containing the functional equivalent of a single community service channel, or (C) provides, if such system furnishes more than 30 channels, a third channel if the second channel is in use during 80 percent of the weekdays for 80 percent of the time during any consecutive 13-hour period for 10 consecutive weeks.

(2) Participates in a statewide cooperative program, administered by an association of cable operators, with the advice of potential users, that (A) provides instruction and training for individuals, groups, entities and agencies interested in using community services channels, (B) furnishes guidelines for the use and allocation of such channels, and (C) creates a foundation for community service channels, with an independent board of directors, including representatives of local nongovernmental user groups and public agencies. Such foundation shall have grant-making authority to users and shall have, as its primary purpose, the promotion and encouragement of use of community service channels.

(3) Provides fifty cents ($0.50) per subscriber per year to the foundation established pursuant to paragraph (2) of subdivision (d).

(4) Provides to individuals, groups, and entities using community service channels technical advice by local program staff and reasonable access to local studio facilities, if such facilities and staff are part of the local system.

(5) Cooperates with courses and programs in secondary schools, community colleges and elsewhere which furnish training in the uses of community service channels

(6) Has available for use without charge tape playback facilities for entrance into the system

(7) Provides through display information on community service channels, and by other means, including written notice to subscribers, information to potential users of the opportunity to have access to community service channels

(8) Unless the franchisor elects to act as trustee for the community channel or channels, consults with the franchisor in establishing policies for the use of community service channel or channels.

(9) Provides to government and educational agencies reasonable access to earth station facilities for the receipt of programming for the community service channel

(10) Regularly provides to the foundation for community service channels and to the public and public agencies information containing the name, address and telephone number of the system, the name of the system manager, and the status and utilization of the

community access channels.

(e) The franchisee or licensee may utilize any community service channel which is not used for community service programming so long as community service programming is given scheduling priority.

(f) The franchisor may elect to act as public trustee or appoint a delegate, reporting to the franchisor, to act as public trustee of the community service channel, to ensure the use of such channel or channels for public access, state or local government or education access purposes.

(g) The franchisee or licensee, or such delegate as is appointed a trustee of such community service channels, shall not be liable for acts arising from the use of such channel or channels by persons other than the franchisee or licensees. The franchisee or licensee shall establish regulations governing the use of such channels which provide uniform and nondiscriminatory standards, ensure adequate opportunity for participation by local nongovernmental users and incorporate restrictions on libelous or slanderous or illegal programs

(h) The California Public Broadcasting Commission, in cooperation with the California Arts Council, the Office of Appropriate Technology, the State Department of Education and the State Department of Consumer Affairs, and such other agencies as requested by the commission, shall undertake efforts to encourage state and local government and educational use of the community service channel or channels and shall prepare a report by January 1, 1983, indicating the uses that government and educational agencies and community organizations have made of such channel or channels

(i) The Regents of the University of California, if it so elects, the Trustees of the California State University and Colleges, the Board of Governors of the California Community Colleges and the State Department of Education shall negotiate with representatives of cable television systems providing community service channels concerning appropriate provision for access to the community services channel or channels for educational agencies using such channels and shall implement by segment, or collectively, a program for the use of such community service channel or channels for educational purposes. Each of the agencies named in the preceding sentence shall report to the Legislature on or before June 15, 1981, concerning the extent to which there has been use of television, including satellite interconnection, to fulfill the mission of each agency and actual use of community service channel and other cable and broadcast facilities. Such report shall also indicate the prospect for additional uses of such interconnected facilities and shall make recommendations for such legislation as may be needed to assure appropriate use of such channels.

(j) For purposes of this section, the following definitions shall apply:

(1) "Cable television system" means a community antenna

television system serving a franchise area or two or more contiguous franchise areas.

(2) "Class of service" means a category as described in subdivision (a), or in paragraphs (1) or (2) of subdivision (b).

(3) "Consumer Price Index" means the consumer price index published at the end of the month following the rate adjustment by the United States Bureau of Labor Statistics for the area in which the cable television system is located or the nearest area for which such index is published

(4) "Satellite earth receiving station" means any structure or device utilized to receive signals from a satellite.

(5) "Subscriber penetration ratio" means the number of subscribing residences divided by the total number of residences having cable available.

(k) In addition to any other penalty provisions in the franchise or license, if a franchisee or licensee files a declaration pursuant to subdivision (a) or (b) the franchisor or licensor may unilaterally amend the franchise or license to provide that if a subscriber files in writing with the franchisor a complaint for a service problem which is preventable and reasonably within the franchisee's or licensee's control, and if such franchisee or licensee fails within a reasonable period following receipt of written notice by the franchisor to remedy the problem, the franchisor may levy a penalty of up to five hundred dollars ($500) for any occurrence or series of related occurrences, unless the franchisee or licensee has fewer than 5,000 subscribers, in which case the penalty shall not exceed two hundred dollars ($200). If the franchisee or licensee objects to the penalty in writing to the franchisor, the franchisee or licensee and franchisor shall conduct arbitration in accordance with the rules of the American Arbitration Association. The decision of the arbitrator shall be final.

Such amendment to the franchise or license shall provide that the franchisee or licensee shall provide written notice to each subscriber at intervals of not more than one year, of the sanctions provided in this section, and of the procedure for reporting and resolving subscriber complaints, including the subscriber's right to complain in writing to the franchisor of the franchisee's failure to resolve a service complaint which is preventable and reasonably within the franchisee's or licensee's control. The proper address of the franchisor or licensor to which complaints may be directed shall be included in such notice

SEC. 2. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

CHAPTER 1087

An act to add and repeal Division 23 (commencing with Section 33000) of the Public Resources Code, relating to the Santa Monica Mountains Conservancy, and making an appropriation therefor

[Approved by Governor September 27, 1979 Filed with Secretary of State September 28, 1979]

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

SECTION 1 Division 23 (commencing with Section 33000) is added to the Public Resources Code, to read

DIVISION 23 SANTA MONICA MOUNTAINS CONSERVANCY

CHAPTER 1 GENERAL PROVISIONS

33000 This division shall be known as and may be cited as the Santa Monica Mountains Conservancy Act.

33001 The Legislature hereby finds and declares that the Santa Monica Mountains Zone, as defined in Section 33104, is a unique and valuable economic, environmental, agricultural, scientific, educational, and recreational resource which should be held in trust for present and future generations; that as the last large undeveloped area contiguous to the shoreline within the greater Los Angeles metropolitan region, comprised of Los Angeles and Ventura Counties, it provides essential relief from the urban environment, and that it exists as a single ecosystem in which changes that affect one part may also affect all other parts, and that the preservation and protection of this resource is in the public interest.

33002 The Legislature further finds and declares that prior to the preparation of the plan by the Santa Monica Mountains Comprehensive Planning Commission, planning for the zone was fragmented and there were ineffective means of determining and resolving conflicting interjurisdictional values, or of evaluating individual projects within the zone as to their effect on the entire region; that in the absence of a governmental mechanism to perform such evaluations, piecemeal development projects were occurring within the zone which resulted in the irreplaceable loss of open space and recreational resources, in the physical and biological deterioration of air, land, and water systems within the zone, and adversely affected regional life-support systems, including fish and wildlife, therefore being harmful to the needs of the present and future population of the region

33003 The Legislature further finds and declares that the coastal zone portion of the Santa Monica Mountains Zone has been evaluated as part of the California Coastal Zone Conservation Plan, and because of the unique, important, and threatened nature of the

coastal-related resources within the coastal zone, the Legislature determined that the special coastal resources planning and management program established pursuant to the California Coastal Act of 1976 (Division 20 (commencing with Section 30000)) should apply within the coastal zone and that the local coastal program required by such act should be completed in a timely and effective manner by local governments and certified by the California Coastal Commission. It is the intent of the Legislature to facilitate early completion of local coastal programs for the coastal zone portion of the Santa Monica Mountains Zone and that accordingly the jurisdiction of the Santa Monica Mountains Conservancy should be extended to include, at the time of certification, those portions of the coastal zone for which a local coastal program has been certified.

33004. The Legislature further finds and declares that the Santa Monica Mountains Comprehensive Planning Commission, composed of representatives of the state government, cities, and counties in the region, and the general public, has adopted a comprehensive plan for the conservation and development of the zone, consistent with the preservation of the resource as set forth in Section 33001.

33005. Federal grant funds shall be used to accomplish the purposes of this division to the maximum extent possible.

33006. It is further declared to be the intent of the Legislature that, in making grants for park, recreation, or conservation purposes from funds received pursuant to Section 507(n) of the National Parks and Recreation Act of 1978 (16 U.S.C Sec. 460kk(n)), the conservancy shall primarily operate outside the public ownership area of the Santa Monica Mountains National Recreation Area as identified by the Secretary of the Interior pursuant to Section 507(d) (2) of the National Parks and Recreation Act of 1978 (16 U S.C. Sec. 460kk(d) (2)).

33007. In accomplishing the objectives of this division, private landowners, local governments, and all other public agencies shall be encouraged to participate in the programs authorized by this division by voluntary incentives.

33008. The Legislature finds and declares that there are existing problems of substandard lots, incompatible land uses, conflicts with recreational use, and inadequate resource protection which, in some cases, cannot be addressed in a feasible manner by local government exercise of the police power or federal land acquisition as part of the Santa Monica Mountains National Recreation Area, and that it is necessary to enact the provisions of this division as a complement to the full exercise of the police power by local governments and the acquisition of lands by the federal government for the Santa Monica Mountains National Recreation Area. Nothing in this division shall supersede or limit a local government's exercise of the police power derived from any other provision of existing law or any law hereafter enacted.

33009 In order to avoid the continuing problems identified in Section 33008, each local government's implementation of the plan

shall be a necessary condition of that local government receiving any money pursuant to this division.

33010. For purposes of compliance with federal law, the references to the Santa Monica Mountains Comprehensive Planning Commission shall be deemed to mean the conservancy

CHAPTER 2 DEFINITIONS

33100. Unless the context requires otherwise, the definitions set forth in this chapter shall govern the interpretation of this division

33101 "Coastal zone" means that area described in Section 30103.

33102 "Conservancy" means the Santa Monica Mountains Conservancy

33103. "Fund" means the Santa Monica Mountains Conservancy Fund.

33104 "Plan" means the plan approved by the Secretary of the Interior pursuant to Section 507(n) of the National Parks and Recreation Act of 1978 (16 U.S.C. 460kk(n))

33105 "Zone" means the Santa Monica Mountains Zone, which includes that part of the land area of the greater Los Angeles metropolitan region, landward of the Pacific Coast Highway (State Highway Route 1) bounded by Calleguas Creek, thence following Calleguas Creek northward to its intersection with the corporate boundary of Camarillo, thence following the southern boundary of the City of Camarillo eastward until it intersects the Ventura Freeway (State Highway Route 101), thence following the Ventura Freeway eastward to a point of intersection with the western boundary of the Malibu Creek Watershed The northern boundary continues thence along the boundary of the Watershed to its intersection again with the Ventura Freeway on the east; thence eastward along this freeway to its intersection with the corporate boundary of the City of Los Angeles, thence continuing on a line drawn one-quarter of a mile south of the Ventura Freeway to its intersection with Ventura Boulevard and continuing on a line one-quarter mile south from Ventura Boulevard eastward to its intersection with Sepulveda Boulevard; thence continuing eastward along Valley Vista Boulevard to its intersection with Dixie Canyon Avenue and from this point continuing eastward on a line one-quarter mile south of Ventura Boulevard to its intersection with a linear projection of Lankershim Boulevard and thence northeasterly on this projection and continuing on Lankershim Boulevard to its intersection with Cahuenga Boulevard, thence east along Cahuenga Boulevard to its intersection with a linear projection of Barham Boulevard, and hence northeasterly along such projection and continuing upon Barham Boulevard to its intersection with the Los Angeles River, and eastward along the south bank of the Los Angeles River to its intersection with the boundary of Griffith Park, thence following the Griffith Park boundary southward and westward to its westernmost southern boundary point, thence

following a direct line drawn southwest to the intersection of Sunset Boulevard with the corporate boundary of the City of Los Angeles near the intersection of Sunset Boulevard and Marmount Lane, thence continuing westward following the Los Angeles corporate boundary to its intersection with the boundary of the City of Beverly Hills, thence following the northern boundary of the City of Beverly Hills until it returns to Sunset Boulevard, thence following Sunset Boulevard westward to its point of intersection with the Pacific Coast Highway (State Highway Route 1).

CHAPTER 3. ESTABLISHMENT AND FUNCTIONS OF THE SANTA MONICA MOUNTAINS CONSERVANCY

33200. (a) The Santa Monica Mountains Conservancy is hereby established The conservancy shall be composed of five voting members and one nonvoting member The voting members shall be as follows (1) the Secretary of the Resources Agency, (2) a member appointed by the State Coastal Conservancy who is either a member or an employee of the State Coastal Conservancy, (3) three public members who shall be residents of either the County of Los Angeles or the County of Ventura, one of whom shall be appointed by the Governor, one of whom shall be appointed by the Senate Rules Committee, and one of whom shall be appointed by the Speaker of the Assembly. The seat of a public member shall be deemed vacant if the member changes his or her residence to a county other than Los Angeles or Ventura County. The nonvoting member shall be appointed by the California Coastal Commission and shall be either a member of the commission or an employee of the commission.

On the 10th working day after certification pursuant to Chapter 6 (commencing with Section 30500) of Division 20 of any local coastal program, or any portion thereof, for any portion of the zone, the voting member appointed by the State Coastal Conservancy shall become a nonvoting member and the nonvoting member appointed by the California Coastal Commission shall become a voting member.

(b) The Secretary of the Resources Agency shall serve as chairman of the conservancy The vice chairman of the conservancy shall be selected by the voting members of the conservancy A majority of the total authorized membership of the conservancy shall constitute a quorum for the transaction of any business under this division.

(c) The public members of the conservancy, and the members appointed by the State Coastal Conservancy and the California Coastal Commission if such members are also public members of their agency, shall be compensated for attendance at regular meetings of the conservancy at the rate of one hundred dollars ($100) per day, and shall be reimbursed for the actual and necessary expenses, including travel expenses, incurred in the performance of their duties

(d) Except for the three public members, the members may designate a person to serve on the conservancy in their absence

33201 (a) The conservancy may carry out the provisions of this division within the zone except that, with respect to the coastal zone within the zone, the conservancy may only carry out projects pursuant to the provisions of this section

(b) Prior to the certification of a local coastal program, the conservancy may undertake any appropriate project within the coastal zone pursuant to the provisions of this division if the project also involves land areas landward of the coastal zone but within the zone

(c) Prior to the certification of a local coastal program, the conservancy may undertake, complete, or otherwise carry out any project entirely within the coastal zone where the State Coastal Conservancy has initiated a project and enters into an agreement with the conservancy for the completion of such project.

(d) After certification of a local coastal program for any area within the coastal zone which is within the zone, the conservancy shall have jurisdiction for carrying out any projects authorized by this division, and the State Coastal Conservancy's jurisdiction for areas certified in the local coastal program shall be limited to those areas seaward of the Pacific Coast Highway (State Highway Route 1), except that the State Coastal Conservancy may complete any project commenced prior to certification of the local coastal program or it may enter into any agreement with the conservancy for project completion as provided in subdivision (c)

(e) Any project undertaken within the coastal zone by the conservancy pursuant to this division shall be subject to the same California Coastal Commission review and approval requirements that are applicable to State Coastal Conservancy projects specified in Division 21 (commencing with Section 31000).

33202. The conservancy may apply for grants from any source to be used for the purposes of this division, and shall apply for all grants authorized pursuant to Section 507 of the National Parks and Recreation Act of 1978 (16 U.S.C 460kk) The proceeds of such grants shall be deposited in the separate federal grant account in the fund.

33203 The conservancy may acquire, pursuant to the Property Acquisition Law (Part 11 (commencing with Section 15850) of Division 3 of Title 2 of the Government Code), real property or any interests therein, including development rights and easements for all the purposes specified in this division. For purposes of this section, the State Public Works Board may use the power of eminent domain Notwithstanding other provisions of law, the Director of General Services, when so requested by the conservancy and when the conservancy finds it necessary to meet the provisions of this division, may lease, rent, sell, transfer, or exchange any land or interests therein acquired pursuant to this division Any moneys received by the state, upon disposition of lands acquired pursuant to this division, shall be deposited in the fund and shall be available for the purposes

of this division.

The Department of General Services and the conservancy shall jointly develop and implement appropriate procedures to insure that land acquisitions, options to purchase, land disposals, and other property transactions under this division are carried out efficiently, equitably, and with proper notice to the public.

The conservancy may coordinate with the Department of Parks and Recreation any acquisition with park and recreation development potential and may contract with the Department of Parks and Recreation as necessary in order to do so.

33204. The conservancy may, in accordance with the priorities of the plan, do the following:

(a) Award grants or make interest-free loans to cities, counties, and recreation and park districts for the purpose of restoring areas which, because of scattered ownerships, poor lot layout, inadequate lot size, inadequate park and open space, incompatible land uses, or other conditions, are adversely affecting the Santa Monica Mountains environment or are impeding orderly development. Any funds over and above eligible project costs which remain after completion of a restoration under this subdivision shall be transmitted by the city, county, or recreation and park district, as the case may be, to the state and deposited in the fund and shall be available for expenditure, when appropriated by the Legislature, for the purposes of funding the programs specified in this division.

(b) Undertake, or award grants or make interest-free loans to any state agency, city, county, or recreation and park district for the purposes of undertaking, the acquisition of critically needed buffer zones to ensure that the character and intensity of development surrounding lands acquired by the federal government as part of the Santa Monica Mountains National Recreation Area is generally compatible with, and does not adversely impact, the recreational and natural resource values of the national recreation area. In the acquisition of interests pursuant to this subdivision, the conservancy shall place principal reliance on acquisition of development rights and other less than fee interests.

(c) Award grants to state agencies, cities, counties, and park and recreation districts for the purpose of acquiring sites identified as necessary for park, recreation, or conservation purposes and for development of essential related public facilities.

(d) Acquire, or award grants or make interest-free loans to other state agencies, cities, counties, and recreation and park districts for the purpose of acquiring, sites identified as necessary for park, recreation, or conservation purposes, when a state or local agency is unable, due to limited financial resources or other circumstances of a temporary nature, to acquire the site Priority shall be given under this subdivision to sites under immediate development pressure. Fee title and options to purchase may be acquired and the land may be held for subsequent conveyance to the appropriate public agency if the conservancy finds that the site would otherwise be lost to public

use. Repayment of any loans or other reimbursements to the conservancy for projects funded from the federal grant account of the fund under this subdivision shall be deposited in the account and may be used for the purposes of this division when authorized by the Secretary of the Interior.

(e) Award grants to cities, counties, or state agencies for the purpose of enhancing of resources which, because of improper location of improvements, or incompatible land uses, have suffered loss of natural and scenic values. Grants under this subdivision shall be utilized for the assembly of parcels of land to improve resource management, for relocation of improperly located or designated improvements, and for other corrective measures which will enhance the natural and scenic character. Grants under this subdivision may not be utilized as a method of acquisition of public park, wildlife, or natural areas, except as such uses may be incidental.

(f) The conservancy may act pursuant to subdivisions (a) and (b) of this section only if it finds that the local regulatory provisions do not adequately accomplish the objectives of such subdivisions.

The conservancy may act pursuant to subdivisions (a), (c), and (e) of this section only if the project is not a more intense land use than is consistent with the local area and general plans of the city or county having jurisdiction over the affected land The conservancy may undertake a project itself or award a grant or make a loan pursuant to subdivision (b) only if it notifies the governing body of the city or county in whose jurisdiction the project is located and the governing body has not, by a four-fifths vote, disapproved the project If the governing body does not disapprove a project within 45 days after receiving notice of the project proposal from the conservancy, the project shall be deemed approved by the governing body.

33205. The conservancy shall not hold lands acquired in accordance with subdivision (d) of Section 33204 more than 10 years from the time of acquisition A city, county, recreation and park district, the National Park Service, or a state agency shall have the right to acquire the land any time during such period for park, recreation, or resource preservation purposes. The acquisition price to local or state agencies shall be based upon the cost of acquisition under this division, plus administrative and management costs in reserving the land Lands acquired under subdivision (d) of Section 33204 shall not be disposed of pursuant to the provisions of Section 11011 1 of the Government Code

If, at the expiration of such 10-year period, no state or local agency is willing or able to acquire the lands, the conservancy shall request the Real Estate Services Division of the Department of General Services to dispose of such lands at fair market value subject to such restrictions as are consistent with this division

Any funds received by the state upon disposition of lands acquired in accordance with subdivision (a) or (d) of Section 33204 shall be deposited in the fund and shall be available for the purposes of this

division Any funds received by the state under this section upon disposition of lands acquired with funds granted pursuant to Section 507(n) of the National Parks and Recreation Act of 1978 (16 U S C. Sec 460kk(n)) shall be deposited in the federal grant account in the fund and shall be available for the purposes of this division when authorized by the Secretary of the Interior

33206 The conservancy may lease lands acquired in accordance and for purposes consistent with this division. Revenue from leases of land acquired with funds granted pursuant to Section 507(n) of the National Parks and Recreation Act of 1978 (16 U.S.C Sec 460kk(n)) shall be deposited in the federal grant account in the fund and shall be available for the purposes of this division when authorized by the Secretary of the Interior. When leases are made to private individuals or private nonprofit tax-exempt organizations of lands acquired pursuant to subdivision (d) of Section 33204, the conservancy shall annually, upon appropriation of such amounts by the Legislature, transfer 24 percent of the gross income of such leases to the county in which such lands are situated

The county shall distribute any payment received by it pursuant to this section to itself, to each revenue district for which the county assesses and collects real property taxes or assessments, and to every other taxing agency within the county in which the property is situated The amount distributable to the county and each such revenue district or other taxing agency shall be proportionate to the ratio which the amount of the taxes and assessments of each on similar real property similarly situated within that part of the county embracing the smallest in the area of the revenue districts or other taxing agencies other than the county, levied for the fiscal year next preceding, bears to the combined amount of the taxes and assessments of all such districts and agencies, including the county, on such property levied for that year. The county auditor shall determine and certify the amount distributable to the board of supervisors, which shall thereupon order the making of the distribution

Any money distributed pursuant to this section to any county, revenue district, or other taxing agency shall be deposited to the credit of the same fund as any taxes or assessments on any taxable similar real property similarly situated

Where a county receives a payment pursuant to this section in an amount of twenty-five dollars ($25) or less in respect to any parcel of leased property, all of such payment shall be distributed to the county for deposit in the county general fund.

33207. (a) Areas offered for open-space dedication or trail easement by any person, and lands offered for sale because of tax delinquency, shall not be lost to public use if they are necessary to meet any of the provisions of this division The conservancy shall serve as a repository for these lands and interest in land and for this purpose may accept dedication of fee title, easements, development rights, or other interests

(b) The conservancy shall have the first right of refusal on any property within the zone presently owned by a public agency and scheduled for disposal as excess lands, except where such lands are designated for acquisition as a park or recreation area by a federal, state, or local agency. The conservancy shall have the right to acquire such lands at the disposing agency's purchase price plus any administrative and management costs incurred by the disposing agency. The disposing agency shall have the right of first refusal to reacquire property which was acquired by the conservancy pursuant to this division at the price paid by the conservancy before any administrative costs incurred by the conservancy when the land is not to be used for the purposes of this division and is to be sold by the Real Estate Services Division of the Department of General Services.

33208. The conservancy shall annually, beginning on January 1, 1981, transmit to the Governor and Legislature a two-part report as follows

(a) The first part of the report shall include:

(1) A listing of and justification for the projects proposed to be undertaken pursuant to Section 33204, a statement of the condition of the fund, and a certification by the conservancy that each of the projects proposed to be funded are consistent with the plan.

(2) A priority listing of the projects which shall be developed after public hearings and findings and with local government coordination

(3) A listing of the amount of money necessary, if any, to retire bonded indebtedness for water and sewer and other utilities already incurred by property owners which, if left outstanding, would contribute to further development of the zone in a manner inconsistent with the plan. Upon appropriation by the Legislature, the conservancy may make grants from the fund to retire such indebtedness from any moneys specifically granted by the Secretary of the Interior for this purpose.

(b) The second part of the report shall include:

(1) A schedule of projects undertaken by the conservancy and a schedule of grants and loans made by the conservancy.

(2) The program of Section 33204 under which project, grant, or loan was carried out and the manner and extent to which it achieved the goals of the project, grant, or loan, and the goals of this division, and the actual cost thereof, including an accounting

(3) A schedule of grants awarded to the conservancy and the disposition of the funds granted.

(4) The disposition of the funds appropriated to the conservancy in the fiscal year preceding the year in which the report is made.

(5) A review of local and state government actions taken to implement the plan

(6) An identification of additional funding, legislation, or other resources required which would more effectively enable the conservancy or local governments to carry out the purposes of this

division

33209. Every project submitted for funding pursuant to Section 33208 shall have an adopted project plan developed by, or in coordination with, the applicable local government or other state agency. The conservancy shall by regulation specify the content of project plans. Maximum public participation shall be afforded in the development of project plans, including public hearings and findings.

33210 Upon the request of a city, county, or recreation and park district within the zone, or to meet a requirement of federal law in order to receive grant funds, the conservancy may, after public hearings and findings, and consistent with this division, amend the plan and submit it to the Secretary of the Interior for approval. Such findings shall provide that the amendments to the plan will not adversely affect the health, safety, or welfare of persons residing in the zone or of persons using the facilities located within the zone.

33211. The conservancy may:

(a) Accept any gifts, donations, or bequests from individuals or organizations, or accept grants of funds from private or public agencies.

(b) Contract for professional services required by the conservancy or for the performance of work and services which in its opinion cannot satisfactorily be performed by its officers and employees or by other federal, state, or local governmental agencies.

(c) Do any and all other things necessary to carry out the purposes of this division.

(d) Sue and be sued.

33212 The executive director of the conservancy shall be appointed by the Governor. The executive director shall, subject to approval of the conservancy, employ such staff as may be necessary to carry out the functions of the conservancy.

33213. (a) The Santa Monica Mountains Conservancy Advisory Committee is hereby created. The advisory committee shall consist of 12 members, as follows·

(1) Four representatives of local governments from jurisdictions including the Santa Monica Mountains, one of whom shall be appointed by the mayor of the City of Los Angeles, one of whom shall be appointed by the board of supervisors of the County of Los Angeles, one of whom shall be appointed by the city council of the City of Thousand Oaks, and one of whom shall be appointed by the board of supervisors of the County of Ventura.

(2) Six public members, two of whom shall be appointed by the Governor, two of whom shall be appointed by the Senate Rules Committee, and two of whom shall be appointed by the Speaker of the Assembly

(3) The Chairman of the Santa Monica Mountains National Recreation Area Advisory Commission selected by the National Recreation Area Advisory Commission.

(4) One representative of recreation and park districts within the

zone, to be selected by such districts.

(b) The advisory committee shall select from among its members a chairman and a vice chairman

(c) The members of the advisory committee shall serve without compensation, but shall be reimbursed for necessary expenses incurred in the performance of duties.

(d) The advisory committee shall have the following duties:

(1) Propose and review projects for conservancy action and report to the conservancy regarding the conformity of the projects with the plan.

(2) Review proposed amendments to the plan.

(3) Provide opportunities for public participation

(e) A majority of the total authorized membership of the advisory committee shall constitute a quorum for the transaction of any business of the advisory committee.

(f) The appointments to the advisory committee shall be made within 30 days of the first meeting of the conservancy.

33214. The conservancy and any city, county, or recreation and park district, in undertaking any project pursuant to subdivision (a) of Section 33204, shall be subject to the provisions of Division 24 (commencing with Section 33000) of the Health and Safety Code.

33215. The Santa Monica Mountains Conservancy Fund is hereby established. A separate federal grant account shall be established within the fund Grants received pursuant to Section 507(n) of the National Parks and Recreation Act of 1978 (16 U S C. 460kk(n)) shall be deposited in the separate federal grant account.

33216. This division shall remain in effect only until January 1, 1984, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1984, deletes or extends such date

SEC 2 If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SEC 3. The sum of one hundred thousand dollars ($100,000) is hereby appropriated from the General Fund to the Santa Monica Mountains Conservancy Fund for the support of the Santa Monica Mountains Conservancy, for expenditure for the purposes of Division 23 (commencing with Section 33000) of the Public Resources Code.

CHAPTER 1088

An act to amend Sections 675 and 12804 of, and to add Section 11700 1 to, the Vehicle Code, relating to vehicles, and declaring the urgency thereof, to take effect immediately

[Approved by Governor September 27, 1979 Filed with Secretary of State September 28, 1979]

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

SECTION 1 Section 675 of the Vehicle Code is amended to read:

675. (a) "Vehicle salesman" is a person not otherwise expressly excluded by this section, who does one or a combination of the following:

(1) Is employed as a salesman by a dealer as defined in Section 285, or who, under any form of contract, agreement, or arrangement with a dealer, for commission, money, profit, or other thing of value, sells, exchanges, buys, or offers for sale, negotiates, or attempts to negotiate, a sale, or exchange of an interest in a vehicle required to be registered under this code

(2) Induces or attempts to induce any person to buy or exchange an interest in a vehicle required to be registered, and who receives or expects to receive a commission, money, brokerage fees, profit, or any other thing of value, from either the seller or purchaser of said vehicle

(3) Exercises managerial control over the business of a licensed vehicle dealer or who supervises vehicle salesmen employed by a licensed dealer, whether compensated by salary or commission, including but not limited to any person who is employed by said dealer as a general manager, assistant general manager or sales manager, or any employee of a licensed vehicle dealer who negotiates with or induces a customer to enter into a security agreement or purchase agreement or purchase order for the sale of a vehicle on behalf of said licensed vehicle dealer.

(b) The term "vehicle salesman" does not include

(1) Representatives of insurance companies, finance companies, or public officials who in the regular course of business, are required to dispose of, or sell vehicles under a contractual right or obligation of the employer, or in the performance of an official duty, or in authority of any court of law; provided, such sale is for the purpose of saving the seller from any loss or pursuant to the authority of a court of competent jurisdiction

(2) Persons who are licensed as a manufacturer, transporter, distributor, or representative

(3) Persons exclusively employed in a bona fide business of exporting vehicles, or of soliciting orders for the sale and delivery of vehicles outside the territorial limits of the United States

(4) Persons not engaged in the purchase or sale of vehicles as a business, disposing of vehicles acquired for their own use, or for use in their business when the same shall have been so acquired and used in good faith, and not for the purpose of avoiding the provisions of this code.

(5) Persons regularly employed as salesmen by persons who are engaged in a business involving the purchase, sale or exchange of

boat trailers.

(6) Persons regularly employed as salesmen by persons who are engaged in a business activity which does not involve the purchase, sale or exchange of vehicles except incidentally in connection with the purchase, sale or exchange of vehicles of a type not subject to registration under this code, boat trailers or midget autos or racers advertised as being built exclusively for use by children.

(7) Persons licensed as a vehicle dealer under this code doing business as a sole ownership or member of a partnership or a stockholder and director of a corporation licensed as a vehicle dealer under this code, provided, however, that such persons shall engage in the activities of a salesman as defined herein exclusively on behalf of said sole ownership or partnership or corporation in which they own an interest or stock, and those persons owning such stock shall be directors of such corporation, otherwise, they shall be deemed to be vehicle salesmen and subject to the provisions of Article 2 (commencing with Section 11800) of Chapter 4, Division 5.

(8) Persons regularly employed as salespersons by a vehicle dealer authorized to do business in California under Section 11700 1 of the Vehicle Code

SEC 3 Section 11700 1 is added to the Vehicle Code, to read.

11700 1 A dealer who does not have an established place of business in this state but who is currently authorized to do business as, and who has an established place of business as, a vehicle dealer in another state is not subject to licensure under this article if the business transacted in California is limited to the importation of vehicles for sale to, or the export of vehicles purchased from, persons licensed in California under this chapter.

SEC 4 Section 12804 of the Vehicle Code is amended to read

12804 (a) The examination shall include a test of the applicant's knowledge and understanding of the provisions of this code governing the operation of vehicles upon the highways, the ability to read and understand simple English used in highway traffic and directional signs, and his understanding of traffic signs and signals, including the bikeway signs, markers, and traffic control devices established by the Department of Transportation. The applicant shall be required to give an actual demonstration of his ability to exercise ordinary and reasonable control in operating a motor vehicle by driving the same under the supervision of an examining officer and submit to an examination appropriate to the type of motor vehicle or combination of vehicles he desires a license to drive, except that the department may waive the driving test part of the examination of an applicant who holds a valid license issued by another state, territory or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico The examination shall also include a test of the hearing and eyesight of the applicant and such other matters as may be necessary to determine the applicant's mental and physical fitness to operate a motor vehicle upon the highways and whether any ground exists for refusal of a

license under this code. The examination for a class 1 or class 2 license under subdivision (b) of this section shall also include a report of a medical examination of the applicant given not more than two years prior to the date of the application by a physician licensed to practice medicine. The report shall be on a form approved by the department or by the Federal Highway Administration or the Federal Aviation Administration of the United States Department of Transportation In establishing the requirements consideration may be given to the standards presently required of motor carrier drivers by the Federal Highway Administration of the United States Department of Transportation Any physical defect of the applicant which in the opinion of the department is compensated to insure safe driving ability shall not prevent the issuance of a license to the applicant.

(b) In accordance with the following classifications any applicant for a driver's license shall be required to submit to an examination appropriate to the type of motor vehicle or combination of vehicles he desires a license to drive:

(1) Class 1 Any combination of vehicles and includes the operation of all vehicles under class 2 and class 3.

(2) Class 2. Any bus, any single vehicle with three or more axles, any such vehicles towing another vehicle weighing less than 6,000 pounds gross, and all vehicles covered under class 3.

(3) Class 3 A three-axle housecar, any three-axle vehicle weighing less than 6,000 pounds gross, any two-axle vehicle, any such housecar or vehicle towing another vehicle weighing less than 6,000 pounds gross, and any two-axle vehicle weighing 4,000 pounds or more unladen when towing a trailer coach not exceeding 9,000 pounds gross, except a bus, two-wheel motorcycle, two-wheel motor-driven cycle, or "farm labor vehicle."

(4) Class 4 Any two-wheel motorcycle, any two-wheel motor-driven cycle, or any motorized bicycle Authority to operate vehicles included in a class 4 license may be granted by endorsement on a class 1, 2 or 3 license upon completion of appropriate examination

(c) Class 1 and class 2 drivers' licenses shall be valid for operating class 1 or class 2 vehicles only when a medical certificate approved by the department or the Federal Highway Administration or the Federal Aviation Administration of the United States Department of Transportation is in the licensee's immediate possession which has been issued within two years of the date of the operation of such vehicle, otherwise the license shall be valid only for operating class 3 vehicles and class 4 vehicles if so endorsed A person holding a valid class 1 or class 2 driver's license on May 3, 1972, may operate class 1 or class 2 vehicles without a medical certificate until such time as the license expires

(d) A farm labor vehicle driver certificate shall not be valid unless the driver is in possession of a medical certificate issued within the past two years.

(e) The department may accept a certificate of driving

experience in lieu of a driving test on class 1 or 2 applications when such certificate is issued by an employer of the applicant provided the applicant has first qualified for a class 3 license and also met the other examination requirements for the license for which he is applying. Such certificate may be submitted as evidence of the applicant's experience or training in the operation of the types of equipment covered by the license for which he is applying

(f) The department may accept a certificate of competence in lieu of a driving test on class 4 applications when such certificate is issued by a law enforcement agency for its officers who operate class 4 vehicles in their duties provided the applicant has also met the other examination requirements for the license for which he is applying.

(g) Notwithstanding the provisions of subdivision (b), any person holding a valid California driver's license of any class may operate a motorized bicycle without taking any special examination for the operation of a motorized bicycle, and without having a class 4 endorsement on such license.

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.

The Department of Motor Vehicles has indicated that for the first time it will begin to actively enforce the licensing requirements with respect to nonresident dealers doing business in the state beginning April 15, 1979. Therefore, in order to reverse this policy as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 1089

An act making an appropriation for the state park system.

[Approved by Governor September 27, 1979 Filed with Secretary of State September 28, 1979]

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

SECTION 1. (a) The sum of three million one hundred eighty-five thousand seven hundred fifty-three dollars ($3,185,753) appropriated by category (f) of Item 463 of the Budget Act of 1979 is hereby reappropriated from the Bagley Conservation Fund to the Department of Parks and Recreation for the acquisition of Coit Ranch and Thomas Ranch as additions to Henry W Coe State Park.

(b) It is the intent of the Legislature that no further moneys will be appropriated for the acquisition of Coit Ranch or Thomas Ranch for the state park system.

SEC 2. The moneys appropriated by Section 1 of this act shall not be expended on the purchase of any real property until the State

Public Works Board has determined both of the following.

(a) That the procedures and criteria established by the Attorney General relating to implied dedication have been complied with in the investigations and appraisals of the Department of General Services All material relating to implied dedication 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

(b) That the Department of General Services, in making its investigations and appraisals, has found no evidence that there is any person or group of persons who assert any prescriptive right or claim in the property to be acquired, or, if such prescriptive right or claim has been asserted or established, that the department has appraised the property at a price that reflects the value of such right or claim

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CHAPTER 1090

An act to amend Sections 30001, 30001 5, 30250, and 30255 of, and to add Section 30101 3 to, the Public Resources Code, relating to coastal resources

[Approved by Governor September 27, 1979 Filed with Secretary of State September 28, 1979]

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

SECTION 1 Section 30001 of the Public Resources Code is amended to read

30001 The Legislature hereby finds and declares·

(a) That the California coastal zone is a distinct and valuable natural resource of vital and enduring interest to all the people and exists as a delicately balanced ecosystem

(b) That the permanent protection of the state's natural and scenic resources is a paramount concern to present and future residents of the state and nation

(c) That to promote the public safety, health, and welfare, and to protect public and private property, wildlife, marine fisheries, and other ocean resources, and the natural environment, it is necessary to protect the ecological balance of the coastal zone and prevent its deterioration and destruction

(d) That existing developed uses, and future developments that are carefully planned and developed consistent with the policies of this division, are essential to the economic and social well-being of the people of this state and especially to working persons employed within the coastal zone

SEC 2 Section 30001 5 of the Public Resources Code is amended to read

30001 5 The Legislature further finds and declares that the basic goals of the state for the coastal zone are to

(a) Protect, maintain, and, where feasible, enhance and restore the overall quality of the coastal zone environment and its natural and manmade resources.

(b) Assure orderly, balanced utilization and conservation of coastal zone resources taking into account the social and economic needs of the people of the state.

(c) Maximize public access to and along the coast and maximize public recreational opportunities in the coastal zone consistent with sound resources conservation principles and constitutionally protected rights of private property owners

(d) Assure priority for coastal-dependent and coastal-related development over other development on the coast

(e) Encourage state and local initiatives and cooperation in preparing procedures to implement coordinated planning and development for mutually beneficial uses, including educational uses, in the coastal zone.

SEC 3 Section 30101.3 is added to the Public Resources Code, to read:

30101.3. "Coastal-related development" means any use that is dependent on a coastal-dependent development or use.

SEC 4 Section 30250 of the Public Resources Code is amended to read:

30250. (a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels

(b) Where feasible, new hazardous industrial development shall be located away from existing developed areas

(c) Visitor-serving facilities that cannot feasibly be located in existing developed areas shall be located in existing isolated developments or at selected points of attraction for visitors.

SEC. 5 Section 30255 of the Public Resources Code is amended to read

30255 Coastal-dependent developments shall have priority over other developments on or near the shoreline Except as provided elsewhere in this division, coastal-dependent developments shall not be sited in a wetland. When appropriate, coastal-related developments should be accommodated within reasonable proximity to the coastal-dependent uses they support.

CHAPTER 1091

An act to amend Sections 25223, 25540, 25540.1, and 25540.2 of the Public Resources Code, relating to geothermal powerplants, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1979 Filed with Secretary of State September 28, 1979]

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

SECTION 1. Section 25223 of the Public Resources Code is amended to read:

25223. The commission shall make available any information filed or submitted pursuant to this division under the provisions of the California Public Records Act, Chapter 3.5 (commencing with Section 6250) of Division 7, Title 1 of the Government Code; provided, however, that the commission shall keep confidential any information submitted to the Division of Oil and Gas of the Department of Conservation that the division determines, pursuant to Section 3752, to be proprietary.

SEC. 2. 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 notice. Except as otherwise provided, the commission shall issue its findings on the notice, as specified in Section 25514, within nine months from the date of filing of such notice, and shall issue its final decision on the application, as specified in Section 25523, within nine months from the date of the filing of the application for certification, or at such later time as is mutually agreed to by the commission and the applicant or person submitting the notice or application.

SEC. 3. Section 25540.1 of the Public Resources Code is amended to read·

25540.1. The commission shall be deemed to have accepted a notice or 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 notice or application, have notified the applicant in writing that the application is not complete. If the notice or application is determined not to be complete, the commission's determination shall specify in writing those parts of the notice or 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 notice or application complete, such notice or application shall be deemed accepted by the commission on the date of such subsequent filing.

SEC. 4 Section 25540 2 of the Public Resources Code is amended

to read:

25540.2. Notwithstanding any other provision of law:

(a) If an applicant proposes to construct a geothermal powerplant at a site which, at the outset of the proceeding, 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 a geothermal powerplant and related facilities, or at such later time as is mutually agreed by the commission and the applicant.

(b) 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. 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 expedite the certification and construction of geothermal powerplants in this state, it is necessary that this act take effect immediately.

CHAPTER 1092

An act to amend Section 4129 of the Public Resources Code, relating to forestry, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1979 Filed with Secretary of State September 28, 1979]

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

SECTION 1. Section 4129 of the Public Resources Code is amended to read:

4129. The board of supervisors of any county may provide by ordinance that such county elects to assume responsibility for the prevention and suppression of all fires on all land in such county, including lands within state responsibility areas when the Director of Forestry concurs in accordance with criteria promulgated by the State Board of Forestry, but not including lands owned or controlled by the federal government or any agency of the federal government or lands within the exterior boundaries of any city. After the effective date of the contract referred to in Section 4133, such county shall have and exercise for the duration of the contract all the duty, power, authority, and responsibility for the prevention and suppression of all fires on all land in such county for which the county is authorized by

this section to elect to assume responsibility.

SEC. 2. The sum of four hundred fifty thousand dollars ($450,000) is hereby appropriated from the General Fund to the Department of Forestry for replacement of the mess hall at the Calaveras Fire Center, Calaveras County, including planning, design, construction, and equipment replacement.

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 imperative that the funds appropriated by this act be made available for encumbrance at the earliest possible time for the much needed replacement of the mess hall at the Calaveras Fire Center; thus, it is necessary that this act take effect immediately.

CHAPTER 1093

An act to amend Sections 10163.5 and 11136 of, to add Article 3b (commencing with Section 10168) to Chapter 1 of Part 2 of Division 2 of, and to repeal and add Article 3a (commencing with Section 10489 1) to Chapter 5 of Part 2 of Division 2 of, the Insurance Code, relating to insurance.

[Approved by Governor September 27, 1979 Filed with Secretary of State September 28, 1979]

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

SECTION 1. Section 10163.5 of the Insurance Code is amended to read:

10163.5 (a) In the case of ordinary policies issued on or after the operative date of this subdivision as defined herein, all adjusted premiums and present values referred to in this article shall be calculated on the basis of the Commissioners 1958 Standard Ordinary Mortality Table and the rate of interest specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits, provided that such rate of interest shall not exceed 3½ percent per annum except that a rate of interest not exceeding 4 percent per annum may be used for all policies issued on or after January 1, 1970, and prior to January 1, 1980, and a rate of interest not exceeding 5½ percent per annum may be used for all such policies issued on or after January 1, 1980, except that for any single premium whole life or endowment insurance policy a rate of interest not exceeding 6½ percent per annum may be used; provided, that for any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated according to an age not more than six years younger than the actual age of the insured; provided, however, that in calculating the present value of any paid-up term

insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the Commissioners 1958 Extended Term Insurance Table, provided further, that for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the company and approved by the commissioner.

On or after January 1, 1961, any company may file with the commissioner a written notice of its election to comply with the provisions of this subdivision after a specified date before January 1, 1966. After the filing of such notice, then upon such specified date (which shall be the operative date of this subdivision for such company), this subdivision shall become operative with respect to the ordinary policies thereafter issued by such company. If a company makes no such election, the operative date of this subdivision for such company shall be January 1, 1966.

(b) In the case of industrial policies issued on or after the operative date of this subdivision as defined herein, all adjusted premiums and present values referred to in this article shall be calculated on the basis of the Commissioners 1961 Standard Industrial Mortality Table and the rate of interest specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits, provided that such rate of interest shall not exceed 3½ percent per annum except that a rate of interest not exceeding 4 percent per annum may be used for all such policies issued on or after January 1, 1970, and prior to January 1, 1980, and a rate of interest not exceeding 5½ percent per annum may be used for all such policies issued on or after January 1, 1980, except that for any single premium whole life or endowment insurance policy a rate of interest not exceeding 6½ percent per annum may be used. Provided, however, that in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the Commissioners 1961 Industrial Extended Term Insurance Table. Provided, further, that for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the company and approved by the commissioner

After September 20, 1963, any company may file with the commissioner a written notice of its election to comply with the provisions of this subdivision after a specified date before January 1, 1968 After the filing of such notice, then upon such specified date (which shall be the operative date of this subdivision for such company), this subdivision shall become operative with respect to the industrial policies thereafter issued by such company. If a company makes no such election, the operative date of this subdivision for such company shall be January 1, 1968

SEC 2 Article 3b (commencing with Section 10168) is added to

Chapter 1 of Part 2 of Division 2 of the Insurance Code, to read:

Article 3b. Standard Nonforfeiture Law for Individual Deferred Annuities

10168. This article shall not apply to any reinsurance, group annuity purchased under a retirement plan or plan of deferred compensation established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under Section 408 of the Internal Revenue Code, as now or hereafter amended, premium deposit fund, variable annuity, investment annuity, immediate annuity, any deferred annuity contract after annuity payments have commenced, or reversionary annuity, nor to any contract which shall be delivered outside this state through an agent or other representative of the company issuing the contract.

10168.1. In the case of contracts issued on or after the operative date of this article as defined in Section 10168.10, no contract of annuity, except as stated in Section 10168, shall be delivered or issued for delivery in this state unless it contains in substance the following provisions, or corresponding provisions which in the opinion of the commissioner are at least as favorable to the contract holder, upon cessation of payment of considerations under the contract.

(a) That upon cessation of payment of considerations under a contract, the company will grant a paid-up annuity benefit on a plan stipulated in the contract of such value as is specified in Sections 10168.3, 10168.4, 10168.5, 10168.6, and 10168.8.

(b) If a contract provides for a lump sum settlement at maturity, or at any other time, that upon surrender of the contract at or prior to the commencement of any annuity payments, the company will pay in lieu of any paid-up annuity benefit a cash surrender benefit of such amount as is specified in Sections 10168.3, 10168.4, 10168.6, and 10168.8. The company shall reserve the right to defer the payment of such cash surrender benefit for a period of six months after demand therefor with surrender of the contract.

(c) A statement of the mortality table, if any, and interest rates used in calculating any minimum paid-up annuity, cash surrender or death benefits that are guaranteed under the contract, together with sufficient information to determine the amounts of such benefits.

(d) A statement that any paid-up annuity, cash surrender or death benefits that may be available under the contract are not less than the minimum benefits required by any statute of the state in which the contract is delivered and an explanation of the manner in which such benefits are altered by the existence of any additional amounts credited by the company to the contract, any indebtedness to the company on the contract or any prior withdrawals from or partial surrenders of the contract.

Notwithstanding the requirements of this section, any deferred

annuity contract may provide that if no considerations have been received under a contract for a period of two full years and the portion of the paid-up annuity benefit at maturity on the plan stipulated in the contract arising from considerations paid prior to such period would be less than twenty dollars ($20) monthly, the company may at its option terminate such contract by payment in cash of the then present value of such portion of the paid-up annuity benefit, calculated on the basis of the mortality table, if any, and the interest rate specified in the contract for determining the paid-up annuity benefit, and by such payment shall be relieved of any further obligation under such contract.

10168.2. The minimum values as specified in Sections 10168.3, 10168.4, 10168.5, 10168.6, and 10168.8 of any paid-up annuity, cash surrender or death benefits available under an annuity contract shall be based upon minimum nonforfeiture amounts as defined in this section.

(a) With respect to contracts providing for flexible considerations, the minimum nonforfeiture amount at any time at or prior to the commencement of any annuity payments shall be equal to an accumulation up to such time at a rate of interest of 3 percent per annum of percentages of the net considerations (as hereinafter defined) paid prior to such time, decreased by the sum of (i) any prior withdrawals from or partial surrenders of the contract accumulated at a rate of interest of 3 percent per annum and (ii) the amount of any indebtedness to the company on the contract, including interest due and accrued, and increased by any existing additional amounts credited by the company to the contract.

The net considerations for a given contract year used to define the minimum nonforfeiture amount shall be an amount not less than zero and shall be equal to the corresponding gross considerations credited to the contract during that contract year less an annual contract charge of thirty dollars ($30) and less a collection charge of one dollar and twenty-five cents ($1.25) per consideration credited to the contract during that contract year. The percentages of net considerations shall be 65 percent of the net consideration for the first contract year and 87½ percent of the net considerations for the second and later contract years. Notwithstanding the provisions of the preceding sentence, the percentage shall be 65 percent of the portion of the total net consideration for any renewal contract year which exceeds by not more than two times the sum of those portions of the net considerations in all prior contract years for which the percentage was 65 percent.

(b) With respect to contracts providing for fixed scheduled considerations, minimum nonforfeiture amounts shall be calculated on the assumption that considerations are paid annually in advance and shall be defined as for contracts with flexible considerations which are paid annually with two exceptions:

(1) The portion of the net consideration for the first contract year to be accumulated shall be the sum of 65 percent of the net

consideration for the first contract year plus 22½ percent of the excess of the net consideration for the first contract year over the lesser of the net considerations for the second and third contract years

(2) The annual contract charge shall be the lesser of thirty dollars ($30) or 10 percent of the gross annual consideration.

(c) With respect to contracts providing for a single consideration, minimum nonforfeiture amounts shall be defined as for contracts with flexible considerations except that the percentage of net consideration used to determine the minimum nonforfeiture amount shall be equal to 90 percent and the net consideration shall be the gross consideration less a contract charge of seventy-five dollars ($75)

10168 3. Any paid-up annuity benefit available under a contract shall be such that its present value on the date annuity payments are to commence is at least equal to the minimum nonforfeiture amount on that date. Such present value shall be computed using the mortality table, if any, and the interest rate specified in the contract for determining the minimum paid-up annuity benefits guaranteed in the contract

10168 4 For contracts which provide cash surrender benefits, such cash surrender benefits available prior to maturity shall not be less than the present value as of the date of surrender of that portion of the maturity value of the paid-up annuity benefit which would be provided under the contract at maturity arising from considerations paid prior to the time of cash surrender reduced by the amount appropriate to reflect any prior withdrawals from or partial surrenders of the contract, such present value being calculated on the basis of an interest rate not more than 1 percent higher than the interest rate specified in the contract for accumulating the net considerations to determine such maturity value, decreased by the amount of any indebtedness to the company on the contract, including interest due and accrued, and increased by any existing additional amounts credited by the company to the contract. In no event shall any cash surrender benefit be less than the minimum nonforfeiture amount at that time. The death benefit under such contracts shall be at least equal to the cash surrender benefit.

10168 5 For contracts which do not provide cash surrender benefits, the present value of any paid-up annuity benefit available as a nonforfeiture option at any time prior to maturity shall not be less than the present value of that portion of the maturity value of the paid-up annuity benefit provided under the contract arising from considerations paid prior to the time the contract is surrendered in exchange for, or changed to, a deferred paid-up annuity, such present value being calculated for the period prior to the maturity date on the basis of the interest rate specified in the contract for accumulating the net considerations to determine such maturity value, and increased by any existing additional amounts credited by the company to the contract. For contracts which do not provide any

death benefits prior to the commencement of any annuity payments, such present values shall be calculated on the basis of such interest rate and the mortality table specified in the contract for determining the maturity value of the paid-up annuity benefit. However, in no event shall the present value of a paid-up annuity benefit be less than the minimum nonforfeiture amount at that time.

10168.6. For the purpose of determining the benefits calculated under Sections 10168.4 and 10168 5, in the case of annuity contracts under which an election may be made to have annuity payments commence at optional maturity dates, the maturity date shall be deemed to be the latest date for which election shall be permitted by the contract, but shall not be deemed to be later than the anniversary of the contract next following the annuitant's seventieth birthday or the tenth anniversary of the contract, whichever is later.

10168.7. Any contract which does not provide cash surrender benefits or does not provide death benefits at least equal to the minimum nonforfeiture amount prior to the commencement of any annuity payments shall include a statement in a prominent place in the contract that such benefits are not provided.

10168.8. Any paid-up annuity, cash surrender or death benefits available at any time, other than on the contract anniversary under any contract with fixed scheduled considerations, shall be calculated with allowance for the lapse of time and the payment of any scheduled considerations beyond the beginning of the contract year in which cessation of payment of considerations under the contract occurs.

10168.9. For any contract which provides, within the same contract by rider or supplemental contract provision, both annuity benefits and life insurance benefits that are in excess of the greater of cash surrender benefits or a return of the gross considerations with interest, the minimum nonforfeiture benefits shall be equal to the sum of the minimum nonforfeiture benefits for the annuity portion and the minimum nonforfeiture benefits, if any, for the life insurance portion computed as if each portion were a separate contract. Notwithstanding the provisions of Sections 10168.3, 10168.4, 10168.5, 10168.6, and 10168.8, additional benefits payable (a) in the event of total and permanent disability, (b) as reversionary annuity or deferred reversionary annuity benefits, or (c) as other policy benefits additional to life insurance, endowment, and annuity benefits, and considerations for all such additional benefits, shall be disregarded in ascertaining the minimum nonforfeiture amounts, paid-up annuity, cash surrender and death benefits that may be required by this article. The inclusion of such additional benefits shall not be required in any paid-up benefits, unless such additional benefits separately would require minimum nonforfeiture amounts, paid-up annuity, cash surrender and death benefits.

10168 10 After the effective date of this article, any company may file with the commissioner a written notice of its election to comply with the provisions of this article after a specified date before

the second anniversary of the effective date of this article. After the filing of such notice, then upon such specified date, which shall be the operative date of this article for such company, this article shall become operative with respect to annuity contracts thereafter issued by such company. If a company makes no such election, the operative date of this article for such company shall be the second anniversary of the effective date of this article.

SEC. 3. Article 3a (commencing with Section 10489.1) of Chapter 5 of Part 2 of Division 2 of the Insurance Code is repealed.

SEC. 4. Article 3a (commencing with Section 10489.1) is added to Chapter 5 of Part 2 of Division 2 of the Insurance Code, to read:

Article 3a. Standard Valuation Law

10489.1. This article and Sections 10479, 10480, 10481, 10483, 10484, 10486, and 10489 shall apply to the valuation of policies and contracts issued on or after the operative date as to policies or contracts of Article 3a (commencing with Section 10159.1) of Chapter 1 of Part 2 of Division 2 and shall also apply as provided in Section 10489.3 to the valuation of benefits purchased under group annuity and pure endowment contracts issued prior to such operative date.

10489.2. Except as otherwise provided in Section 10489.3, the minimum standard for the valuation of all such policies and contracts shall be the commissioners reserve valuation methods defined in Sections 10489.4, 10489.5, and 10489.8, 3½ percent per annum interest, except that the interest specified in subdivisions (c) and (d) may be used for certain annuity and pure endowment contracts, 4 percent per annum interest for such policies issued or contracts entered into on or after January 1, 1970, but prior to January 1, 1980, 5½ percent per annum interest may be used for single premium life insurance policies and 4½ percent per annum interest for all other such policies issued on or after January 1, 1980, and the following tables

(a) For all ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in such policies—the Commissioners 1941 Standard Ordinary Mortality Table for such policies issued prior to the operative date of subdivision (a) of Section 10163.5, and the Commissioners 1958 Standard Ordinary Mortality Table for such policies issued on or after such operative date, provided that for any category of such policies issued on female risks, all modified net premiums and present values referred to in Sections 10489.4 and 10489.8, may be calculated, at the option of the insurer, according to an age not more than six years younger than the actual age of the insured.

(b) For all industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in such policies—the 1941 Standard Industrial Mortality Table for such policies issued prior to the operative date of subdivision (b) of Section 10163.5, and the Commissioners 1961 Standard Industrial

Mortality Table for such policies issued on or after such operative date.

(c) For individual annuity and pure endowment contracts issued prior to the compliance date of Section 10489.3, excluding any disability and accidental death benefits in such policies—the 1937 Standard Annuity Mortality Table or, at the option of the company, the Annuity Mortality Table for 1949, ultimate, or any modification of these tables approved by the commissioner. However, the minimum standard for such contracts issued from January 1, 1968, through December 31, 1968, with commencement of benefits deferred not more than one year from date of issue, may be, at the option of the company, 4 percent per annum interest, and for contracts issued from January 1, 1969, to the compliance date of Section 10489.3, with commencement of benefits deferred not more than 10 years from date of issue and with premiums payable in one sum may be, at the option of the company, 5 percent per annum interest.

(d) For group annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies—the Group Annuity Mortality Table for 1951, any modification of such table approved by the commissioner, or, at the option of the company, any of the tables or modifications of the tables specified for individual annuity and pure endowment contracts. However, the minimum standard for annuities and pure endowments purchased or to be purchased prior to the compliance date of Section 10489.3, under group annuity and pure endowment contracts with considerations received on or after January 1, 1968, through December 31, 1968, may be, at the option of the company, 4 percent per annum interest, and for annuities and pure endowments purchased or to be purchased prior to the compliance date of Section 10489.3, under group annuity and pure endowment contracts with considerations received from January 1, 1969, to the compliance date of Section 10489.3, may be at the option of the company, 5 percent per annum interest.

(e) For total and permanent disability benefits in or supplementary to ordinary policies or contracts—for policies or contracts issued on or after January 1, 1966, the tables of Period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 Disability Study of the Society of Actuaries, with due regard to the type of benefit; for policies or contracts issued on or after January 1, 1961, and prior to January 1, 1966, either such tables or, at the option of the company, the Class (3) Disability Table (1926); and for policies issued prior to January 1, 1961, the Class (3) Disability Table (1926). Any such table shall, for active lives, be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(f) For accidental death benefits in or supplementary to policies for policies issued on or after January 1, 1966, the 1959 Accidental Death Benefits Table; for policies issued on or after January 1, 1961,

and prior to January 1, 1966, either such table or, at the option of the company, the Inter-Company Double Indemnity Mortality Table; and for policies issued prior to January 1, 1961, the Inter-Company Double Indemnity Mortality Table. Either table shall be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(g) For group life insurance, life insurance issued on the substandard basis and other special benefits—such tables as may be approved by the commissioner.

10489.3. The minimum standard for the valuation of all individual annuity and pure endowment contracts issued on or after the compliance date of Section 10489.3, and for all annuities and pure endowments purchased on or after the compliance date of Section 10489.3, under group annuity and pure endowment contracts, shall be the commissioners reserve valuation methods defined in Sections 10489.4 and 10489.5, and the following tables and interest rates:

(a) For individual annuity and pure endowment contracts issued prior to January 1, 1980, excluding any disability and accidental death benefits in such contracts, the Individual Annuity Mortality Table for 1971, or any modification of such table approved by the commissioner, and an interest rate of:

(1) Six percent per annum for all such contracts with commencement of benefits deferred not more than 10 years from date of issue and with premiums payable in one sum.

(2) Four percent per annum for all other such contracts.

(b) For individual single premium immediate annuity contracts issued on or after January 1, 1980, excluding any disability and accidental death benefits in such contracts, the Individual Annuity Mortality Table for 1971, or any modification of this table approved by the commissioner, and 7½ percent per annum interest.

(c) For individual annuity and pure endowment contracts issued on or after January 1, 1980, other than single premium immediate annuity contracts, excluding any disability and accidental death benefits in such contracts, the Individual Annuity Mortality Table for 1971, or any modification of this table approved by the commissioner, and 5½ percent per annum interest for single premium deferred annuity and pure endowment contracts and 4½ percent per annum interest for all other such individual annuity and pure endowment contracts.

(d) For all annuities and pure endowments purchased prior to January 1, 1980, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts, the Group Annuity Mortality Table for 1971, or any modification of this table approved by the commissioner, and 6 percent per annum interest.

(e) For all annuities and pure endowments purchased on or after January 1, 1980, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts, the Group Annuity Mortality Table

for 1971, or any modification of this table approved by the commissioner, and 7½ percent per annum interest.

All individual annuity and pure endowment contracts entered into prior to January 1, 1980, and all annuities and pure endowments purchased prior to January 1, 1980, under group annuity and pure endowment contracts shall remain subject to the provisions of Article 3A (commencing with Section 10489.1) as it existed prior to January 1, 1980.

10489 4. Except as otherwise provided in Sections 10489.5 and 10489 8, reserves according to the commissioners reserve valuation method, for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums shall be the excess, if any, of the present value, at the date of valuation, of such future guaranteed benefits provided for by such policies, over the then present value of any future modified net premiums therefor The modified net premiums for any such policy shall be such uniform percentage of the respective contract premiums for such benefits that the present value, at the date of issue of the policy, of all such modified net premiums shall be equal to the sum of the then present value of such benefits provided for by the policy and the excess of (a) over (b), as follows·

(a) A net level annual premium equal to the present value, at the date of issue, of such benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one per annum payable on the first and each subsequent anniversary of such policy on which a premium falls due, except that such net level annual premium shall not exceed the net level annual premium on the 19-year premium whole life plan for insurance of the same amount at an age one year higher than the age at issue of such policy.

(b) A net one-year term premium for such benefits provided for in the first policy year.

Reserves according to the commissioners reserve valuation method for (1) life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums; (2) group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under Section 408 of the Internal Revenue Code, as now or hereafter amended, (3) disability and accidental death benefits in all policies and contracts; and (4) all other benefits, except life insurance and endowment benefits in life insurance policies and benefits provided by all other annuity and pure endowment contracts shall be calculated by a method consistent with the principles of the preceding paragraph, except that any extra premiums charged because of impairments or special hazards shall be disregarded in the determination of modified net premiums

10489.5 This section shall apply to all annuity and pure endowment contracts other than group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under Section 408 of the Internal Revenue Code, as now or hereafter amended.

Reserves according to the commissioners annuity reserve method for benefits under annuity or pure endowment contracts, excluding any disability and accidental death benefits in such contracts, shall be the greatest of the respective excesses of the present values, at the date of valuation, of the future guaranteed benefits, including guaranteed nonforfeiture benefits, provided for by such contracts at the end of each respective contract year, over the present value, at the date of valuation, of any future valuation considerations derived from future gross considerations, required by the terms of such contract, that become payable prior to the end of such respective contract year. The future guaranteed benefits shall be determined by using the mortality table, if any, and the interest rate, or rates, specified in such contracts for determining guaranteed benefits. The valuation considerations are the portions of the respective gross considerations applied under the terms of such contracts to determine nonforfeiture values.

10489.6. In no event shall an insurer's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, be less than the aggregate reserves calculated in accordance with the methods set forth in Sections 10489.4, 10489.5, and 10489.8 and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for such policies.

10489.7 Reserves for any category of policies, contracts or benefits as established by the commissioner may be calculated, at the option of the insurer, according to any standards which produce greater aggregate reserves for such category than those calculated according to the minimum standard herein provided, but the rate or rates of interest used for policies and contracts, other than annuity and pure endowment contracts, shall not be higher than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided for therein.

10489.8. If in any contract year the gross premium charged by any life insurer on any policy or contract is less than the valuation net premium for the policy or contract calculated by the method used in calculating the reserve thereon but using the minimum valuation standards of mortality and rate of interest, the minimum reserve required for such policy or contract shall be the greater of either the reserve calculated according to the mortality table, rate of interest, and method actually used for such policy or contract, or the reserve calculated by the method actually used for such policy or contract

but using the minimum standards of mortality and rate of interest and replacing the valuation net premium by the actual gross premium in each contract year for which the valuation net premium exceeds the actual gross premium.

SEC. 5. Section 11136 of the Insurance Code is amended to read:

11136. Such valuation shall be certified by a competent actuary or, at the expense of the society, verified by the actuary of the insurance supervisory official of the state of domicile of the society, and the legal minimum standard of valuation shall be as follows:

(a) All benefits promised by certificates issued prior to September 22, 1952, and the rates therefor shall be valued in accordance with the provisions of law applicable thereto as of the date of issuance, but not lower than the standards and interest assumptions used in the calculation of rates for such benefits.

(b) The minimum standard for the valuation of all certificates issued after September 21, 1952, and prior to January 1, 1972, shall be 3 percent per annum interest; in the case of certificates issued on and after January 1, 1972, and prior to January 1, 1980, the minimum standard for the valuation of all such certificates shall be 4 percent per annum interest; and in the case of certificates issued on and after January 1, 1980, the minimum standard for the valuation of all single premium certificates shall be 5¼ percent per annum interest and for the valuation of all other such certificates shall be 4½ percent per annum interest, and the following tables:

(1) For all ordinary certificates of life insurance issued on the standard basis, excluding any disability and accidental death benefits in such certificates—the American Men Ultimate Table of Mortality, with Bowerman's or Davis' Extension thereof, or, at the option of the society, the Commissioners 1941 Standard Ordinary Mortality Table or the Commissioners 1958 Standard Ordinary Mortality Table, using actual age of the insured for male risks and an age not more than six years younger than the actual age of the insured for female risks.

(2) For all industrial life insurance certificates issued on the standard basis, excluding any disability and accidental death benefits in such certificates—the 1941 Standard Industrial Mortality Table.

(3) For annuity and pure endowment certificates, excluding any disability and accidental death benefits in such certificates—the 1937 Standard Annuity Mortality Table, or the Annuity Mortality Table for 1949 Ultimate, or the Individual Annuity Mortality Table for 1971, or any modification of any of these tables approved by the commissioner.

(4) For disability benefits in or supplementary to ordinary certificates—Hunter's Disability Table or the Class 3 Disability Table (1926), modified to conform to the contractual waiting period, or the tables of Period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 Disability Study of the Society of Actuaries with due regard to the type of benefit, or the 1964 Commissioners Disability Table. Any such table shall, for active lives, be combined with a mortality table permitted for calculating the reserves for life

insurance certificates.

(5) For accidental death benefits in or supplementary to certificates—The Inter-Company Double Indemnity Mortality Table or the 1959 Accidental Death Benefits Table. Either table shall be combined with a mortality table permitted for calculating the reserves for life insurance certificates.

(6) For temporary accident and health benefits in or supplementary to certificates—Class 3 Disability Table (1926) with Conference Modifications or the 1964 Commissioners Disability Table

(7) For life insurance issued upon the substandard basis and other special benefits—such tables as may be approved by the commissioner.

(c) The commissioner may, in his discretion, accept other standards for valuation if he finds that the reserves produced thereby will not be less in the aggregate than reserves computed in accordance with the minimum valuation standard prescribed. Whenever the mortality experience under the certificates valued on the same mortality table is in excess of the expected mortality according to such table for a period of three consecutive years, the commissioner may require additional reserves when in his judgment deemed necessary on account of such certificates.

(d) Notwithstanding the provisions of subdivisions (a) and (b), any society, with the consent of the insurance supervisory official of the state of domicile of the society, and under such conditions, if any, which he may impose, may establish and maintain reserves on its certificates in excess of the reserves required thereunder, but the contractual rights of any insured member shall not be affected thereby.

CHAPTER 1094

An act to amend Section 69506 of, to add and repeal Chapter 2 (commencing with Section 10100) to Part 7 of, and to add Section 69506.5 to, the Education Code, relating to education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1979 Filed with Secretary of State September 28, 1979]

The people of the State of California do enact as follows

SECTION 1. Chapter 2 (commencing with Section 10100) is added to Part 7 of the Education Code, to read·

CHAPTER 2. DEMONSTRATION PROGRAM

10100. The Legislature recognizes that there are several hundred thousand California schoolchildren whose primary languages are not English These children have shown their ability to perform in bilingual-crosscultural classes and large amounts of money are now available to expand the number of bilingual classrooms The Legislature recognizes, furthermore, that there is an insufficient number of qualified bilingual-bicultural teachers to staff present projects, and that many more such teachers will be needed as the new projects are established. It is, therefore, the intent of this chapter to establish programs designed to rapidly produce teachers who are fully bilingual, who are sensitive to cultural differences and knowledgeable about the origins of such differences, who can serve as models for these children to emulate, and who will qualify for credentials in bilingual-crosscultural education. Bilingual-bicultural teacher aides and the presently underutilized certificated teacher force shall be primary manpower sources for this program.

10101. The Commission for Teacher Preparation and Licensing shall develop, on or before January 15th of each year, a status report on local, state, and federally funded bilingual-crosscultural teacher preparation programs. Such report shall be made to the Legislature not later than February 15th of each year. The Board of Governors of the California Community Colleges, the Trustees of the California State University and Colleges, and the Regents of the University of California shall, by November 15 of each year, report to the Commission for Teacher Preparation and Licensing with reference to their programs in bilingual-crosscultural teacher training. Such report shall include, but not be limited to, information on special classes or programs leading to a certificate of competence for bilingual-crosscultural instruction, preservice or in-service programs offered by these institutions to bilingual-crosscultural teachers or teacher aides, the number of persons enrolled in such programs, and any other relevant data requested by the Commission for Teacher Preparation and Licensing.

10102. The Commission for Teacher Preparation and Licensing shall design career ladder programs which will allow bilingual teacher aides to become fully certificated bilingual teachers. This program shall provide grants for tuition and living expenses to needy applicants for part-time or full-time attendance at any public institution of higher education in California. Up to two years of credit toward credential requirements may be allowed for experience within the classroom as a teacher aide. The career ladder programs shall be adopted by regulations promulgated by the Commission for Teacher Preparation and Licensing and subject to Section 44232.

10103. The Commission for Teacher Preparation and Licensing shall, with the assistance of a representative appointed by the Superintendent of Public Instruction, the Chancellor of the California Community Colleges, the Chancellor of the California

State University and Colleges, the President of the University of California, and with five presently practicing teachers appointed by the Superintendent of Public Instruction, design a comprehensive language and culture curriculum for teachers who are already certificated. Such curriculum shall be designed to enable teachers to qualify for the bilingual-crosscultural certificate of competence authorized pursuant to Section 44253.5. Initial programs to assist on the development of this shall be offered at not less than five public institutions of higher education in California, beginning not later than September 1, 1977.

10104. There is hereby established a Bilingual-Crosscultural Teacher Development Grant Program. The Student Aid Commission shall administer the Bilingual-Crosscultural Teacher Development Grant Program. The Student Aid Commission shall evaluate candidates for grants in consultation with the Commission for Teacher Preparation and Licensing. The Student Aid Commission shall adopt such rules and regulations as are necessary for the effective administration of the Bilingual-Crosscultural Teacher Development Grant Program after consultation with the Commission for Teacher Preparation and Licensing. Initial regulations shall be adopted within 120 days after January 1, 1978. All grants shall be made on the basis of financial need. Grants shall be awarded to individuals who are most likely to qualify for a bilingual certificate of competence within two years. Not less than 60 percent of the funds shall be made available for grants to certificated teachers providing instruction in programs defined by subdivision (a), (b), or (c) of Section 52163 and who do not meet the bilingual-crosscultural teacher certification requirements defined by subdivision (h) of Section 52163 and who are teaching with a waiver granted pursuant to Section 52178. However, if there are insufficient applicants from the aforementioned group of certificated teachers to utilize 60 percent of the funds, the remaining funds shall be made available to eligible noncertificated applicants. Grant recipients shall engage in a program of study which leads to a certificate of bilingual-crosscultural competence or any other credential in bilingual education authorized by the Commission for Teacher Prepartion and Licensing. Not less than 30 percent of the funds available for grants shall be made to noncredentialed upper division and graduate students pursuing a course of study leading to a teaching credential with a bilingual-crosscultural emphasis. Grants may be used to cover tuition, fees, and subsistence expenses and shall supplement and not supplant other state and federal student financial aid programs. Grants may be renewed, provided that the student satisfactorily completes 18 quarter units or 12 semester units per year. No student may receive grants for a period of more than two academic years, including summer sessions. No grant shall exceed three thousand dollars ($3,000) per academic year, including summer sessions.

10105 The Board of Governors of the California Community

Colleges and the Trustees of the California State University and Colleges shall, within their respective systems, establish a policy of recruitment and appointment of professors of bilingual-crosscultural education.

10106. The Commission for Teacher Preparation and Licensing shall serve as a clearinghouse for bilingual-crosscultural teaching personnel. The commission shall compile, continually update, and maintain a directory of bilingual-crosscultural teachers available to teach in bilingual education programs. The directory shall be sent to all school districts annually. The commission shall, upon request, assist school districts in the recruitment of such teachers.

10107. This chapter shall remain in effect only until June 30, 1984, and as of such date is repealed, unless a later enacted statute, which is chaptered before June 30, 1984, deletes or extends such date.

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 all of the following requirements:

(a) Has not and will not be claimed as an exemption for state and federal income tax purposes by his or her parent in the calendar years aid is received and in any of the three calendar years prior to the award period for which aid is requested.

(b) Has not and will not receive more than seven hundred fifty dollars ($750) per year in financial assistance from his or her parent in the calendar years in which aid is received and in any of the three calendar years before the award period for which aid is requested.

(c) Has not lived and will not live for more than six weeks in the home of his or her parent during the calendar year aid is received and in any of the three calendar years before the award period for which aid is requested.

Nothing in this section shall exempt any applicant from submitting parental income information pursuant to Section 69672, or from submitting such information solely because the applicant comes within the provisions of Section 211 of the Civil Code.

SEC. 3. Section 69506.5 is added to the Education Code, to read:

69506.5. Notwithstanding Section 69506, neither the Student Aid Commission nor any public postsecondary educational institution shall 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 been a ward of the court, in which case appropriate court documents shall be submitted.

(c) Is an orphan and will not be claimed as an exemption for state

and federal income tax purposes by anyone other than self or spouse for the calendar years aid is received.

(d) 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.

(e) 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. 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 facilitate the orderly administration of the Student Aid Commission, and in order to ensure orderly and continuous administration of the Bilingual-Crosscultural Teacher Preparation and Training Act of 1973 which under current law is repealed as of July 1, 1979, it is necessary that this act take effect immediately

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CHAPTER 1095

An act relating to transportation.

[Approved by Governor September 27, 1979 Filed with Secretary of State September 28, 1979.]

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

SECTION 1. The California Transportation Commission and the Department of Transportation shall act expeditiously in considering the purchase, pursuant to Section 99318 of the Public Utilities Code, of that portion of the railroad right-of-way abandoned by the Southern Pacific Transportation Company on its Monterey branch from post mile 123.30 to post mile 125.81.

CHAPTER 1096

An act to add and repeal Article 4.5 (commencing with Section 8230) to Chapter 2, Part 3, Division 6 of the Fish and Game Code, relating to fish, and making an appropriation therefor.

[Approved by Governor September 27, 1979 Filed with Secretary of State September 28, 1979]

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

SECTION 1. Article 4.5 (commencing with Section 8230) is added to Chapter 2 of Part 3 of Division 6 of the Fish and Game Code, to read:

Article 4.5. Commercial Salmon Permit

8230. The following definitions apply to the provisions of this article:

(a) "Appeals board" means the Commercial Salmon Fishing Appeals Board created pursuant to Section 8236.

(b) "Qualification period" means the calendar years 1974 through 1979.

(c) "Qualified individual" means either of the following:

(1) A natural person who during the qualification period has qualified by landing at least one salmon sold for commercial purposes as evidenced by a fish landing receipt issued pursuant to Section 8011 and having a commercial fishing license. A person may also qualify by other evidence of such landing or by acting as such a person's partner, agent, servant, or employee and directly engaging in assisting such person in taking and landing at least one salmon and being licensed to commercially fish for salmon.

(2) A natural person who during the qualification period has made a substantial investment in becoming a commercial salmon fisherman, including, but not limited to a person who owns a vessel which was under construction as of December 16, 1977, or any vessel contracted for purchase or construction as of December 16, 1977. A vessel shall be deemed to be under construction if the keel or fiberglass mold of the vessel was laid as of December 16, 1977. A vessel shall be deemed to be contracted for purchase if a valid contract for purchase and transfer of title was entered into as of December 16, 1977. A vessel shall be deemed to be contracted for construction if a valid contract for construction was entered into as of December 16, 1977

8231 Salmon may not be taken for commercial purposes except under a nontransferable, revocable permit issued by the department to a qualified individual otherwise authorized to engage in commercial fishing. Such permit shall be valid from date of issue through December 31, 1981.

8232. Application for a commercial salmon permit shall be made on such forms and contain such information as the department may require. Such permit is in addition to any other requirements to commercially fish.

The commission shall set a fee to be charged for a commercial salmon permit issued pursuant to this article. Such fee shall not exceed the reasonable costs of implementing and administering the provisions of this article.

8233. Any person authorized to fish for salmon commercially in another state may fish in California if California fishermen who have a California commercial salmon permit are allowed to fish in that state.

8234. A permit holder may have any person serve in his place and engage in commercial salmon fishing under his permit for one period not to exceed 15 calendar days in any one year Prior authorization for such substitution shall be obtained from the director and shall be given only on his finding that the permittee will not be available to engage in such activity and that such substitution will not adversely affect the resource. Application for such substitution shall be made to the Department of Fish and Game, Headquarters Office, Sacramento, and contain such information as the director may require. Any denial of such substitution may be appealed to the appeals board.

8235. A vessel may not be used to take salmon for commercial purposes and sport purposes in the same calendar year, except that, boats licensed pursuant to Section 7920, engaged in such business, may be used to take salmon for commercial purposes, but not on the same day that sport fishing passengers are carried on such vessel.

8236. There is hereby established in the department the Commercial Salmon Fishing Appeals Board to resolve appeals related to the qualification of an individual and denials of requests for substitutions for permit holders. The appeals board shall consist of the director who shall serve as chairman, and four permittees appointed by the director.

The appeals board shall be limited to factual determinations as specified by this article and shall render such determinations based upon substantial evidence by a majority vote of the full board.

8237. The Legislature declares that individuals appointed as members of the appeals board must be chosen from backgrounds in the commercial salmon fishing industry in order to represent and further the interests of such industry and that such representation and furtherance serves the general public interest. Accordingly, the Legislature finds that, for purposes of persons who hold such office, the commercial salmon fishing industry is tantamount to and constitutes the public generally within the meaning of Section 87103 of the Government Code in those decisions affecting the commercial salmon fishing industry, unless the results of their actions taken as board members have a material financial effect on them distinguishable from their effect on other members of their industry

generally

8238. A commercial salmon permit may be suspended or revoked by the commission for violation and conviction of any of the provisions of this code pertaining to commercial salmon fishing by the permittee or his substitute pursuant to Section 8234, or by the permittee's agent, servant, employee, or person acting under the permittee's direction and control.

8239. 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. 2. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 1097

An act to amend Sections 25163 and 25165 of, and to add Sections 25201.2, 25201.3 to, and to add Article 6.5 (commencing with Section 25167.1) to Chapter 6.5 of Division 20 of the Health and Safety Code, to amend Section 34100 of, and to add Article 6 (commencing with Section 2560) to Chapter 2.5 of Division 2 of, the Vehicle Code, relating to hazardous waste, and making an appropriation therefor.

[Approved by Governor September 27, 1979 Filed with Secretary of State September 28, 1979.]

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

SECTION 1. Section 25163 of the Health and Safety Code is amended to read:

25163. (a) Except as otherwise provided in subdivision (b), it is unlawful for any person to carry on, or engage in, the business of hauling hazardous waste, or the hauling of hazardous waste as a part of, or incidental to, any business, unless such person holds a valid registration issued by the department, and it shall be unlawful for any person to transfer custody of a hazardous waste to a hauler who does not hold a valid registration issued by the department.

(b) Persons hauling only septic tank, cesspool, seepage pit, or chemical toilet waste that does not contain a hazardous waste originating from other than the body of a human or animal and who hold an unrevoked registration issued by the health officer or his duly authorized representative pursuant to Chapter 6 (commencing with Section 25000) shall be exempt from the requirements of subdivision

(a).

(c) It is unlawful for any person to transport hazardous waste in any truck, trailer, vacuum tank, or cargo tank not inspected by the California Highway Patrol or to transport hazardous waste in any container, other than a container packaged pursuant to Federal Department of Transportation regulations, which has not been inspected by the California Highway Patrol.

SEC 2. Section 25165 of the Health and Safety Code is amended to read.

25165. (a) A hazardous waste hauler's application for original and renewal registration shall be on a form provided by the department and shall be accompanied by the appropriate fees.

(b) Any application for registration under this section shall be filed with the department. The application shall state the name in full, if a partnership, the names of each of the partners, the relation of the applicant to the firm or partnership, the place of business and place of residence of the applicant for registration and of each of the partners in the business, if a partnership, such other information as the department shall require, and shall designate, as specifically as practical, the areas and locations where it is proposed to dispose of hazardous waste. The application shall be signed by the authorized officer of a corporation, if a corporation, or by the managing partner, if a partnership.

SEC. 3. Article 6.5 (commencing with Section 25167.1) is added to Chapter 6.5 of Division 20 of the Health and Safety Code, to read:

Article 6.5. Hazardous Waste Haulers

25167.1. This article may be cited and shall be known as the Hazardous Waste Haulers Act. It is not the intent of the Legislature in enacting these provisons to preempt or weaken any state or federal law or regulation specifically relating to the handling or transportation of radioactive materials or nuclear waste.

25167.2. The Legislature finds and declares that increasing quantities of hazardous waste are being produced in this state and that adequate and reasonable safeguards in handling hazardous wastes, particularly in transporting hazardous wastes to disposal sites, are necessary to protect the public health and environment.

25167.3. It is the intent of the Legislature that this act preempt all local regulations and all conflicting state regulations concerning the transportation of hazardous waste, including all inspection, licensing, and registration of trucks, trailers, vacuum tanks, cargo tanks, and containers used to transport all types of hazardous wastes. No state agency, city, city and county, county, or other political subdivision of this state, including, but not limited to, a chartered city, city and county, or county, shall adopt or enforce any ordinance or regulation which is inconsistent with the rules and regulations adopted by the State Department of Health Services, the Department of the California Highway Patrol, or the State Fire

Marshal pursuant to this act.

25168 No registration shall be granted under this article unless:

(a) The truck, trailer, vacuum tank, cargo tank, or container, excluding containers holding hazardous waste packages pursuant to Federal Department of Transportation requirements, used to transport all types of hazardous wastes, has been inspected and received a certificate of compliance under this article, and

(b) The owner or operator provides documentation indicating that all persons who will operate the truck, trailer, vacuum tank, cargo tank, or container have received training adequate to insure the safe handling of the hazardous waste to be transported.

25168.1. The department shall adopt regulations for containers used to transport hazardous wastes not covered or packaged as required by federal regulations contained in Title 49 of the Code of Federal Regulations. The California Highway Patrol shall conduct an annual inspection of every truck, trailer, vacuum tank, cargo tank, or container used by registered waste haulers to transport hazardous waste on the highways. The inspection shall be designed to determine if each vehicle complies with regulations adopted by the State Fire Marshal under Section 34020 of the Vehicle Code, by the Highway Patrol under subdivisions (a) and (b) of Section 34501 of the Vehicle Code, and by the State Department of Health Services for containers used to haul hazardous waste. The Department of the California Highway Patrol shall determine whether the construction, design, equipment, and safety features of every such truck, trailer, vacuum tank, cargo tank, or container are in compliance with the standards which the department determines are necessary for the safe transportation of hazardous waste.

25168.2. The department may, pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, suspend or revoke the certification of a truck, trailer, vacuum tank, cargo tank, or container used to haul hazardous waste and may revoke the registration of a hazardous waste hauler for any of the following reasons:

(a) Failure of the registrant to pay required fees or misrepresentation upon application for original or renewal registration

(b) Failure of a truck, trailer, vacuum tank, cargo tank, or container owned or operated by a registrant to comply with regulations adopted under Section 34020, subdivisions (a) and (b) of Section 34501 of the Vehicle Code, and those regulations promulgated by the department for containers used to haul hazardous waste

(c) Failure or refusal of the registrant to permit inspection of a truck, trailer, vacuum tank, cargo tank, or container or make a truck, trailer, vacuum tank, cargo tank, or container available for inspection by a member of the California Highway Patrol upon reasonable notice.

(d) Failure to possess the minimum insurance, as prescribed in

Section 25169

(e) Violation of any provisions of this division.

25168.3. (a) Once a truck, trailer, vacuum tank, cargo tank, or container has been inspected and found to be in compliance with all design, construction, and safety requirements, the department shall issue a sticker, label, or other suitable device constituting a certificate of compliance to identify waste hauling vehicles which have passed inspection. The certificate of compliance shall be plainly affixed to the truck, trailer, vacuum tank, cargo tank, or container. The size, shape, color, and design of the certificate of compliance and the positioning of the certificate shall be determined by the department.

(b) The indicia required by this section shall be incorporated with, or take the place of, any indicia issued pursuant to the provisions of this article.

25168.4. The fee for the annual inspection of a truck, trailer, vacuum tank, cargo tank, or container used to transport hazardous wastes shall be determined by the commissioner of the Department of the California Highway Patrol as provided by Article 6 (commencing with Section 2560) of Chapter 2 of Division 2 of the Vehicle Code.

25168.6. All inspection fees received shall be deposited in the Motor Vehicle Account in the State Transportation Fund. An amount equal to the fees collected is hereby continuously appropriated from the Motor Vehicle Account to the Department of the California Highway Patrol to reimburse the department for the inspections conducted.

25169. Every transporter of hazardous waste, as defined in Section 25117, shall maintain ability to respond in damages resulting from the operation of his business consistent with:

(a) The liability limits prescribed pursuant to Section 3631 of the Public Utilities Code.

(b) A higher limit than that prescribed in (a), when deemed necessary and so established by the State Department of Health Services.

25169.1. (a) The California Highway Patrol shall inspect every truck, trailer, vacuum tank, cargo tank, or container used to transport hazardous waste at least once a year to ascertain whether its construction, design, equipment and safety features comply with the regulations promulgated by the State Department of Health Services pursuant to Section 25168.1.

(b) No person shall transport hazardous waste on streets and highways within the State of California, unless the truck, trailer, vacuum tank, cargo tank, or container in which the hazardous waste is being transported displays a certificate of compliance, issued by the State Department of Health Services, showing that the vehicle has been inspected within the last 12 months.

SEC. 4. Section 25201.2 is added to the Health and Safety Code, to read:

25201.2. Any operator of a treatment facility, waste transfer

station, waste storage area, resource recovery facility or waste disposal site or any other person who accepts hazardous waste from a vacuum truck, trailer, or container failing to display a valid certificate of compliance as provided in Section 25168.3, shall report the incident to the State Department of Health Services, as required by the department.

SEC. 5. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 6. Article 6 (commencing with Section 2560) is added to Chapter 2.5 of Division 2 of the Vehicle Code, to read:

Article 6. Hazardous Waste Inspections

2560. The commissioner may determine the fee for the annual inspection of trucks, trailers, vacuum tanks, cargo tanks, and containers used to transport hazardous waste. The fee, established by regulation, shall be sufficient to cover the cost to the department of conducting hazardous waste inspections but shall not exceed fifty dollars ($50).

2561. The department shall collect the fee at the time of the inspection. All fees received shall be deposited in the Motor Vehicle Account in the State Transportation Fund.

SEC. 7. Section 34100 of the Vehicle Code is amended to read:

34100. No person shall drive, move, or leave standing any tank vehicle upon any highway unless all cargo tanks on such vehicles have been registered, pursuant to this division, with the State Fire Marshal and the appropriate fees have been paid.

This section does not apply to trucks, trailers, vacuum tanks, cargo tanks, or containers certified pursuant to Section 25169.1 of the Health and Safety Code.

SEC. 8. The sum of twenty thousand dollars ($20,000) is hereby appropriated from the General Fund to State Department of Health Services to develop the regulations required by this act.

CHAPTER 1098

An act to amend Sections 12815 and 12816 of, and to add Sections 12815.1, 12815.2, 12815.3, 12815.4, 12815.5, 12815.6, 12815.7, 12815.8, 12815.85, and 12815.9 to, the Public Utilities Code, relating to municipal utility districts.

[Approved by Governor September 27, 1979 Filed with Secretary of State September 28, 1979]

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

SECTION 1. Section 12815 of the Public Utilities Code is amended to read·

12815. The board may call a special election at any time for the purpose of submitting to the voters of the district the proposition as to whether or not the voters approve the addition of fluorine and fluorine compounds to the public water supply of the district. The ordinance calling an election shall fix the date on which the election shall be held, the wording of the proposition and the manner of holding the election and of voting for or against the proposition. The election shall be consolidated, in the manner provided in Section 13209, with a statewide primary or general election The ordinance shall be published. Another election in the district on the same or substantially the same proposition shall not be called by the board, pursuant to this section or Section 12815.1, within four years after such election.

SEC. 2. Section 12815.1 is added to the Public Utilities Code, to read:

12815.1. The board shall adopt an ordinance, in accordance with the provisions of Section 12815, calling an election for the purpose of submitting to the voters of the district the proposition as to whether or not the voters approve the addition of fluorine and fluorine compounds to the public water supply of the district, when a petition for such election has been filed with, and certified as sufficient by, the secretary of the district. Such election shall be conducted in accordance with the provisions of Section 12815. Petitions meeting the requirements of Sections 12814 to 12816, inclusive, shall be in lieu of the initiative procedure provided by Article 1 (commencing with Section 5150) of Chapter 4 of Division 5 of the Elections Code.

SEC. 3 Section 12815.2 is added to the Public Utilities Code, to read:

12815.2. Petitions which meet the requirements of this article shall be certified as sufficient.

SEC. 4 Section 12815.3 is added to the Public Utilities Code, to read·

12815.3. Before circulating the petition, its proponents shall publish a notice of intention to do so. The notice shall be accompanied by a printed statement, not exceeding 500 words in length, stating the reasons for the petition. The notice and statement shall be published at least once in a newspaper of general circulation which is published in the district.

Within 10 days after notice is published, the proponents shall file a copy of such notice and the accompanying statement, and an affidavit as to the publishing thereof, with the secretary. The petition may be circulated among the voters of the district twenty-one days

after notice is published. The petition shall bear a copy of the printed notice of intention and its accompanying statement. Signatures shall be secured and the petition shall be presented to the secretary for filing within 180 days from the date of the first publication of the notice of intention.

SEC. 5 Section 12815.4 is added to the Public Utilities Code, to read:

12815 4. The petition shall declare that the public interest or necessity demands that a special election be called by the board of directors for the purpose of submitting to the voters of the district the proposition as to whether or not the voters approve the addition of fluorine and fluorine compounds to the public water supply of the district. Such petition may be presented in sections, but each section shall contain a declaration of public interest or necessity, and shall have attached thereto an affidavit substantially in the same form as set forth in Section 3519 of the Elections Code. In addition, each section shall be designed as set forth in Section 3516 of the Elections Code.

SEC 6 Section 12815 5 is added to the Public Utilities Code, to read·

12815.5 Any registered voter who is a resident of the district may circulate the petition anywhere within the district. Each section of the petition shall bear the name of a county, and only registered voters of that county shall sign such section.

SEC. 7. Section 12815.6 is added to the Public Utilities Code, to read

12815 6. The petition shall be filed by the proponents, or by any person or persons authorized, in writing, by the proponents. All sections of the petition shall be filed at one time When the petition is presented for filing, the secretary shall determine the total number of signatures affixed to the petition. If, from this examination, the secretary determines that the petition has been signed by at least 10 percent of the registered voters in the district, then the secretary shall accept the petition for filing. The petition shall be deemed as filed on that date. Any sections of the petition not so filed shall be void for all purposes

SEC. 7 5. Section 12815.6 is added to the Public Utilities Code, to read:

12815 6 The petition shall be filed by the proponents, or by any person or persons authorized, in writing, by the proponents. All sections of the petition shall be filed at one time When the petition is presented for filing, the secretary shall determine the total number of signatures affixed to the petition. If, from this examination, the secretary determines that the petition has been signed by at least 5 percent of the registered voters in the district, then the secretary shall accept the petition for filing. The petition shall be deemed as filed on that date Any sections of the petition not so filed shall be void for all purposes.

SEC. 8 Section 12815 7 is added to the Public Utilities Code, to

read:

12815.7. If the petition contains more than 500 signatures, the secretary shall, within 30 days from the date such petition is filed, verify such signatures by means of a random sampling. The random sample of signatures shall be drawn in such a manner that every signature filed with the secretary is given an equal opportunity to be included in the sample. Such a random sampling shall include an examination of at least 500 or 5 percent of the signatures, whichever is greater.

If the projection made from the random sampling as to signature validity shows the number of valid signatures as between 90 and 110 percent of the signatures needed to declare the petition sufficient, the secretary shall examine and verify each signature filed.

SEC. 9. Section 12815.8 is added to the Public Utilities Code, to read:

12815.8. In determining valid signatures from voter registration records, the secretary may use the duplicate file of affidavits or may check the signatures against facsimiles of voter signatures, provided that the method of preparing and displaying the facsimiles complies with law.

SEC. 10. Section 12815.85 is added to the Public Utilities Code, to read:

12815.85 The secretary shall attach to the petition, a certificate showing the result of the signature examination, and shall notify the proponents of either the sufficiency or insufficiency of the petition.

SEC. 11. Section 12815.9 is added to the Public Utilities Code, to read:

12815.9. If the petition is found insufficient, no action shall be taken on it. However, the failure to secure sufficient signatures shall not preclude the later filing of a new petition to the same effect.

If the petition is found to be sufficient, the secretary shall certify the results of the signature examination to the board at its next regular meeting.

SEC. 12. Section 12816 of the Public Utilities Code is amended to read:

12816. At least 90 days prior to the election provided for in Sections 12815 and 12815.1, notice of the election shall be published within the district. Any voter or group of voters may, not less than 60 days prior to such election, prepare and file with the county clerk of the county containing the largest number of voters within the district an argument for or against the proposition to be submitted. The argument shall not be greater than 300 words in length If more than one argument for or more than one argument against the proposition is filed within the time permitted the clerk shall select one of the arguments for printing. No more than three signatures shall appear with any argument. The clerk of each county in the district shall mail, or cause to be mailed, to each registered voter in that county in the district one copy of the argument for and one copy of the argument against the proposition. Such arguments shall be

mailed with the sample ballot.

SEC. 13. It is the intent of the Legislature, if this bill and Senate Bill 280 are both chaptered and become effective January 1, 1980, and Senate Bill 280 amends Section 5154 of the Elections Code, that Section 7.5 of this act shall become operative and Section 7 of this act shall not become operative.

SEC. 14. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because this act is in accordance with the request of a local governmental entity or entities which desired legislative authority to carry out the program specified in this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 1099

An act to add Section 21292.6 to the Government Code, relating to retirement of public employees.

[Approved by Governor September 27, 1979 Filed with Secretary of State September 28, 1979.]

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

SECTION 1 Section 21292.6 is added to the Government Code, to read:

21292.6. Notwithstanding any other provision of this part, the industrial disability retirement allowance of a member whose membership commenced after January 1, 1980, in the category of membership in which the member was serving at the time of suffering the disability or incurring the disease causing retirement for industrial disability, shall not exceed the service retirement allowance that would be payable as a result of service in that category of membership if the member's service had continued to age 55, if a patrol, state safety, or local safety member, or age 63, if any other category of member.

This section shall not be applicable to a member who is subject to Section 21307, or a member whose disability results from an injury which is a direct consequence of a violent act perpetrated upon his person or occurs during the performance of those portions of his duties which are particularly hazardous and dangerous.

CHAPTER 1100

An act to add Section 118.8 to the Streets and Highways Code, relating to state highways.

[Approved by Governor September 27, 1979 Filed with Secretary of State September 28, 1979]

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

SECTION 1. Section 118.8 is added to the Streets and Highways Code, to read:

118.8. The Legislature finds that 20 parcels of vacant excess state highway real property along the Shepard Canyon corridor in the City of Oakland are of notable environmental value.

Notwithstanding any other provision of law, the 20 parcels of excess state highway real property along the Shepard Canyon corridor in the City of Oakland shall be first offered for sale or exchange, for a consideration at least equal to the cost of the department in acquiring the property, to the City of Oakland for open space or park and recreational purposes, or both

The Legislature intends to mitigate the significant environmental effects of state highway construction in the Oakland area and finds that the sale or exchange of such parcels would mitigate significant environmental effects within the meaning of Article XIX of the California Constitution

SEC 2. The Legislature finds that a special statute is necessary, and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique value of such parcels in the mitigation of environmental effects.

CHAPTER 1101

An act to amend Section 46140.5 of the Education Code, relating to schools.

[Approved by Governor September 27, 1979 Filed with Secretary of State September 28, 1979]

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

SECTION 1 Section 46140.5 of the Education Code is amended to read·

46140 5 Any school district which was credited with attendance of pupils pursuant to Section 46140 under a vocational education program occupationally organized and conducted under federal approval in 1976–77, other than a regional occupational program or

regional occupational center, may request the county superintendent of schools to increase the district base revenue limit for fiscal year 1977–78 and fiscal years thereafter by the amount of revenue received on account of such vocational education attendance in 1976–77. The county superintendent, upon verification of such amounts, shall adjust the district's base revenue limit.

As a clarification of the intent of the law, a district, which had not submitted attendance documents of pupils pursuant to Section 46140 under a vocational education program occupationally organized and conducted under federal approval in 1976–77, other than a regional occupational program or regional occupational center, at the time the attendance reports were originally due, shall not have the right at a later date to submit amended attendance documents to have credited this attendance.

CHAPTER 1102

An act to amend Section 14105.7 of the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor September 27, 1979 Filed with Secretary of State September 28, 1979]

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

SECTION 1. Section 14105.7 of the Welfare and Institutions Code is amended to read:

14105.7. (a) In order to fairly reimburse pharmacies for the furnishing of prescription drugs to Medi-Cal beneficiaries, the director shall update allowable drug product prices no less often than every 60 days. The update shall include any prior change in drug product price of which the director has received notice. Notice to the director shall include, but not be limited to, publication of the price change in the supplier's catalog or supplement or in nationally distributed drug price reference guides.

(b) The director shall limit the rate of payment for the professional fee portion of prescription services rendered under this chapter pursuant to Section 4229 5 of the Business and Professions Code or Section 11201 of the Health and Safety Code and the professional fee portion of prescription services rendered as a refill immediately subsequent to such prescription to ensure that the total professional fee paid for the two services does not exceed the professional fee paid for the same prescription refill when provided as a routine service

SEC. 2 This act shall become operative on July 1, 1980.

CHAPTER 1103

An act relating to criminal trials, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1979 Filed with Secretary of State September 28, 1979]

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

SECTION 1. The sum of one million two hundred thousand dollars ($1,200,000) is hereby appropriated from the General Fund in augmentation of Item 417 of the Budget Act of 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:

The trial costs to Siskiyou, Sutter, and Yolo Counties are expected to be considerable and in order for these counties to manage the fiscal difficulties precipitated by these trials it is necessary for this act to go into immediate effect.

CHAPTER 1104

An act to amend Sections 7149 and 7150 of, and to add Sections 7150.5 and 7150.6 to, the Fish and Game Code, and to augment the appropriation made in Item 205 of the Budget Act of 1979, relating to public resources, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1979 Filed with Secretary of State September 28, 1979]

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

SECTION 1. Section 7149 of the Fish and Game Code, as added by Section 3 of Chapter 1259 of the Statutes of 1978, 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, 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. A trout and salmon license stamp, but not an inland water license stamp, is required to authorize such person to take salmon or

steelhead in ocean waters.

(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. A trout and salmon license stamp, but not an inland water license stamp, is required to authorize such person to take salmon or steelhead in ocean waters.

(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 trout and salmon license stamp, but not an inland water license stamp, is required to authorize such person to take salmon or steelhead in ocean waters.

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 who has been a resident of the state for five years immediately preceding and who has lost, or has lost the use of, one or more limbs, or who is so severely disabled as to be permanently unable to move from place to place without the aid of a mechanical device.

(iii) 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), (ii), and (iii) 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. 2. Section 7150 of the Fish and Game Code is amended to read·

7150 A sport fishing license granting the privilege of taking fish from ocean waters of this state may be issued to any person over the age of 16 years, for a period of three days from the date of issue, upon payment of a fee of four dollars ($4) during the 1979 calendar year and thereafter upon payment of a base fee of four dollars ($4) plus an amount calculated in accordance with Section 713. An inland water license stamp may not be purchased for this license. A trout and salmon license stamp is required to authorize such person to take salmon or steelhead in ocean waters.

For the purpose of this section and Section 7149, ocean waters in the San Francisco Bay area are those waters bounded by U.S. Highway 101 commencing at the Golden Gate Bridge, thence northerly toward the City of Petaluma to the junction of U.S. Highway 101 and State Highway Legislative Route 104; thence easterly on State Highway Legislative Route 104 to its junction with State Highway sign route 12; thence southerly on State Highway sign route 12 to its junction with State Highway sign route 37 near the Town of Schellville, thence easterly along State Highway sign route 12 and 37 to its junction with State Highway sign route 29 near the City of Napa; thence southerly along State Highway sign route 29 to its junction with U.S. Highway 40; thence southerly along U.S. Highway 40 to its junction with State Highway sign route 17; thence southerly and westerly on State Highway sign route 17 to its junction with Bypass U S. 101 near the City of San Jose; thence northerly on Bypass U.S 101 to the point of beginning.

SEC 3. Section 7150.5 is added to the Fish and Game Code, to read

7150 5. A sport fishing license, valid for only one designated day, may be issued to any person over the age of 16 years upon payment of a fee of two dollars ($2). Such license shall grant the privilege of taking fish, except for mollusks, crustaceans, invertebrates, or

amphibians, from ocean waters as defined in Section 7150. A special trout and salmon license stamp, good for one day only and issued in conjunction with a one day license, is required to authorize such person to take salmon or steelhead in ocean waters. Such stamp shall be issued upon payment of a base fee of one dollar ($1) plus an amount calculated in accordance with Section 713. An inland water license stamp may not be purchased for such license

SEC. 4 Section 7150.6 is added to the Fish and Game Code, to read.

7150 6. There is hereby transferred from the General Fund to the Renewable Resources Investment Fund, which is hereby created, the sum of ten million dollars ($10,000,000).

The money in the Renewable Resources Investment Fund shall be expended, pursuant to appropriation by the Legislature, only for the following purposes:

(a) For salmon and steelhead hatchery expansion and fish habitat improvement.

(b) For forest resource improvement projects pursuant to the California Forest Improvement Act of 1978

(c) For urban forestry projects pursuant to the California Urban Forestry Act of 1978.

(d) For agricultural soil drainage programs which will stop land from becoming a desert area and protect agricultural productivity.

(e) For support of technical assistance programs which will prevent soil erosion.

(f) For agricultural, industrial, and urban water conservation programs.

SEC. 5. There is hereby appropriated from the Renewable Resources Investment Fund for expenditure without regard to fiscal year ten million dollars ($10,000,000) to be allocated by the Director of Finance for a renewable resources investment program in accordance with the following schedule.

(a) Three hundred fifteen thousand dollars ($315,000) to the Department of Fish and Game for preliminary plans and working drawings for expansion of the Nimbus Hatchery, a new facility on Shasta River, and expansion of the spawning channel at Red Bluff.

(b) One million eight hundred fifty thousand dollars ($1,850,000) to the Department of Fish and Game for planning, research, and the implementation costs of projects for the restoration of salmon and steelhead habitat on the Upper Sacramento, Shasta, Upper Klamath, Yuba, and other rivers

(c) Two million two hundred eleven thousand three hundred dollars ($2,211,300) to the Department of Water Resources for the costs of acquiring and distributing household water conservation devices Management techniques and methods developed in the San Diego pilot water conservation study, authorized by Chapter 28 of the Statutes of 1977, and reported to the Legislature in the Department of Water Resources Bulletin No 191 and Appendix A thereto, shall be used for this program

(d) Five hundred twenty-three thousand seven hundred dollars ($523,700) to the Department of Forestry for development of wood energy demonstration projects to reduce wildland fire hazards and utilize wood wastes for energy production.

(e) Six hundred thousand dollars ($600,000) to the Department of Water Resources for instructional and curriculum materials for water conservation education in grades K through eight.

(f) Four million five hundred thousand dollars ($4,500,000) to the State Water Resources Control Board for grants to cities, counties, and districts for the design, construction, and improvement of treatment plants and distribution facilities for the reclamation of municipal wastewater.

It is the intent of the Legislature that projects funded under this program should be feasible and cost effective, and that a reasonable price be charged for reclaimed water delivered as an alternative to other sources of water. In determining reasonable price, all relevant factors should be considered, including, but not limited to, the present and projected costs of supplying alternative sources of water and differences in water quality between the reclaimed water and alternative sources.

SEC. 6. The sum of six hundred forty-nine thousand nine hundred twenty-nine dollars ($649,929) is hereby appropriated from the General Fund to the Department of Forestry, in augmentation of the appropriation made in Item 205 of the Budget Act of 1979, for expenditure for fire suppression activities from January 1, 1980, to June 30, 1980, in accordance with the following schedule:

(a) Personal services	$368,466
(b) Operating expenses and equipment	160,463
(c) Fire protection contract—counties	76,000
(d) Fire protection contract—United States Forest Service	45,000

SEC. 7. Section 4 of this act shall become operative only if Sections 5 and 6 of this act contain provisions to support the purposes of Section 4, and to augment the Department of Forestry fire suppression budget by six hundred forty-nine thousand nine hundred twenty-nine dollars ($649,929) during the second half of fiscal year 1979–80, respectively.

SEC. 8. Section 1 of this act shall become operative only if Assembly Bill No. 335 of the 1979–80 Regular Session is chaptered and contains provisions authorizing the issuance of a sport fishing license that is valid for fewer than three days.

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 immediate effect. The facts constituting such necessity are:

Various and numerous threats to the health and productivity of the state's natural systems, on which the state's economic prosperity and

survival are heavily dependent, require the state to implement an aggressive program for strengthening renewable resources. In order that there may be immediate financing for such an urgently needed program, it is necessary that this act take effect immediately.

CHAPTER 1105

An act to add Division 13.5 (commencing with Section 21190) to the Public Resources Code, to repeal Chapter 3 (commencing with Section 39100) of Part 1 of Division 26 of the Health and Safety Code, to amend Section 5100 of, and to repeal Section 5107 of, the Vehicle Code, relating to environmental protection.

[Approved by Governor September 27, 1979 Filed with Secretary of State September 28, 1979]

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

SECTION 1. It is the intent of the Legislature, through enactment of this law, to improve the California Environmental Protection Program by doing all of the following:

(a) Establishing discrete goals to be achieved within the framework of the Environmental Protection Program so that the expenditure of moneys from the California Environmental License Plate Fund can be correlated to measurable progress.

(b) Increasing budgetary control and fiscal accountability of public entities or private organizations receiving moneys from the California Environmental License Plate Fund

SEC. 2. Chapter 3 (commencing with Section 39100) of Part 1 of Division 26 of the Health and Safety Code is repealed.

SEC 3. Division 13.5 (commencing with Section 21190) is added to the Public Resources Code, to read:

DIVISION 13 5. CALIFORNIA ENVIRONMENTAL PROTECTION PROGRAM

21190. There is in this state the California Environmental Protection Program, which shall be concerned with the preservation and protection of California's environment Funds expended pursuant to this division shall be used to support identifiable projects and programs of state agencies, cities, counties, and districts, the University of California, and private research organizations which have a clearly defined benefit to the people of the State of California and which have one or more of the following purposes:

(a) The control and abatement of air pollution, including all phases of research into the sources, dynamics, and effects of environmental pollutants.

(b) The acquisition, preservation, restoration, or any combination

thereof, of natural areas or ecological reserves.

(c) Purchase of real property for park purposes on an opportunity basis or the acquisition of public accessways to coastal areas.

(d) Environmental education, including formal school programs and informal public education programs.

(e) Enhancement of renewable and nonrenewable resources

(f) Protection of nongame species and rare and endangered plants and animals

(g) Protection of wildlife habitat, including review of the potential impact of development projects and land use changes on such habitat.

21191. (a) The California Environmental License Plate Fund which supersedes the California Environmental Protection Program Fund is continued in existence in the State Treasury, consisting of the moneys deposited in the fund pursuant to any provisions of law, including all revenue derived from fees provided for in Sections 5106 and 5108 of the Vehicle Code

(b) Amounts equal to the actual costs incurred by the Department of Motor Vehicles in performing its duties pursuant to Article 8.5 (commencing with Section 5100) of Chapter 1 of Division 3 of the Vehicle Code are available to the department, when appropriated by the Legislature, from the moneys deposited in the California Environmental License Plate Fund, and shall be transferred to, and in augmentation of, the appropriation from which such costs were paid

(c) The balance of the moneys in the California Environmental License Plate Fund shall be available for expenditure for the purposes and uses of the California Environmental Protection Program upon appropriation by the Legislature.

(d) All proposed appropriations for the program shall be summarized in a section in the Governor's Budget for each fiscal year and shall bear the caption "California Environmental Protection Program." The section shall contain a separate description of each project for which an appropriation is made. All such appropriations shall be made to the department performing the project and accounted for separately

21192 The funds provided for in subdivision (c) of Section 21191 may be used in a manner which will allow the state to qualify for any funds which may be available from any source for the purpose of carrying out the provisions of this division.

21193 The program established by this division shall be administered by the Secretary of the Resources Agency who shall.

(a) On or before November 1 of each year, forward those projects and programs recommended for funding to the Governor for inclusion in the Budget Bill, together with a statement of the purpose of each such project and program, the benefits to be realized, and the secretary's comments thereon.

(b) Periodically review projects subsequent to their funding under this division and report thereon to the Governor and the

Legislature.

SEC. 4. Section 5100 of the Vehicle Code is amended to read:

5100. The purpose of this article is to provide revenue for the California Environmental License Plate Fund.

SEC. 5. Section 5107 of the Vehicle Code is repealed.

CHAPTER 1106

An act making an appropriation for parks and recreation, and in this connection amending and supplementing the Budget Act of 1978 by adding Sections 2.8J and 2.9J thereto, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1979. Filed with Secretary of State September 28, 1979.]

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

SECTION 1. Section 2.8J is added to the Budget Act of 1978, to read:

STATE BEACH, PARK, RECREATIONAL, AND HISTORICAL FACILITIES BOND ACT OF 1974 PROGRAM

Sec. 2.8J. The following sums of money, or so much thereof as may be necessary, unless otherwise provided herein, are hereby appropriated for expenditure during the 1978–79, 1979–80, and 1980–81 fiscal years. 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 Beach, Park, Recreational, and Historical Facilities Fund of 1974.

LOCAL ASSISTANCE

RESOURCES

508J—For grants to counties, cities, cities and counties, and districts, as defined in Section 5096.84, pursuant to subdivision (a) of Section 5096.85, of the Public Resources Code, Department of Parks and Recreation, payable from the State Beach, Park, Recreational, and Historical Facilities Fund of 1974 94,782

Unless otherwise provided herein, funds appropriated for each of the local grant projects in this item are for acquisition, development, or both. Schedule:

Projects in Napa County

(1) City of Napa, Alston Park	50,000
(2) County of Napa, Skyline Park	44,782

provided, that none of the funds which are appropriated by this item for the projects set forth herein shall be available for expenditure unless and until such projects are submitted to, and reviewed and approved by, the Secretary of the Resources Agency pursuant to Section 5096.89 of the Public Resources Code.

Reversions

509J—The unencumbered balance of the appropriation made by the following items shall revert to the unappropriated balance of the State Beach, Park, Recreational, and Historical Facilities Fund of 1974.

(a) Item 390 (159) Budget Act of 1975, County of Napa, Skyline Park.

SEC. 2. Section 2.9J is added to the Budget Act of 1978, to read:

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

Sec. 2.9J. 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.

LOCAL ASSISTANCE

RESOURCES

518J—For grants to counties, cities, and districts, as defined in Section 5096.123, pursuant to subdivision (a) of Section 5096.124, of the Public Resources Code, Department of Parks and Recreation, payable from the State, Urban, and Coastal Park Fund 356,358

Unless otherwise provided herein, funds appropriated for each of the local grant projects in this item are for acquisition, development, or restoration, or any combination thereof.

Schedule:

	Projects in Napa County	
(1)	County of Napa, Skyline Park	109,595
	Projects in Orange County	
(1)	County of Orange, Irvine Park	196,763
	Projects in San Joaquin County	
	(1) City of Manteca, Handicapped and Senior Citizens Center	50,000

provided, that none of the funds which are appropriated in this item for the projects set forth herein shall be available for encumbrance unless and until such projects are submitted to, and reviewed and approved by, the Director of Parks and Recreation pursuant to Section 5096.130 of the Public Resources Code. The director may not approve any such project unless the applicant for the project is proposed to be included, or is already included, in the priority plan required by subdivision (c) of Section 5096.127 and unless the project meets the requirements of Section 5096.124, as it relates to local assistance grants, Section 5096.130, and any other provision of the Nejedly-Hart State, Urban, and Coastal Park Bond Act of 1976 (commencing with Section 5096.111 of the Public Resources Code).

Reversions

519J The unencumbered balance of the appropriation made by the following items shall revert to the unappropriated balance of the State, Urban, and Coastal Park Fund.

(a) Item 443.8 (328), Budget Act of 1977, City of Manteca, Manteca Community Park Northgate.

SEC. 3. (a) The open recreation building, City of Ione, described in the Department of Parks and Recreation grant project number 803-201, Cameron-Unruh Beach, Park, Recreational, and Historical Facilities Bond Act of 1964, is hereby authorized to be converted to an enclosed recreation hall pursuant to Section 5096.27 of the Public Resources Code.

(b) The Legislature hereby finds and declares that the enclosed recreation hall authorized by subdivision (a) is related to, and in support of, outdoor recreation facilities.

SEC. 4. (a) The sum of ten thousand dollars ($10,000) is hereby appropriated from the Collier Park Preservation Fund to the Department of Parks and Recreation for a study of the feasibility of

acquiring Lake Cunningham in the City of San Jose for the state park system.

(b) The study shall be submitted to the Governor and the Legislature not later than June 30, 1980. If the Department of Parks and Recreation does not recommend the acquisition of Lake Cunningham for the state park system, it shall make recommendations as to the proper course of action to allow the Lake Cunningham project to best meet the needs of the public which would be served by the project.

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:

Extreme increases in costs of land and construction have made available funding inadequate to accomplish the projects reverted herein, and no other funding is available or will become available. The projects for which appropriation is made herein are the best alternative projects, and funding will not remain sufficient for them unless appropriated on an urgent basis. It is thus necessary that this act take effect immediately.

CHAPTER 1107

An act to amend Sections 23198 and 23199 of the Water Code, and to amend Section 6.2 of, and to add Section 29 to, the Contra Costa County Flood Control and Water Conservation District Act (Chapter 1617 of the Statutes of 1951), relating to water districts.

[Approved by Governor September 27, 1979. Filed with Secretary of State September 28, 1979.]

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

SECTION 1. Section 23198 of the Water Code is amended to read:

23198. When a contract has been made with the United States, if so provided by the contract and authorized pursuant to this chapter, bonds of the district may be transferred to or deposited with the United States, at not less than 95 percent of their par value, to the amount or any part thereof to be paid by the district to the United States. The interest or principal or both on the bonds shall be raised by assessment and levy as prescribed in this chapter and shall be regularly paid to the United States and applied as provided in the contract. The bonds may provide for the payment of interest at a rate not exceeding 8 percent per year, be of the denominations, and call for the repayment of the principal at the times, all as agreed upon.

SEC. 2. Section 23199 of the Water Code is amended to read:

23199. The contract with the United States may likewise call for the payment of the amount or any part thereof to be paid by the district to the United States, at the times, in the installments, and

with interest charges not exceeding 8 percent per year, all as may be agreed upon, and for assessment and levy as provided in this chapter.

SEC. 3. Section 6.2 of the Contra Costa County Flood Control and Water Conservation District Act (Chapter 1617 of the Statutes of 1951) is amended to read:

Sec. 6.2. Upon the formation of each zone pursuant to the provisions of this act, the board of supervisors may appoint a zone advisory board composed of five resident electors of, or owners of real property within, such zone. The zone advisory board may be consulted by the board of supervisors or the commissioners of the district in all matters affecting such zone.

The board may appoint drainage area advisory boards for each drainage area composed of resident electors of, or owners of real property within, each such drainage area.

SEC. 4. Section 29 is added to the Contra Costa County Flood Control and Water Conservation District Act (Chapter 1617 of the Statutes of 1951), to read:

Sec. 29. Pursuant to a resolution adopted by a four-fifths vote of all the members of the board, the district may appropriate any of its available district, zone, subzone, or drainage area moneys to a revolving fund to be used for the acquisition of real or personal property, environmental impact studies, fiscal analysis, engineering services, salaries, wages, services, supplies, maintenance, or the construction of structures or improvements needed in whole or in part to provide or maintain the improvements authorized by Section 5 in a zone, subzone, or drainage area located wholly within the district. The revolving fund shall be reimbursed from fees, charges, tax revenues or other moneys available from the zone, subzone, or drainage area, and no sums shall be disbursed from the fund until the board has, by resolution, established the method by and term within which the zone, subzone, or drainage area is to reimburse the fund for any amount disbursed to the zone, subzone, or drainage area, together with interest at the current rate per annum received on similar types of investments by Contra Costa County as determined by the county treasurer. Moneys and interest reimbursed to the revolving fund shall be transferred from the fund to the district, zone, subzone, or drainage area from which the moneys were originally transferred.

CHAPTER 1108

An act to amend Sections 2, 4, 8, 9, 24, and 46 of the Kings River Conservation District Act (Chapter 931 of the Statutes of 1951), relating to special districts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1979. Filed with Secretary of State September 28, 1979.]

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

SECTION 1. Notwithstanding the limitation as to rate of interest specified in Section 5474 of the Health and Safety Code, the Otay Municipal Water District may charge a rate of interest on the unpaid balance of such fees or charges which does not exceed the prime rate of interest charged by private institutional lenders within the area of the district.

This section shall remain in effect until March 31, 1980, and thereafter shall have no force and effect.

SEC. 1.5. Section 2 of the Kings River Conservation District Act (Chapter 931 of the Statutes of 1951) is amended to read:

Sec. 2. A district is hereby created to be known and designated as Kings River Conservation District, and the boundaries and territory of said district are as follows:

All that territory lying and being within the following described boundaries:

Commencing in the middle of the Main Channel of Kings River on the east section line of Section 18, Township 13 South, Range 24 East, M. D. B. & M.; thence running southwesterly along the center of said Main Channel through Section 19 of said township to the point at which the said Main Channel divides into the West and East Channels in the southeast quarter of the northeast quarter of Section 24, Township 13 South, Range 23 East, M. D. B. & M., thence along the center of the said West Channel of Kings River to the intersection with a line 200 feet northerly of and parallel to the northerly-most parts of the diverting dam across the said West Channel of Kings River near the headgate of the Gould Canal; thence westerly across said West Channel of Kings River along said parallel line to the point of intersection of said parallel line with a line 100 feet northwesterly from and parallel with the outside foot of the northwesterly bank of the said Gould Canal; thence parallel with said foot of bank and 100 feet distant therefrom in a general southwesterly direction through Section 25 to the intersection of the last above described line with the center of that certain public road known as Trimmer Springs Road in Section 26; thence southwesterly along the center of said Trimmer Springs Road to the point of intersection of said center of Trimmer Springs Road with the outside foot of the north bank of the said Gould Canal; thence along said foot of bank northwesterly through said Section 26; thence southwesterly through Section 27 to the intersection with the Enterprise Canal; thence following the outside foot of the northerly or easterly bank of said Enterprise Canal, in a general northwesterly direction through Sections 27, 28, 33, 32, 31, 30, 29, 20, 19 and 18 of said township, Sections 13, 14, 15, 10, 9, 16, 17, 8 and 7 of Township 13 South, Range 22 East, M. D. B. & M., Sections 12, 1 and 2 of Township 13 South, Range 21 East, M. D. B. & M. and Sections 35, 34, 27 and 28 of Township 12 South, Range 21 East, M. D. B. & M., to the west line of Section 28 of the last named township;

thence leaving foot of said bank north along section lines about five-eighths of a mile to the east quarter corner of Section 20; thence west one-half mile to the center of Section 20; thence north one-half mile to the north quarter corner of Section 20; thence west along the north line of Section 20 to the intersection with the outside foot of the northerly or easterly bank of the said Enterprise Canal; thence following said foot of bank of canal, in a general westerly direction through Sections 17 and 18 of Township 12 South, Range 21 East, M. D. B. & M. and Sections 13 and 24 of Township 12 South, Range 20 East, M. D. B. & M., to the east and west center line of Section 24 of the last named township; thence leaving said foot of bank of canal, west to the center of Section 23 of last named township; thence south one-half mile to the south quarter corner of said Section 23; thence west along section lines about one and three-eighths miles to the easterly line of Blackstone Avenue; thence southwesterly along the easterly line of Blackstone Avenue to the east and west center line of Section 28 of the last named township; thence west along half section lines to the top of the easterly bluff of the San Joaquin River; thence following down the top of said bluff in a general westerly direction through Sections 29, 32 and 31 of the last named township, Sections 367, 35, 34, 33, 32 and 31 of Township 12 South, Range 19 East, M. D. B. & M., Section 6 of Township 13 South, Range 19 East, M. D. B. & M., to the west line of said Section 6; thence north along the west line of said Section 6 to the intersection with the south bank of the San Joaquin River; thence following down the said bank, in a general westerly direction through Sections 1 and 2 of Township 13 South, Range 18 East, M. D. B. & M., Sections 35 and 34 of Township 12 South, Range 18 East, M. D. B. & M., Sections 3, 4, 9, 8 and 7 of Township 13 South, Range 18 East, M. D. B. & M., Sections 12, 1, 2, 11 and 10 of Township 13 South, Range 17 East, M. D. B. & M. to the west line of Section 10 of the last named township; thence south along section lines to the southwest corner of Section 15; thence west along section lines to the northwest corner of Section 20; thence south along section lines to the southeast corner of Section 31; thence into Township 14 South, Range 17 East, M. D. B. & M., east two miles to the northwest corner of Section 3; thence south two miles to the southwest corner of Section 10; thence east one mile to the northwest corner of Section 14; thence south one mile to the southwest corner of said Section 14; thence east one mile to the northwest corner of Section 24; thence south one mile to the southwest corner of said Section 24; thence east one mile to the northeast corner of Section 25; thence south two miles to the southeast corner of Section 36; thence east along township lines nine miles to the northwest corner of Section 3 of Township 15 South, Range 19 East, M. D. B. & M.; thence in said township south three miles to the southwest corner of Section 15; thence east one mile to the southeast corner of said Section 15; thence south one-half mile to the west quarter corner of Section 23; thence east one mile to the west quarter corner of Section 24; thence south along section lines two and one-half miles to the

southwest corner of Section 36 of Township 15 South, Range 19 East, M. D. B. & M.; thence in Township 16 South, Range 19 East to the northwest corner of Section 1; thence south two miles along section lines to the southwest corner of Section 12; thence west one mile to the northwest corner of Section 14; thence south two miles along section lines to the southwest corner of Section 23; thence east two miles along section lines to the southeast corner of Section 24 of the last named township and range; thence into Township 16, South, Range 20 East, M. D. B. & M. running east along section lines two miles to the southeast corner of Section 20; thence south along section lines one mile to the southwest corner of Section 28; thence east along section lines three miles to the southeast corner of Section 26; thence north along section lines one mile to the northeast corner of said Section 26; thence east along section lines to the southeast corner of Section 24 of the last named township and range; thence into Township 16 South, Range 21 East, M. D. B. & M. east along section lines three miles to the southeast corner of Section 21; thence south along section lines one mile to the southwest corner of Section 27; thence east along section lines two miles to the southeast corner of Section 26; thence south along section lines one mile to the southwest corner of Section 36; thence east along section lines to the southeast corner of Section 36 of the last named township and range; thence into Township 17 South, Range 22 East, M. D. B. & M., east along section lines to the northwest corner of Section 4; thence along the west side of said Section 4 to the southwest corner thereof; thence along the west side of Section 9, Township 17 South, Range 22 East, M. D. B. & M., to the southwest corner thereof; thence along the westerly side of Section 16, Township 17 South, Range 22 East, M. D. B. & M., to a point on the northerly bank of Cole Slough; thence westerly along said northerly bank of Cole Slough through Sections 17 and 18 all in Township 17 South, Range 22 East, M. D. B. & M.; thence westerly along the said northerly bank of Cole Slough through Sections 13, 24 and 23, in Township 17 South, Range 21 East, M. D. B. & M., and in Section 23 to the headgate at the intake of the Liberty Canal; thence along the northerly bank of said Liberty Canal through Sections 23, 22, 15, 16, 17, 8 and 7, all in Township 17 South, Range 21 East, M. D. B. & M.; thence through Sections 12, 11, 2 and 3, all in Township 17 South, Range 20 East, M. D. B. & M.; thence through Sections 34, 33, 32 and 31 all in Township 16 South, Range 20 East, M. D. B. & M.; thence through Sections 36, 25, 26, 27, 28, 33, 32, 31 and 30, Township 16 South, Range 19 East, M. D. B. & M.; thence into Township 16 South, Range 18 East, M. D. B. & M. through Section 25 to a point on the westerly line thereof; thence northerly along said line to the southeast corner of Section 23; thence westerly one mile to the southeast corner of Section 22; thence northerly one mile to the northeast corner of said Section 22; thence westerly one mile to the southeast corner of Section 16; thence northerly one mile to the northeast corner of said Section 16; thence westerly two miles to the southeast corner of Section 7; thence northerly one mile to the

northeast corner of said Section 7; thence westerly one mile to the northwest corner of Section 7 of the last named township and range; thence into Township 16 South, Range 17 East, M. D. B. & M. to the southeast corner of Section 1; thence on a diagonal line to the northwest corner of said Section 1; thence on a diagonal line to the southwest corner of Section 2; thence north 46 deg. 28 min. east along the center line of McMullen Grade 1479 feet; thence north 22 deg. 49 min. west on a line parallel to and 45 feet southwesterly of the surveyed line of Levee No. 1, 2048.44 feet to the point of beginning of a curve to the left, having a radius of 5684.61 feet; thence northwesterly along said curve 1577.51 feet to the end of said curve; thence N. 38 deg. 43 min. W. on a line tangent to the aforesaid curve 34,642.68 feet to the point of beginning of a curve to the left, having a radius of 11,414.2 feet; thence northwesterly along said curve 2347.44 feet to the end of said curve; thence N. 50 deg. 30 min. W. on a line tangent to aforesaid curve 17,956.29 feet to the point of beginning of a curve to the left having a radius of 5684.61 feet; thence westerly along said curve 5412.16 feet to the end of said curve; thence S. 74 deg. 53½ min. W. on a line tangent to aforesaid curve 5,209.13 feet to a point in the east line of the right of way of the Hanford and Summit Lake Railway; thence S. O deg. 18½ min. W. along said east line of said right of way 890.81 feet; thence S. 31 deg. 05½ min. E. along the west line of Reclamation District No. 1606, 1323.23 feet to the point of beginning of a curve to the left, having a radius of 2864.83 feet; thence southeasterly along said curve 2050 feet to the point of beginning of a curve to the right, having a radius of 5729.61 feet; thence southeasterly along said curve 2516.66 feet to the end of said curve; thence S. 46 deg. 55 min. E. on a line tangent to said curve 1477.72 feet to the point of beginning of a curve to the right, having a radius of 5729.61 feet; thence southeasterly along said curve 3146.67 feet to the end of said curve; thence S. 15 deg. 27 min. E. on a line tangent to said curve 10,360.68 feet; thence S. 15 deg. 26½ min. E. 5499.37 feet to a point in the south line of Section 15, T. 15 S., R. 16 E., M. D. B. & M., distant 4482.75 feet westerly from the southeast corner thereof; thence S. 88 deg. 39½ min. W. 735.25 feet crossing Fresno Slough along said south line of Section 15 to a point on the said south line of Section 15, 216.0 feet east of the southwest corner of said Section 15; thence N. 16 deg. 40 min. W. 1390.8 feet; thence N. 16 deg. 45 min. W. 1391.6 feet; thence N. 15 deg. 43 min. W. 701.4 feet; thence N. 15 deg. 21 min. E. 136.0 feet; thence N. 16 deg. 30 min. W. 814.0 feet; thence N. 17 deg. 03 min. W. 1123.5 feet, to a point on the North line of Section 16, T. 15 S., R. 16 E., M. D. B. & M., 1356.9 feet east of the one-quarter corner of the north side of Section 16; thence N. 15 deg. 32 min. W. 1381.0 feet; thence N. 16 deg. 20 min. W. 1386.0 feet; thence N. 15 deg. 58 min. W. 792.0 feet; thence N. 16 deg. 45 min. W. 593.0 feet; thence N. 20 deg. 36 min. W. 1421.0 feet, to a point on the north line of Section 9, T. 15 S., R. 16 E., M. D. B. & M., 2350.2 feet, East of the N. W. corner of Section 9; thence N. 16 deg. 39 min. W. 1442.6 feet; thence N. 24 deg. 57 min. W. 506.8 feet; thence N. 33

deg. 15 min. W. 174.4 feet; thence N. 53 deg. 20 min. W. 831.3 feet; thence N. 19 deg. 05 min. W. 253.5 feet; thence N. 20 deg. 25 min. W. 951.2 feet; thence N. 56 deg. 55 min. W. 538.2 feet; thence N. 47 deg. 55 min. W. 607.8 feet; thence N. 40 deg. 40 min. E. 1690.0 feet; thence N. 19 deg. 00 min. W. 600.0 feet; thence S. 71 deg. 00 min. W. 150.00 feet; thence S. 19 deg. 00 min. W. 514.6 feet; thence S. 40 deg. 40 min. W. 1604.0 feet; thence N. 46 deg. 51 min. W. 1341.6 feet, to a point on the North line of Section 5, T. 15 S., R. 16 E., M. D. B. & M., 1192.6 feet east of the one-quarter corner on the north side of said Section 5; thence West 48.3 feet; thence N. 54 deg. 17 min. W. 1339.1 feet; thence N. 54 deg. 22 min. W. 436.4 feet; thence N. 65 deg. 14 min. W. 584.3 feet; thence N. 82 deg. 04 min. W. 150.1 feet; thence N. 51 deg. 05 min. W. 761.6 feet; thence N. 63 deg. 57 min. W. 58.2 feet; thence N. 44 deg. 16 min E. 47.4 feet; thence N. 75 deg. 00 min. E. 275.0 feet; thence N. 19 deg. 41 min. W. 456.5 feet; thence N. 6 deg. 11 min. E. 619.4 feet; thence N. 78 deg. 03 min. W. 359.5 feet; thence S. 16 deg. 40 min. W. 322.1 feet; thence S. 81 deg. 05 min. W. 216.4 feet; thence N. 75 deg. 35 min. W. 567.0 feet; thence N. 77 deg. 25 min. W. 346.4 feet; thence S. 72 deg. 07 min. W. 183.9 feet; thence S. 56 deg 32 min. W. 280.0 feet; thence N. 79 deg. 09 min. W. 792.4 feet; thence N. 64 deg. 26 min. W. 1356.9 feet; thence N. 54 deg. 25 min. W. 487.8 feet; thence S. 82 deg. 19 min. W. 215.4 feet; thence N. 46 deg. 27 min. W. 265.7 feet; thence N. 5 deg. 29 min. W. 109.7 feet; thence N. 5 deg. 35 min. W. 1556.0 feet; thence N. 20 deg. 17 min. W. 183.7 feet; thence N. 55 deg. 34 min. W. 160.2 feet; thence S. 79 deg. 27 min. W. 199.2 feet; thence S. 69 deg. 25 min. W. 1504.0 feet; thence S. 69 deg. 37 min. W. 1843.8 feet; thence S. 40 deg. 24 min. W. 133.0 feet; thence S. 25 deg. 35 min. W. 516.8 feet; thence S. 22 deg. 47 min. W. 655.2 feet; thence S. 10 deg. 29 min. W. 471.0 feet; thence S. 14 deg. 54 min. W. 403.0 feet; thence West 165.6 feet to the center of Section 36, T. 14 S., R. 15 E., M. D. B. & M.; thence west along the north side of the southwest one-quarter of said section 36 to the one-quarter corner on the west side of Section 36; thence south along the west side of Section 36, 2642.0 feet to the southwest corner of Section 36; thence west 132.7 feet; thence south 21 deg. 48 min. west 1377.6 feet; thence south 21 deg. 06 min. west 779.6 feet; thence south 3 deg. 51 min. east 668.4 feet; thence south 2 deg. 42 min. west 1370.6 feet; thence south 0 deg. 48 min. west 1321.5 feet; thence south 13 deg. 55 min. west 1340.5 feet; thence south 13 deg. 40 min. West 1351.2 feet; thence south 14 deg. 07 min. west 1356.9 feet; thence south 12 deg. 50 min. west 354.0 feet; thence south 21 deg. 15 min. east 564.8 feet; thence south 34 deg. 00 min. east 563.7 feet to a point on the south line of Section 11, Township 15 South, Range 15 East, M. D. B. & M., 1544.6 feet west of the southeast corner of said Section 11; thence south 46 deg. 55 min. east 2114.8 feet to a point on the east line of Section 14, Township 15 South, Range 15 East, M. D. B. & M., 1444.5 feet south of the northeast corner of said Section 14; thence south along the west line of Section 13, Township 15 South, Range 15 East, M. D. B. & M., 3856.3 feet to the southwest corner of said Section 13, thence east 3951.9 feet to the northwest corner of the east one-half of the northeast ¼ of Section 24, Township 15 South, Range 15 East, M. D.

B. & M.; thence south 26 deg. 35 min. east 2968.8 feet to the ¼ corner on the east side of Section 24, Township 15 South, Range 15 East, M. D. B. & M.; thence south along the west line of the southwest ¼ of Section 19, Township 15 South, Range 16 East, M. D. B. & M., 2660.6 feet to the southwest corner of said Section 19; thence south 45 deg. 00 min. east 7536.0 feet to the southeast corner of Section 30, Township 15 South, Range 16 East., M. D. B. & M., said corner being also the northwest corner of Section 32 of the last named township; thence south 0 deg. 46½ min. west along the west line of said Section 32, 5343.62 feet to the southwest corner thereof; thence south 89 deg. 41 min. east along the south line of said Section 32, 5275.6 feet to the southeast corner thereof; thence south 89 deg. 38 min. east along the south line of Section 33, Township 15 South, Range 16 East M. D. B. & M., 5276.9 feet to the southeast corner thereof; thence south 0 deg. 26½ min. west along the west line of Section 3, Township 16 South, Range 16 East, M. D. B. & M., 2407 feet; thence north 88 deg. 29 min. 45 sec. east 2722.08 feet; thence south 0 deg. 26½ min. west 2632.1 feet to the south quarter corner of said Section 3; thence north 88 deg. 57 min. east 2721.65 feet to the southeast corner thereof; thence north 88 deg. 57½ min. east 5541.1 feet along the south line of Section 2, Township 16 South, Range 16 East, M. D. B. & M., to the southeast corner thereof; thence north 88 deg. 57½ min. east along the south line of Section 1, Township 16 South, Range 16 East, M. D. B. & M., 2770.68 feet to the south quarter corner thereof; thence south 0 deg. 6½ min. west along the west line of the north half of the northeast quarter of Section 12, Township 16 South, Range 16 East, M. D. B. & M., 1319.88 feet; thence north 88 deg. 54½ min. east along the south line of said north half of the northeast ¼, 2753.48 feet to a point in the east line of said Section 12; thence south 0 deg. 46½ min. west 3955.93 feet to the southeast corner of said Section 12; thence north 89 deg. 54½ min. east along the southerly line of Section 7, Township 16 South, Range 17 East, 2651.07 feet more or less, to the southerly quarter corner of said section; thence northerly along the east line of the southwest quarter of said section to the center of said section; thence easterly along the south line of the northeasterly quarter of said section to the intersection of said line with the official swamp and overflow survey line, said point of intersection being south 89 deg. 52 min. west 1997.45 feet, more or less, from the east quarter corner of said section, measured along the south line of the northeast quarter of said section; thence continuing along said official swamp and overflow survey line south 39 deg. 43 min. east 488.11 feet; thence south 34 deg. 43 min. east 1311.78 feet; thence south 77 deg. 53 min. east 938.35 feet to a point in the east line of said Section 7; thence continuing along said official swamp and overflow line south 27 deg. 30 min. east 762.3 feet; thence south 58 deg. east 594 feet to the south line of Section 8, in township 16 South, Range 17 East, M. D. B. & M.; thence west along the south line of said Section 8 to the southwest corner of said Section 8; thence south one mile to the southwest corner of Section 17; thence east one mile to the southeast corner of said Section 17; thence south one mile to the southwest corner of Section 21; thence east one mile to the southeast corner of said

Section 21; thence south two miles to the southwest corner of Section 34 of the last named township; thence into Township 17 South, Range 17 East, M. D. B. & M. west to the northwest corner of Section 3; thence south along section lines to the west ¼ corner of Section 10; thence east along the north line of the south ½ of Section 10 to the east ¼ corner of said Section 10; thence south along the section line to the southwest corner of Section 11; thence east along the section line to the southeast corner of said Section 11; thence south along the section line to the west ¼ corner of Section 13; thence east along the north line of the southwest ¼ of said Section 13 to the center of said Section 13; thence south along the east line of the southwest ¼ of said Section 13 to the south ¼ corner of said Section 13; thence east along the section line to the southeast corner of said Section 13; thence east along the section line to the southeast corner of said Section 13; thence in Township 17 South, Range 18 East, M. D. B. & M., east along the section line to the southwest corner of Section 17; thence south along the section line to the west ¼ corner of Section 20; thence along the north line of the southwest ¼ of Section 20 to the center of said Section 20; thence south along the east line of the southwest ¼ of Section 20 to the south ¼ corner of said Section 20; thence east along the section line to the southeast corner of Section 20; thence south along the section line to the west ¼ corner of Section 28; thence east along the north line of the southwest ¼ of Section 28 to the center of said Section 28; thence south along the east line of the southwest ¼ of Section 28 to the south ¼ corner of said Section 28; thence east along section lines to the north ¼ corner of Section 34; thence south along the west line of the northeast ¼ of Section 34 to the center of said Section 34; thence east along the south line of the northeast ¼ of Section 34 to the east ¼ corner of said Section 34; thence south along the section line to the southwest corner of the north ½ of the southwest ¼ of Section 35; thence east along the south line of the north ½ of the southwest ¼ of Section 35 to the southeast corner of the north ½ of the southwest ¼ of said Section 35; thence south along the east line of the south ½ of the southwest ¼ of Section 35 to the south ¼ corner of Section 35, Township 17 South, Range 18 East, M. D. B. & M.; thence into Township 18 South, Range 18 East, M. D. B. & M. to the north ¼ corner of Section 2; thence south along the west line of the east half of said Section 2 to the south ¼ corner of said Section 2; thence east along section lines to the southeast corner of Section 1; thence into Township 18 South, Range 19 East, M. D. B. & M. to the southwest corner of Section 6; thence south along the section line to the southwest corner of Section 7; thence east along the section line to the southeast corner of said Section 7; thence south along the section line to the southwest corner of Section 17; thence east along the section line to the southeast corner of said Section 17; thence south along the section line to the southwest corner of Section 21; thence east along the south section line of Section 21 to the point of intersection of said section line and the Government Swamp and Overflow Meander Line; thence southeasterly along the Government Swamp and Overflow Meander Line through Section 28 to the intersection of said meander line and

the east section line of said Section 28; thence south along section lines for approximately one and three-fourths miles to the southwest corner of Section 34, Township 18 South, Range 19 East, M. D. B. & M.; thence in Township 19 South, Range 19 East, M. D. B. & M. to the northwest corner of Section 3; thence south along the section line to the southwest corner of Section 3; thence east along the south line of said Section 3, one mile to the southeast corner of said Section 3; thence easterly three-quarters of a mile along the south line of Section 2 of the last named township and range, to the southwest corner of the southeast one-quarter of the southeast one-quarter of said Section 2; thence southerly one-half mile to the southwest corner of the southeast quarter of the northeast quarter of Section 11; thence southerly along the west line of the east ½ of the southeast ¼ of said Section 11, also being the west line of Lot 5 of said Section 11, to the Southern Pacific Company Railroad line; thence southeasterly along the westerly line of said Lot 5 of said Section 11 to the southeast corner of said Section 11; thence south 2½ miles along the west lines of Sections 13, 24 and 25, Township 19 South, Range 19 East, M. D. B. & M., to the west ¼ corner of said Section 25; thence east 2056 feet along the east-west center line of said Section 25 to a point along the west bank of South Fork of Kings River; thence south 252 feet along said west bank of said South Fork of Kings River to a point which is the junction of the said west bank of South Fork of Kings River and the westerly bank of the Empire West Side Irrigation District's Upper Ditch; thence south 47 degrees and 39 minutes west 2734 feet along the westerly bank of said Empire West Side Irrigation District's Upper Ditch to a point on the west line of said Section 25, which point is 548 feet north of the southwest corner of said Section 25; thence south 47 deg. 39 min. west 320 feet along said westerly bank of said Upper Ditch, in Section 26, Township 19 South, Range 19 East, M. D. B. & M.; thence south 8 deg. 29 min. west 1990.6 feet in Section 26 and 35 of the last named township and range; thence south 18 deg. 40 min. east 1250 feet along the said westerly bank of said Upper Ditch in Section 35, Township 19 South, Range 19 East, M. D. B. & M., to a point; thence south from this point 59 deg. 13 min. east 142 feet along said westerly bank of Upper Ditch to a point which point lies on the east line of said Section 35 and being 224 feet south of the east ¼ corner of said Section 35; thence southerly 2403 feet along the east line of said Section 35 to the southeast corner of said Section 35, also being along the said westerly bank of Upper Ditch; thence southerly 10,723.7 feet along the west lines of Section 1 and 12, Township 20 South, Range 19 East, M. D. B. & M., also along the west bank of said Upper Ditch to the southwest corner of said Section 12; thence westerly 700 feet along the north line of Section 14, last named township and range, to a point on the said westerly bank of Upper Ditch; thence southerly 2680.9 feet along said westerly bank of Upper Ditch; thence easterly 700 feet to the east ¼ corner of said Section 14; thence southerly 6702.2 feet along the west lines of Sections 13 and 24 to the southwest corner of the northwest quarter of the southwest quarter of Section 24, last named township and range; thence easterly 1322.8 feet to the southeast corner of the

northwest quarter of the southwest quarter of said Section 24; thence southerly 670.3 feet to the southwest corner of the northwest quarter of the southeast quarter of the southwest quarter of said Section 24; thence easterly 1322.8 feet to the southeast corner of the northeast quarter of the southeast quarter of the southwest quarter of said Section 24; thence southerly 670.3 feet to the south quarter corner of said Section 24; thence southerly 207 feet along the westerly bank of the Upper Ditch of the Empire West Side Irrigation District in Section 25, last named township and range; thence south 34 deg. 10 min. west 284 feet along said westerly bank of Upper Ditch; thence south 45 deg. 20 min. west 3400 feet along said westerly bank of Upper Ditch to the west quarter corner of said Section 25; thence easterly 982 feet to a point on the westerly bank of Ditch of Empire West Side Irrigation District; thence south 48 deg. 30 min. west 2770 feet along said westerly bank of Ditch through portions of Sections 25 and 26, Township 20 South, Range 19 East, M. D. B. & M.; thence south 36 deg. 30 min. west 2700 feet through portions of Sections 26 and 35 along said westerly bank of Ditch; thence southerly 1340.4 feet to center of said Section 35; thence westerly 1320 feet to the northwest corner of the northeast quarter of the southwest quarter of Section 35, Township 20 South, Range 19 East, M. D. B. & M.; thence southerly 2681 feet to the southwest corner of the southeast quarter of the southwest quarter of said Section 35, also being the southwest corner of Lot 9 of said Section 35; thence easterly along the south line of said Section 35 to the intersection of said line with the northwesterly bank of the West Side Canal, said point of intersection also being a point on the north line of Section 1, Township 21 South, Range 19 East, M. D. B. & M. where said line intersects the northwesterly bank of said West Side Canal; thence southwesterly following the meanderings of said bank of said canal to its intersection with the northern line of Section 15, same township and range; thence westerly along said line of said Section 15 to the north quarter corner of Section 15 in said Township 21 South, Range 19 East; thence southerly ½ mile to the center of said Section 15; thence westerly ¼ of a mile to the northwest corner of the east half of the southwest quarter of said Section 15; thence southerly ½ of a mile to the southwest corner of the east half of the southwest quarter of said Section 15; thence westerly along the southern line of said Section 15 and along the southern line of Section 16, same township and range, to the south quarter corner of said Section 16, last said quarter corner being a point on the meander line of Tulare Lake as established by the United States Surveyor General of California in the year 1855; thence along said meander line S. 31 deg. 10 min. W. 77.10 chains, S. 35 deg. 45 min. W. 17.12 chains, S. 39 deg. 30 min. W. 72.00 chains, S. 9 deg. 30 min. W. 25.00 chains, S. 44 deg. 35 min. W. 28.30 chains and S. 28 deg. W. 68.15 chains to a point on the southern line of Section 31 of said Township 21 South, Range 19 E., M. D. B. & M., last said point being distant S. 89 deg. 26 min. E. 48.00 chains from the southwest corner of said Section 31; thence, leaving said meander line, and along the line between Township 21 South, Range 19 East, and Township 22 South, Range 19 E., M.D. B. & M., north 89 deg. 26

min. W. 8.06 chains to the north quarter corner of Section 6 of said Township 22 South, Range 19 East, M. D. B. & M.; thence southerly along the line dividing the east half and the west half of said Section 6 and along the line dividing the east one-half and the west one-half of Section 7, last said township and range, 2 miles, more or less, to the south quarter corner of said Section 7; thence easterly along the southern line of said Section 7 one-half of a mile, more or less, to the northwest corner of Section 17, last said township and range; thence southerly three-eighths of a mile to the southwest corner of the north one-half of the south one-half of the northwest one-quarter of said Section 17; thence easterly one-half of a mile to the southeast corner of the north one-half of the south one-half of the northwest quarter of said Section 17; thence southerly five-eighths of a mile to the south quarter corner of said Section 17; thence easterly ¼ mile to the northwest corner of the northeast quarter of the northeast quarter of Section 20, last said township and range; thence southerly three-quarters of a mile to the southwest corner of the northeast one-quarter of the southeast one-quarter of said Section 20; thence easterly one-quarter of a mile to the southeast corner of the northeast one-quarter of the southeast one-quarter of said Section 20; thence southerly one-quarter of a mile to the northwest corner of Section 28, last said township and range; thence east one-half of a mile to the north one-quarter corner of said Section 28; thence southerly one mile to the south one-quarter corner of said Section 28; thence east one-half of a mile to the northwest corner of Section 34, last said township and range; thence southerly along the western line of last said Section 34 and continuing along the western line of Section 3, Township 23 South, Range 19 East, M. D. B. & M., 1½ miles, more or less, to the west quarter corner of last said Section 3; thence easterly one-quarter of a mile to the northwest corner of the northeast quarter of the southwest quarter of last said Section 3; thence southerly one-quarter of a mile to the southwest corner of the northeast one-quarter of the southwest one-quarter of last said Section 3; thence easterly three-quarters of a mile to the northeast corner of the southeast one-quarter of the southeast one-quarter of last said Section 3; thence southerly one-quarter of a mile to the southeast corner of last said Section 3; thence easterly along the southern line of Sections 2 and 1, last said township and range, 2 miles, more or less, to the northwest corner of Section 7, Township 23 South, Range 20 East, M. D. B. & M., thence southerly one-half of a mile to the west quarter corner of last said Section 7; thence easterly one-half of a mile, more or less, to the center of last said Section 7; thence southerly one-quarter of a mile to the southwest corner of the northwest one-quarter of the southeast one-quarter of last said Section 7; thence easterly one mile to the northwest corner of the southwest one-quarter of the southeast one-quarter of Section 8, last said township and range; thence southerly one-quarter of a mile to the south quarter corner of last said Section 8; thence easterly along the southern lines of Section 8, 9, 10, and 11, last said township and range, 3½ miles, more or less, to the northwest corner of Section 13, Township 23 South, Range 20 East, M. D. B. & M.; thence

southerly along the western lines of Sections 13, 24, 25, and 36, last said township and range, 4 miles to the southwest corner of last said Section 36; thence easterly one mile to the northwest corner of Section 6, Township 24 South, Range 21 East, M. D. B. & M.; thence southerly one mile to the southwest corner of last said Section 6; thence easterly 85.81 chains, more or less, to the northwest corner of Section 8, last said township and range; thence southerly three-quarters of a mile to the southwest corner of the northwest one-quarter of the southwest one-quarter of last said Section 8; thence easterly along the southern lines of the north half of the south half of Sections 8, 9, and 10, last said township and range, 3 miles, more or less, to the southeast corner of the northeast quarter of the southeast quarter of last said Section 10; thence northerly three-quarters of a mile to the southwest corner of Section 2, last said township and range; thence easterly along the southern lines of Sections 2 and 1, last said township and range, 2 miles, more or less, to the southeast corner of last said Section 1; thence southerly one-half of a mile to the east one-quarter corner of Section 12, last township and range; thence easterly along the east and west center lines of Sections 7 and 8, Township 24 South, Range 22 East, M. D. B. & M.; one and one-half miles more or less to the center of last said Section 8; thence northerly one-half of a mile to the south quarter corner of Section 5, last said township and range; thence easterly along the southern lines of 5, 4 and 3, last said township and range, two and one-half miles more or less to the southwest corner of Section 2, Township 24 South, Range 22 East, M. D. B. & M.; thence east, along the southern line of last said Section 2, 11.94 chains to its intersection with the meander line of Tulare Lake as surveyed in 1880 and shown on the township plat of last said township approved by the United States Surveyor General of California on February 9th, 1881; thence along last said meander line north 55 degrees E. 55.00 chains, north 60 degrees E. 15.00 chains; north 56 degrees 30 minutes E. 31.62 chains and north 56 degrees 30 minutes E. 61.86 chains to a point on the north line of Section 1, Township 24 South, Range 22 East, M. D. B. & M., distance thereon west 29.00 chains from the northeast corner of last said Section 1; thence northeasterly along the meander or shore line in 1880 of Tulare Lake through Section 36, Township 23 South, Range 22 East, M. D. B. & M., to a point on the western line of Section 31, Township 23 South, Range 23 East, M. D. B. & M., distant thereon north 21.00 chains from the southwest corner of last said Section 31; thence continuing along the meander or shore line of Tulare Lake as surveyed in 1880 and shown on the township plat of last said township approved by the United States Surveyor General of California on February 9, 1881, the following courses and distances: North 52 degrees E. 50.00 chains, N. 56 degrees E. 17.00 chains, N. 52 degrees, E. 30.20 chains, N. 52 degrees 30 minutes E. 11.40 chains, N. 43 degrees E. 23.00 chains, N. 44 degrees E. 35.00 chains, N. 49 degrees E. 45.06 chains, N. 45 degrees E. 5.65 chains, N. 41 degrees E. 52.00 chains, N. 35 degrees, E. 10.00 chains, N. 38 degrees E. 36.24 chains, N. 22 degrees E. 22.00 chains, N. 26 degrees E. 8.00 chains, N. 23 degrees E. 16.10 chains and N. 15 degrees

30 minutes E. 40.00 chains to a point on the north line of Section 15, Township 23 South, Range 23 East, M. D. B. & M., distant thereon west 68.00 chains from the northeast corner of said Section 15; thence leaving last said meander line, and along the northern lines of Sections 15, 16, last said township and range westerly 91.78 chains to the southeast corner of Section 8, last said township and range; thence northerly one-half mile to the east quarter corner of said Section 8; thence westerly one mile to the west quarter corner of said Section 8; thence southerly one-half mile to the southwest corner of said Section 8; thence westerly 86.17 chains to the northwest corner of Section 18, last said township and range, said corner of said Section 18 being also the southeast corner of Section 12, Township 23 South, Range 22 East, M. D. B. & M.; thence north one mile to the northeast corner of Section 12, last named township and range; thence north along range line 12 miles to the northeast corner of Section 12, Township 21 South, Range 22 East, M. D. B. & M.; thence west two and one-half miles along section lines to the south one-quarter corner of Section 3, last named township and range; thence northerly one-half mile to the center of said Section 3; thence westerly one-half mile to the west one-quarter corner of said Section 3; thence north one-half mile to the northwest corner of said Section 3, thence east 3 miles along township line to the northeast corner of Section 1, Township 21 South, Range 22 East, M. D. B. & M.; thence east 383 feet along said township correction line to a point on the south line of Section 36, Township 20 South, Range 22 East, M. D. B. & M. which point is also on center line of Lakelands Canal and Irrigation Company Canal; thence N. 21 deg. 45 min. W. a distance of 6388 feet along center line of said canal; thence N. 62 deg. 45 min. W. a distance of 711 feet along center line of said canal to a point on the west line of Section 25 last named township and range, said point being 1278 feet north of the southwest corner of said Section 25; thence north on section line to the west one-quarter corner of said Section 25; thence east to the southeast corner of the southwest one-quarter of the northwest one-quarter of said Section 25; thence north to the southeast corner of the northwest one-quarter of the northwest one-quarter of said Section 25; thence east to the southeast corner of the northeast one-quarter of the northwest one-quarter of said Section 25; thence north to the north one-quarter corner of said Section 25; thence east to the northeast corner of said Section 25; thence north along range line to the northeast corner of southeast one-quarter of the southeast one-quarter of Section 12, Township 20 South, Range 22 East; thence west to the northwest corner of the southeast one-quarter of the southwest one-quarter of said Section 12; thence south to the southwest corner of the southeast one-quarter of the southwest one-quarter of said Section 12; thence west along the section lines to the northeast corner of Section 16, Township 20 South, Range 22 East, M. D. B. & M.; thence west three miles along the north line of Sections 16, 17 and 18 to the northwest corner of Section 18 last named township and range; thence west one-half mile along section line to the south one-quarter corner of Section 12, Township 20 South, Range 21 East; thence northerly along the

north-south center line of last named Section 12 to the north one-quarter corner of said Section 12; thence west one and one-half miles along section lines to the northwest corner of Section 11 last named township and range; thence northerly one mile along section line to the northwest corner of Section 2 last named township and range; thence northerly three miles along the west lines of Sections 35, 26 and 23, Township 19 South, Range 21 East, M. D. B. & M. to the northwest corner of Section 23; thence east one mile along section line to the northeast corner of said Section 23; thence northerly one mile along section line to the northwest corner of Section 13 last named township and range; thence east one mile along section line to the northeast corner of said Section 13; thence east four miles along section lines to the northeast corner of Section 15, Township 19 South, Range 22 East, M. D. B. & M.; thence north one mile along section line to the northwest corner of Section 11 last named township and range; thence east one mile along section line to the southeast corner of Section 2 last named township and range; thence north one mile to the northeast corner of said Section 2; thence north two miles along section lines to the northwest corner of Section 25, Township 18 South, Range 22 East, M. D. B. & M.; thence one-half mile east along section line to the south one-quarter corner of Section 24, last named township and range; thence north one mile along north-south center line of Section 24 last named township and range to the north one-quarter corner of said Section 24; thence west one-half mile along section line to the northwest corner of said Section 24; thence north two miles along sections lines to the northwest corner of Section 12 last named township and range; thence northerly along the west line of Section 1, Township 18 South, Range 22 East, M. D. B. & M., to the point of intersection of the said west line with the north bank of the slough used as part of the ditch known as the Settlers Ditch; thence running upstream along the north bank of said slough and said Settlers Ditch through Sections 6 and 5, Township 18 South, Range 23 East, M. D. B. & M., Sections 33, 34, 27, 26, and 25, Township 17 South, Range 23 East, M. D. B. & M., Sections 30 and 19, Township 17 South, Range 24 East, M. D. B. & M., to the most easterly intersection of the north bank of the said slough and the south line of said Section 19 in the southeast quarter of said Section 19; thence east to the southeast corner of said Section 19; thence north to the east quarter corner of said Section 19; thence east along east and west center section lines through Sections 20 and 21 to the west quarter corner of Section 22; thence southeasterly along the meander line between swamp land and high land to a point on the east section line of said Section 22 a distance of twenty-seven chains and 50 links north of the southeast corner of said Section 22; thence south to the southeast corner of said Section 22; thence east along the south section lines of Sections 23 and 24 of the last named township; thence east along the south section lines of Sections 19, 20, and 21, Township 17 South, Range 25 East, M. D. B. & M., to the south quarter corner of said Section 21; thence north along north and south center section lines through Sections 21, 16, and 9 to the north quarter corner of said Section 9; thence east along the south sections

lines of Sections 4, 3, 2, and 1 to the south quarter corner of said Section 1; thence north along the north and south center section line to the north quarter corner of said Section 1; thence west to the southeast corner of Section 35, Township 16 South, Range 25 East, M. D. B. & M.; thence north along the east line of said Section 35 to the point of intersection of the said east line of Section 35 and the east bank of the Sontag Ditch as originally constructed, said Sontag Ditch being the continuance of the East Branch of the Alta Main Canal; thence northwesterly along said east bank of said Sontag Ditch as was originally constructed to a point where the Sontag Ditch is known as the East Branch of Alta Main Canal; thence continuing northwesterly along the east bank of said East Branch of Alta Main Canal as originally constructed to the point where the said East Branch of Alta Main Canal intersects the Alta Main Canal; thence continuing northwesterly along the east bank of the Alta Main Canal to the main headgate of Alta Main Canal located in Section 2, Township 14 South, Range 23 East, M. D. B. & M.; thence upstream along the east bank of said Alta Main Canal formerly known as 76 canal, sometimes also known as the Back Channel of Kings River, in a northeasterly direction to a point where the south bank of said Alta Main Canal intersects the south bank of Kings River; thence upstream along the south bank of said Kings River to a point where said south bank intersects the section line between Sections 17 and 18 in Township 13 South, Range 24 East, M. D. B. & M.; thence north along said section line to the point of beginning.

Also beginning at a point on the east bank of La Hacienda spillway in Section 13, Township 24 South, Range 21 East, M. D. B. & M., said point being one-half mile south of the north line of said Section 13, and running thence northeasterly in a direct line to the northwest corner of the southwest quarter of the northwest quarter of Section 18, Township 24 South, Range 22 East, M. D. B. & M., thence easterly one and three-quarters miles, more or less, to the northeast corner of the southwest quarter of the northeast quarter of Section 17, last said township and range; thence southerly one-quarter of a mile to the southeast corner of the southwest quarter of the northeast quarter of said Section 17; thence easterly one-half of a mile to the southwest corner of the southeast quarter of the northwest quarter of Section 16, last said township and range; thence northerly one-half of a mile to the northwest corner of the northeast quarter of the northwest quarter of said Section 16; thence easterly three-quarters of a mile to the southwest corner of Section 10, last said township and range; thence northerly one-quarter of a mile to the northwest corner of the south half of the southwest quarter of said Section 10; thence easterly one-half of a mile to the northeast corner of the south one-half of the southwest quarter of said Section 10; thence southerly one-eighth of a mile to the southeast corner of the north one-half of the southeast quarter of the southwest quarter of said Section 10; thence westerly one-quarter of a mile to the southwest corner of the north half of the southeast quarter of the southwest quarter of said Section 10; thence southerly one-eighth of a mile to the southeast corner of the southwest quarter of the southwest quarter of said

Section 10; thence westerly one-quarter of a mile to the northeast corner of Section 16, last said township and range; thence southerly one-quarter of a mile to the southeast corner of the northeast quarter of the northeast quarter of said Section 16; thence westerly one-quarter of a mile to the southwest corner of the northeast quarter of the northeast quarter of said Section 16; thence southerly one-half of a mile to the northwest corner of the southeast quarter of the southeast quarter of said Section 16; thence easterly one-half of a mile to the northeast corner of the southwest quarter of the southwest quarter of Section 15, last said township and range; thence northerly one-half of a mile to the northwest corner of the southeast quarter of the northwest quarter of said Section 15; thence easterly one-quarter of a mile to the northeast corner of the southeast quarter of the northwest quarter of said Section 15; thence northerly one-eighth of a mile to the northwest corner of the south half of the northwest quarter of the northeast quarter of said Section 15; thence easterly one-quarter of a mile to the northeast corner of the south half of the northwest quarter of the northeast quarter of said Section 15; thence northerly one-eighth of a mile to the northwest corner of the northeast quarter of the northeast quarter of said Section 15; thence easterly one-quarter of a mile to the northeast corner of said Section 15; thence southerly one mile to the southeast corner of said Section 15; thence westerly along the southern boundary lines of said Sections 15 and 16, two miles to the northeast corner of Section 20 last said township and range; thence southerly one-half of a mile to the east quarter corner of said Section 20; thence westerly along the east and west center lines of Sections 20 and 19, last said township and range, and continuing along the east and west center line of Section 24, Township 24 South, Range 21 East, M. D. B. & M., a distance of two and three-quarters miles, more or less, to a point on the east bank of La Hacienda spillway in said Section 24; thence northerly along said bank of said spillway one mile to the point of beginning.

Excepting therefrom the lands embraced within the boundaries of the following cities, as such cities' boundaries existed as of March 1, 1979:

1. The City of Clovis and additions situated in Township 12 South, Range 21 East, M. D. B. & M., and Township 13 South, Range 21 East, M. D. B. & M.;

2. The City of Fresno and additions situated in Township 12 South, Range 19 East, M. D. B. & M., Township 12 South, Range 20 East, M. D. B. & M., Township 13 South, Range 19 East, M. D. B. & M., Township 14 South, Range 19 East, M. D. B. & M., Township 13 South, Range 20 East, M. D. B. & M., Township 13 South, Range 21 East, M. D. B. & M., Township 14 South, Range 20 East, M. D. B. & M., and Township 14 South, Range 21 East, M. D. B. & M.;

3. The City of Kerman and additions situated in Township 14 South, Range 17 East, M. D. B. & M., and Township 14 South, Range 18 East, M. D. B. & M.;

4. The City of Selma and additions situated in Township 15 South, Range 21 East, M. D. B. & M., Township 15 South, Range 22 East, M. D. B. & M., and Township 16 South, Range 22 East, M. D. B. & M.;

5. The City of Kingsburg and additions situated in Township 16 South, Range 22 East, M. D. B. & M.;

6. The City of Fowler and additions situated in Township 15 South, Range 21 East, M. D. B. & M.;

7. The City of Sanger and additions situated in Township 14 South, Range 22 East, M. D. B. & M.;

8. The City of Hanford and additions situated in Township 18 South, Range 22 East, M. D. B. & M., Township 19 South, Range 21 East, M. D. B. & M., Township 19 South Range 22 East, M. D. B. & M., and Township 18 South, Range 21 East, M. D. B. & M.;

9. The City of Corcoran and additions situated in Township 21 South, Range 22 East, M. D. B. & M.;

10. The City of Lemoore and additions situated in Township 18 South, Range 20 East, M. D. B. & M. and Township 19 South, Range 20 East, M. D. B. & M.;

11. The City of Parlier and additions situated in Township 15 South, Range 22 East, Mount Diablo Base and Meridian;

12. The City of San Joaquin and additions situated in Township 15 South, Range 16 East, Mount Diablo Base and Meridian;

13. The City of Reedley and additions situated in Township 15 South, Range 23 East, M. D. B. & M.;

14. The City of Dinuba and additions situated in Township 16 South, Range 24 East, M. D. B. & M.;

It is the intent of the Legislature that any annexations to the above described cities after March 1, 1979, shall be concurrently detached from the Kings River Conservation District under the provisions of the District Reorganization Act of 1965 (commencing with Section 56000 of the Government Code).

And further excepting therefrom the lands embraced within the limits of the townsites as listed below:

1. The Town of Biola as shown in Record of Surveys Number 8, pages 32 and 33 in the office of the County Recorder of the County of Fresno, State of California;

2. The Town of Del Rey, additions and portion of Section according to the maps of same on file and of record in the Office of the County Recorder of the County of Fresno, State of California, described as follows to wit:

Commencing at the northeast corner of Section 5, Township 15 South, Range 22 East, Mount Diablo Base and Meridian; thence south along east line of said Section 5 to a point 771.88 feet south of East ¼ corner of Section 5, being 100 feet southerly from the southeast corner of Swanson Addition No. 2; thence N. 87° 05' W. a distance of 929.28 feet to a point 20 feet N. 87° 05' W. and 120 feet S. 1° 20' W. from the southwest corner of Block 4 of Swanson Addition No. 2 to Townsite of Del Rey; thence N. 1° 20' E. 725.02 feet to a point on the south line of the northeast ¼ of said Section 5, which is 20 feet N. 1° 20' E. from a point 20 feet N. 89° 39' W. from the northwest corner of Block 2 of Swanson Addition to Townsite of Del Rey; thence westerly along the south line of Northeast ¼ of said Section 5 to a point 558.62 feet east of center of Section 5, Township 15 South, Range 22 East; thence N. 0° 28' W. 446 feet; thence east 250.96 feet

to most westerly corner of Lot 29 of Azadian Addition; thence N. 35° 58' E. along northwesterly line of Azadian Addition to intersection with the southwesterly line of Vine Avenue as shown on map of Town of Del Rey; thence N. 45° 54' W. to intersection with the northwesterly line of Fourth Street as shown on map of Town of Del Rey; thence N. 57° 21' W. a distance of 310.73 feet, more or less, to southeast corner of West ½ of Northwest ¼ of Northeast ¼ of said Section 5; then north 1320 feet, more or less, to northeast corner of West ½ of Northwest ¼ of Northeast ¼ of Section 5; then east 1980 feet, more or less, to northeast corner of Section 5, Township 15 South, Range 22 East, Mount Diablo Base and Meridian and point of beginning.

3. The Town of Bowles, additions and portion of section according to the maps of same on file and of record in the Office of the County Recorder of the County of Fresno, State of California described as follows to wit:

Commence at the southwest corner of Section 24, Township 15 South, Range 20 East, Mount Diablo Base and Meridian; thence north 380 feet along section line to intersection with the westerly extension of the north line of Lewis Avenue, 50 feet wide; thence east along north line of Lewis Avenue and extension thereof to intersection with west line of 80 foot Atchison and Topeka and Santa Fe Railway Right of way, being 20 feet north and 20 feet east of northeast corner of Block 1 of Lewis addition to Town of Bowles; thence south along said westerly Right of way line to intersection with the easterly extension of the south line of A Street, as shown on map of Town of Bowles; thence west 170 feet, more or less, along said south line and extension thereof to a point 60 feet east of northeast corner of Block 1, Town of Bowles, being the east line of Broadway Avenue and westerly line of 160 foot Atchison Topeka and Santa Fe Railway Reservation; thence southerly along said west line to intersection with the easterly extension of the south line of Block 3 of Town of Bowles, 77.1 feet easterly of southeast corner of said Block 3; thence west along the south line of Blocks 3 and 4 of Town of Bowles and the extension thereof to a point 40 feet west of southwest corner of Block 4, Town of Bowles; thence north along a line parallel to and 40 feet west of west line of Blocks 4, 5 and 6, Town of Bowles to intersection with westerly extension of north line of Block 6 at a point 40 feet west of northwest corner of Block 6, Town of Bowles; thence west 94 feet along westerly extension of north line of Block 6 of said town; thence north 330 feet to a point 30 feet south of north line of Section 25, Township 15 South, Range 20 East; thence west along a line parallel to and 30 feet south of north line of said Section 25 to intersection with west line of Section 25; thence north 30 feet to southwest corner of Section 24, Township 15 South, Range 20 East, Mount Diablo Base and Meridian, being point of beginning.

4. Portion of the Town of Monmouth as shown in Record of Surveys, Volume 4 Page 43, in the Office of the County Recorder of the County of Fresno, State of California and portion of Section 1, Township 16 South, Range 20 East, Mount Diablo Base and Meridian exterior boundaries described as follows:

Commence at the southeast corner of the Northeast ¼ of Southeast ¼ of Section 1, Township 16 South, Range 20 East, Mount Diablo Base and Meridian; thence south along said section line to intersection with the easterly extension of the south line of the 8-foot alley, as shown on map of Town of Monmouth; thence westerly along south line of alley and extension thereof, being 8 feet south of the south lines of Blocks 1, 2 and 3 of said town, to intersection with east line of 200-foot Atchison, Topeka, and Santa Fe Railway reservation; thence northwesterly along the easterly line of said railway reservation to intersection with the westerly projection of the north line of a 40-foot county road; thence easterly along said north line and extension thereof, being parallel to and 228 feet north of north lines of Blocks 4, 5 and 6 of Town of Monmouth to intersection with east line of said Section 1; thence south along said section line to southeast corner of northeast ¼ of southeast ¼ of Section 1, Township 16 South, Range 20 East, being point of beginning.

5. Portion of Town of Caruthers as shown in Record of Surveys Volume 5 Page 11 and Sandusky Tract as shown in Plats Volume 14 Page 59 and portion of Section 18, Township 16 South, Range 20 East, Mount Diablo Base and Meridian, all as shown in Office of County Recorder of the County of Fresno, State of California described as follows: Commence at the intersection of the north line of Section 18, Township 16 South, Range 20 East, Mount Diablo Base and Meridian with the northwesterly projection of the southwesterly line of Villa Lot 1 of the Town of Caruthers; thence southeasterly along said southwesterly line and the projection thereof and along the southwesterly line of Villa Lot 6 of the Town of Caruthers to intersection with the east line of Section 18, Township 16 South, Range 20 East; thence south along said east line to intersection with the southeasterly projection of the northeasterly line of Villa Lot 5 of the Town of Caruthers; thence northwesterly along the southeasterly projection of said Villa Lot 5 and along the northeasterly line of Villa Lot 5 to a point 168 feet southeasterly from most northerly corner of Villa Lot 5; thence southwesterly along line parallel to and 168 feet southeast of northwesterly line of Villa Lot 5 to intersection with northeasterly line of Sandusky Tract; thence southeasterly 2 feet to most easterly corner of Sandusky Tract; thence southwesterly along the southeasterly line of Sandusky Tract, being 170 feet southeasterly and parallel to the northwesterly line of Villa Lot 5, to intersection with the southeasterly extension of the northeasterly line of Block 82 of Town of Caruthers; thence southeasterly along said southeasterly extension to intersection with a line 490 feet north and parallel to the south line of the North ½ of the South ½ of Section 18, Township 16 South, Range 20 East; thence east along said parallel line to a point 490 feet north of south line of North ½ of South ½ of Section 18, Township 16 South, Range 20 East and 1150 feet east of southeasterly line of Sandusky Tract; thence south 490 feet to south line of North ½ of South ½ of Section 18, Township 16 South, Range 20 East; thence west along said Section line to intersection with the southwesterly projection of southeasterly line of Villa Lot 4 of Town of Caruthers; thence

northeasterly along said southwesterly projection and along the southeasterly line of said Villa Lot 4 to most easterly corner of Villa Lot 4; thence northwesterly 440 feet along northeasterly line of Villa Lot 4 to a point 40 feet southeast of most easterly corner of Block 93, Town of Caruthers; thence southwesterly 360 feet along a line parallel to and 40 feet southeasterly from the southeasterly line of Block 93; thence at right angles northwesterly 40 feet to intersection with the southwesterly projection of the southeasterly line of said Block 93; thence southwesterly along said southwesterly projection 277 feet; thence at right angles northwesterly 400 feet to intersection with the northwesterly line of Villa Lot 4; thence southwesterly along said northwesterly line to intersection with the west line of the East ½ of the West ½ of Section 18, Township 16 South, Range 20 East; thence north along said Section line to intersection with the southwesterly projection of a line that is parallel to and 550 feet northwesterly of the southeasterly line of Villa Lot 3 of Town of Caruthers; thence northeasterly along said parallel line to intersection with the northeasterly line of said Villa Lot 3; thence northwesterly along said northeasterly line of Villa Lot 3 to most southerly corner of Villa Lot 2, Town of Caruthers; thence northeasterly along the southeasterly line of said Villa Lot 2 to most easterly corner of Villa Lot 2; thence northwesterly along northeasterly line of Villa Lot 2 and northwesterly production thereof to intersection with the north line of Section 18, Township 16 South, Range 20 East; thence east along said section line to intersection with the northwesterly projection of the southwesterly line of Villa Lot 1, Town of Caruthers, being point of beginning.

6. The Town of Laton as shown in Record of Surveys Number 1, Page 76 and portion of West Laton Addition, as shown in Record of Surveys Number 6 page 24 in the Office of the County Recorder of the County of Fresno, State of California, described as follows:

All of the Southwest ¼ of Section 22, Township 17 South, Range 21 East, Mount Diablo Base and Meridian.

7. The Town of Lanare as shown in Record of Surveys Number 7, Page 52 in the office of the County Recorder of the County of Fresno, State of California;

8. The Town of Riverdale, additions and portion of sections, as shown of record in the Office of the County Recorder of Fresno County, State of California described as follows:

Being that portion of Sections 24 and 25 of Township 17 South, Range 19 East, Mount Diablo Base and Meridian, Fresno County, California described as follows: Beginning at the southwest corner of Section 24 and running northerly along the west line of Section 24 a distance of 238.7 feet to a point on said west line; thence easterly and parallel to the south line of said Section and 238.7 feet northerly therefrom, a distance of 880 feet; thence northerly 880 feet easterly from and parallel to the west line of said Section to a point on the north line of South ½ of North ½ of Southwest ¼ of Section 24; thence easterly on said line to a point 740 feet west of north to south center line of Section 24; thence southerly 360 feet on a line parallel to and 740 feet west of the north to south center line of Section 24 to a point

445 feet north of north line of "C" Street as shown on map of La Paloma Addition to Riverdale; thence easterly 740 feet to a point on the center line of Section 24; thence southerly to the southeast corner of Northeast ¼ of Southwest ¼ of Section 24; thence easterly on the north line of the South ½ of Southeast ¼ of Section 24 to the southwest corner of the Northeast ¼ of Southeast ¼ of Section 24, continuing thence easterly along the north line of South ½ of Northeast ¼ of Section 24, to a point which is 432.55 feet east of the southwest corner of the Northeast ¼ of Southeast ¼ of Section 24; thence southerly to a point on the south line of "B" Street extended easterly at a point 871.12 feet west of the east line of Section 24; thence easterly on the extension of said south line of "B" Street to a point on the east line of Section 24; thence southerly to the southeast corner of Section 24; thence westerly along the line between Section 24 and Section 25, to a point 488.5 feet west of the southeast corner of Section 24; thence southerly along a line parallel to and a distance of 488.5 feet west of the east line of Section 25 to the intersection of said line with the center line of the Burrel Ditch; thence southwesterly along the center line of said Burrel Ditch to its intersection with the east line of Lot 12 of Martha Kruger Subdivision extended northerly; thence southerly along said extension of the east line of Lot 12 and continuing along the east lines of Lot 12 and Lot 13 to a point which is 210 feet southerly thereon from the northeast corner of said Lot 13; thence westerly parallel to and at a distance of 210 feet southerly from the north line of said Lot 13 to the west line of the Northeast ¼ of said Section 25; thence northerly along the west line of said Northeast ¼ to its intersection with the center line of the Burrel Ditch; thence westerly and southwesterly along said center line of the Burrel Ditch to a point on the south line of the North ½ of Northwest ¼ of Northwest ¼ of said Section 25; thence westerly, approximately 375 feet, along the south line of said North ½ of the Northwest ¼ of the Northwest ¼ to the west line of said Section 25; thence northerly along the west line of said Section 25 to the point of beginning.

9. The Town of Helm as shown in Plat Book Volume 7, Page 97 in the office of the County Recorder of the County of Fresno, State of California;

10. The Town of Armona as shown in Map book page 3, Map book page 12, Map book page 17, and Map book page 30 of Kings County; and in Licensed Surveyors Plats Volume 1 page 44; Volume 1 page 84; Volume 2 page 40; Volume 2 page 56; Volume 2 page 66; Volume 2 page 72; Volume 2 page 73; Volume 3 page 48; Volume 4 page 17 in the office of the County Recorder of Kings County, State of California;

11. The Town of Stratford as shown in Licensed Surveyors Plats Volume 2 page 1 and Volume 2 page 57 in the office of the County Recorder of Kings County, State of California;

And further excepting therefrom the lands embraced within the limits of the following described areas:

1. Selma Sewer Farm being the north half of the northeast quarter of Section 31, Township 16 South, Range 22 East, M. D. B. & M.;

2. Clotho Station being a portion of Section 18, Township 14 South, Range 22 East, M. D. B. & M., consisting of a strip of land 350 feet wide lying on the south side of S. P. R. R. track westerly from east line of said Section 18;

3. All portions of that certain mountain known as Smith Mountain, including the small hill forming the southern extremity thereof, over which water will not flow by gravity from East Branch of the Alta Main Canal, all located in Sections 26, 27, 28, 33, 34 and 35 in Township 15 South, Range 24 East, M. D. B. & M., and in Sections 3 and 10 in Township 16 South, Range 24 East, M. D. B. & M.

4. Fresno Municipal Sewer Farm being all of Section 21, and the northwest quarter of Section 22, and 12 acres in the northwest corner of the north ½ of the south ½ of Section 22 lying north of the center of ditch running southwesterly through said north ½ of the south ½ of Section 22, and the northwest quarter of Section 27, and the north one-half of Section 28, all in Township 14 South, Range 19 East, M. D. B. & M.

5. That portion of land in Section 19, Township 14 South, Range 20 East, M. D. B. & M., used as a garbage fill and reclaimed by the City of Fresno, described as follows: The north ½ of Lots 13 and 14, Union Colony, of said Section 19; and the southeast ¼ of the northeast ¼ of said Section 19; and beginning at a point in the east line of the northeast ¼ of said Section 19, 2314.57 feet north of the southeast corner of said northeast ¼; thence west along the south line of the north ½ of the north ½ of the northeast ¼ of the said northeast ¼, 980.1 feet; thence south parallel to the west side of the east ½ of the said northeast ¼ of the northeast ¼, 106.5 feet; thence west parallel to the south side of the north ½ of the north ½ of the said northeast ¼ of the northeast ¼ and westerly production, 366.7 feet; thence south parallel to and 40 feet west of the west side of the east ½ of the said northeast ¼, 883.0 feet; thence east 40.0 feet to a point 2.0 feet north of the southwest corner of the said northeast ¼ of the northeast ¼; thence south along the west line of the east ½ of the northeast ¼, 2.0 feet to the said southwest corner of the northeast ¼ of the northeast ¼; thence east along the south line of the northeast ¼ of the northeast ¼ to the southeast corner thereof; thence north along the east line of the said northeast ¼ of the northeast ¼ to the point of beginning.

SEC. 1.5. Section 4 of the Kings River Conservation District Act (Chapter 931 of the Statutes of 1951) is amended to read:

Sec. 4. The Legislature hereby finds and determines that the territory comprising said district and the lands thereof will be benefited by the formation of said district; that the water problems in the district require the formation of the district; that these problems are not general or statewide; that many owners of rights to the waters of the Kings River and its tributaries, including irrigation districts, reclamation districts, mutual water companies and other public and private corporations and individual owners have entered into agreements for the distribution of waters from said river and its tributaries and that the distribution of such waters to a

considerable extent is made in accordance with such agreements; that the effective distribution and conservation of such waters may be aided by the acquisition of storage space in the Pine Flat Reservoir created by the Pine Flat Dam now being constructed by the United States of America; that matters affecting the distribution, use and storage of the waters of the Kings River and its tributaries, the future conservation and use thereof and the protection, drainage and reclamation of lands within the district can be most appropriately handled by the district herein provided for, and it is necessary to have a political entity embracing the areas having rights to said waters created in order to protect such rights and to meet the various problems affecting such water supply, including those hereinabove set forth; provided, however, that the Legislature further finds and determines that the district claims and has no present or future right to take, use, control, or distribute any of the waters of the Kings River, except for the right to the nonconsumptive use of such waters for the production of power, or except for such rights as the district may subsequently acquire by voluntary agreement with the holders thereof.

Investigation having shown that conditions in the area comprising said district to be peculiar to it, it is hereby declared that a general law cannot be made applicable to said district and that the enactment of this special law is necessary for the conservation, development, control, distribution and use of said waters of the Kings River and its tributaries and power developed thereby for the public good, for the protection, drainage and reclamation of lands within the district, for the protection and preservation of rights to water therein and for the purpose of meeting the various problems affecting such water supply, including those hereinabove set forth.

SEC. 2. Section 8 of the Kings River Conservation District Act (Chapter 931 of the Statutes of 1951) is amended to read:

Sec. 8. The powers of the district shall, except as otherwise provided, be exercised by a board of seven directors, six of whom shall reside respectively in each of the six divisions but shall be elected by the entire district, and one shall be elected at large by the entire district; provided, however, that the first directors shall be appointed as herein provided.

SEC. 3. Section 9 of the Kings River Conservation District Act (Chapter 931 of the Statutes of 1951) is amended to read:

Sec. 9. Within 30 days after the effective date of this act the Governor shall appoint seven directors to serve as such until the first general district election, each of whom must be an elector and resident of the district. At least one director shall be appointed from each division and be a resident and elector thereof. Within 30 days after such appointment, the first directors, and thereafter on the last Friday in November after each general district election, the directors shall meet and organize as a board.

SEC. 4. Section 24 of the Kings River Conservation District Act (Chapter 931 of the Statutes of 1951) is amended to read:

Sec. 24. Except as herein otherwise provided, the provisions of the Elections Code relating to the qualifications of voters, the

manner of voting, the duties of election officers, the canvassing of returns and all other particulars with respect to the management of general elections so far as may be applicable shall govern all district elections; provided, however, that to the extent that the provisions of the Elections Code pertaining to the conduct of local elections are inconsistent with the provisions of that code pertaining to general elections, the provisions of the Elections Code pertaining to local elections shall control; provided further, that to the extent the provisions of the Uniform District Election Law are inconsistent with the provisions of the Elections Code pertaining to general or local elections, the provisions of the Uniform District Election Law shall control. The election of directors shall be held on the first Tuesday after the first Monday in November in each odd-numbered year, and each director must be an elector and resident of the division for which he is elected, except the director elected at large who may be an elector and resident of any division.

The candidate receiving the highest number of votes cast for the office of director for a specific division shall be declared elected. The candidates for the office of director at large receiving the highest number of votes cast in the district shall be declared elected.

SEC. 5. Section 46 of the Kings River Conservation District Act (Chapter 931 of the Statutes of 1951) is amended to read:

Sec. 46. The formation of the district or the enactment of this act or any provision hereof shall not impair the vested right of any person, association, corporation, municipality or public district in or to water or power or the use thereof; and, notwithstanding any other provision of this act, with respect to the waters of the Kings River, the district shall have no power to condemn the works, water, water rights, rights to divert, or rights to the use of water belonging to any public district, mutual water company, or landowner, or stockholder therein.

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 provisions of this act go into effect prior to the next election of directors of the Kings River Conservation District, it is necessary that this act take effect immediately as an urgency statute.

CHAPTER 1109

An act to add Section 30608.5 to, and to add Chapter 2.5 (commencing with Section 30150) to Division 20 of, the Public Resources Code, relating to coastal resources.

[Approved by Governor September 27, 1979. Filed with Secretary of State September 28, 1979.]

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

SECTION 1. Chapter 2.5 (commencing with Section 30150) is added to Division 20 of the Public Resources Code, to read:

CHAPTER 2.5. REVISIONS TO THE COASTAL ZONE BOUNDARY

30150. Notwithstanding the maps adopted pursuant to Section 17 of Chapter 1330 of the Statutes of 1976, as amended by Section 29 of Chapter 1331 of the Statutes of 1976, the inland boundary of the coastal zone, as shown on the detailed coastal maps adopted by the commission on March 1, 1977, is amended by maps 1 to 35, inclusive, dated September 12, 1979, and filed on September 14, 1979, with the office of the Secretary of State and which are on file in the office of the commission. Maps 1 to 35, inclusive, are hereby adopted by reference.

The areas deleted and added to the coastal zone are specifically shown on maps 1 to 35, inclusive, adopted by this section, and are generally described in this chapter.

30152. In Del Norte County:

(a) Near the community of Smith River, approximately 255 acres are excluded as specifically shown on map 1.

(b) The Fort Dick, Kings Valley, and Meadowbrook Acres areas are excluded as specifically shown on maps 2 and 3.

(c) In and near the City of Crescent City, approximately 2,250 acres between Lake Earl Drive and State Highway Route 101 and other partially urbanized areas, such as the Bertsch Subdivision, are excluded as specifically shown on maps 2 and 3.

30154. In Humboldt County:

(a) In and near the City of Fortuna, approximately 265 acres seaward of State Highway Route 101 are excluded as specifically shown on map 4.

(b) All of the incorporated land of the City of Ferndale as of January 1, 1979, is excluded as specifically shown on map 4A. The city shall consider work completed pursuant to its local coastal program in the course of preparing or revising its general plan. Notwithstanding any provision of Division 21 (commencing with Section 31000) to the contrary, the State Coastal Conservancy may undertake projects within the city without approval of the commission.

30156. In San Mateo County, within the Butano Creek watershed, the boundary is moved seaward to the five-mile limit described in Section 30103 and as specifically shown on map 5.

30158. In Santa Cruz County:

(a) Near the community of Bonny Doon, the boundary is moved seaward to the five-mile limit described in Section 30103 and as specifically shown on maps 6 and 7.

(b) In the Watsonville area approximately 40 acres in the southwest portion of the city are excluded as specifically shown on map 8.

30160. In Monterey County:

(a) In the City of Marina, approximately 400 acres between Del

Monte Boulevard and the new alignment of State Highway Route 1 are excluded as specifically shown on map 9.

(b) In the City of Sand City approximately 125 acres landward of a 200-foot buffer along the new alignment of State Highway Route 1 are excluded as specifically shown on map 10; provided, however, a buffer of 100 feet along either side of the railroad right-of-way through the city together with such right-of-way are not excluded.

(c) In the City of Seaside approximately 29 acres northeast of Laguna del Rey are excluded as specifically shown on map 10; provided, however, a 125-foot buffer along the edge of Laguna Grande, a 100-foot buffer along each side of the channel connecting Roberts Lake and Laguna Grande, and a 100-foot buffer along either side of the railroad right-of-way together with such right-of-way are not excluded.

(d) In the City of Monterey, the downtown area, and the Cannery Row area between Lighthouse Avenue and the extreme edge of the railroad right-of-way, are excluded as specifically shown on map 11; provided, however, that the one and one-half block area bounded by Foam Street to the railroad tracks, and Prescott Avenue and Irving Avenue, is not excluded.

(e) In the City of Pacific Grove approximately 300 acres are excluded as specifically shown on map 11; provided, however, that the railroad right-of-way is not excluded.

(f) In the Del Monte Forest, approximately 90 acres known as the Navaho Tract are added as specifically shown on map 11.

(g) In the area between the intersection of the boundary and the easterly line of Section 26, T. 17 S., R. 1 E., M.D.M. and the intersection of the boundary and the northeasterly corner of Section 1, T. 19 S., R. 1 E., M.D M., and in the vicinity of the head of the Middle Fork of Devil's Canyon and the head of the South Fork of Devil's Canyon the boundary is moved seaward to the five-mile limit described in Section 30103 and as specifically shown on maps 12, 13, and 14.

30162. In Santa Barbara County:

(a) In Rancho San Julian and generally within the watershed of Jalama Creek, the boundary is moved seaward to the five-mile limit described in Section 30103 and as specifically shown on map 16.

(b) In the Devereux Lagoon and Goleta Slough areas, approximately 170 acres are excluded and 245 acres are added as specifically shown on maps 17 and 18; provided, however, that the land areas on which the University of California has proposed a 200 unit housing project are not included.

30164. In Ventura County:

(a) Near the mouth of the Ventura River, approximately 190 acres are added as specifically shown on map 19.

(b) In the City of San Buenaventura, approximately 240 acres are excluded as specifically shown on map 19.

(c) In the City of Oxnard and a small unincorporated area, approximately 130 acres are excluded and approximately 85 acres are added as specifically shown on map 20.

(d) In the area described as Section 36, T. 1 N., R. 20 W., S.B.B.L.,

the boundary is moved seaward to the five-mile limit described in Section 30103 and as specifically shown on map 21.

30166. In Los Angeles County:

(a) In three locations within the Santa Monica Mountains, the boundary is moved seaward to the five-mile limit described in Section 30103 and as specifically shown on maps 22, 23, and 24.

(b) In the Temescal Canyon watershed in the City of Los Angeles, all lands owned or controlled by the Presbyterian Synod, the University of California, the Los Angeles County Sanitation District, and the Los Angeles Unified School District are added.

(c) In the Cities of Los Angeles and El Segundo the areas east of Vista del Mar that include the Scattergood Steam Plant, the Hyperion Sewage Treatment Plant, and portions of an oil refinery are excluded as specifically shown on map 25. In adopting this boundary change, the Legislature specifically reaffirms the existing location of the coastal zone boundary in the Venice area of the City of Los Angeles.

(d) In the City of Manhattan Beach approximately 140 acres, and in the City of Hermosa Beach approximately 170 acres, are excluded as specifically shown on map maps 25 and 26.

(e) In the City of Palos Verdes Estates, approximately 95 acres landward of Paseo del Mar are excluded as specifically shown on map 26.

(f) In the City of Long Beach the area near Colorado Lagoon is excluded as specifically shown on map 27.

(g) In the City of Long Beach the area commencing at the intersection of the existing coastal zone boundary at Colorado Street and Pacific Coast Highway, thence southerly along Pacific Coast Highway to the intersection of Loynes Drive, thence easterly along Loynes Drive to the intersection of Los Cerritos Channel, thence northerly along Los Cerritos Channel to the existing coastal zone boundary, is excluded as specifically shown on map 27A.

30168. In Orange County:

(a) In the City of Huntington Beach, approximately 9.5 acres are added as specifically shown on map 28.

(b) In the City of Costa Mesa, approximately 15 acres are excluded as specifically shown on map 28.

(c) In the City of Newport Beach, approximately 22.6 acres adjacent to Pacific Coast Highway are added as specifically shown on map 28; provided, however, that the area described in this subdivision shall be excluded from the coastal zone, if the Department of Transportation, within one year from the effective date of this act, enters into an agreement for use of this area for hospital-related purposes.

(d) In the Niguel Hill area, the developed portions of Pacific Island Village are excluded as specifically shown on map 29.

(e) In the communities of Dana Point and Laguna Niguel, approximately 450 acres inland of the Pacific Coast Highway are excluded as specifically shown on map 29A.

(f) In the community of Capistrano Beach, approximately 750 acres seaward of the San Diego Freeway are excluded as specifically

shown on map 29A.

(g) In the City of San Clemente, approximately 75 acres inland of the San Diego Freeway are excluded as specifically shown on map 30.

30170. In San Diego County:

(a) In the City of Oceanside, approximately 500 acres are excluded as specifically shown on maps 30A and 31.

(b) In the City of Carlsbad, approximately 180 acres in the downtown area, except for the Elm Street corridor, are excluded as specifically shown on map 31.

(c) In the City of Carlsbad the area lying north of the Palomar Airport as generally shown on maps 31 and 32 and as specifically described in this subdivision is excluded.

Those portions of lots "F" and "G" of Rancho Agua Hedionda, part in the City of Carlsbad and part in the unincorporated area of the County of San Diego, State of California, according to the partition map thereof No. 823, filed in the office of the county recorder of such county, November 16, 1896, described as follows:

Commencing at point 1 of said lot "F" as shown on said map; thence along the boundary line of said lot "F" south 25° 33' 56" east, 229.00 feet to point 23 of said lot "F" and south 54° 40' 19" east, 1347.00 feet; thence leaving said boundary line south 35° 19' 44" west, 41.28 feet to the true point of beginning, which point is the true point of beginning, of the land described in deed to Japatul Corporation recorded December 8, 1975, at recorder's file/page No. 345107 of official records to said county; thence along the boundary line of said land south 35° 19' 44" west, 2216.46 feet and north 53° 02' 49" west, 1214.69 feet to the northeast corner of the land described in deed to Japatul Corporation recorded December 8, 1975, at recorder's file/page No. 345103 of said official records; thence along the boundary lines of said land as follows: West, 1550 feet, more or less, to the boundary of said lot "F"; south 00° 12' 00" west, 550 feet, more or less, to point 5 of said lot "F"; south 10° 25' 10" east along a straight line between said point 5 and point 14 of said lot "F", to point 14 of said lot "F": thence along the boundary of said lot "F" south 52° 15' 45" east (record south 51° 00' 00" east) 1860.74 feet more or less to the most westerly corner of the land conveyed to James L. Hieatt, et ux, by deed recorded June 11, 1913, in Book 617, page 54 of deed, records of said county; thence along the northwesterly and northeasterly boundary of Hieatt's land as follows: North 25° 00' 00" east, 594.00 feet and south 52° 15' 45" east (record south 51° 00' 00" east per deed) 1348.61 feet to a point of intersection with the northerly line of Palomar County Airport, said point being on the boundary of the land conveyed to Japatul Corporation by deed recorded December 8, 1975, at recorder's file/page No. 345107 of said official records; thence along said boundary as follows: North 79° 10' 00" east, 4052.22 feet north 10° 50' 00" west, 500.00 feet; north 79° 10' 00" east 262.00 feet, south 10° 50' 00" east, 500.00 feet; north 79° 10' 00" east, 1005 feet, more or less, to the westerly line of the land conveyed to the County of San Diego by deed recorded May 28, 1970, at recorder's file/page No. 93075 of said official records; thence

continuing along the boundary of last said Japatul Corporation's land north 38° 42' 44" west, 2510.58 feet to the beginning of a tangent 1845.00 foot radius curve concave northeasterly; along the arc of said curve through a central angle of 14° 25' 52" a distance of 464.70 feet to a point of the southerly boundary of the land allotted to Thalia Kelly Considine, et al, by partial final judgment in partition, recorded January 18, 1963, at recorder's file/page No. 11643 of said official records; thence continuing along last said Japatul Corporation's land south 67° 50' 28" west, 1392.80 feet north 33° 08' 52" west, 915.12 feet and north 00° 30' 53" west, 1290.37 feet to the southerly line of said land conveyed to the County of San Diego, being also the northerly line of last said Japatul Corporation's land; thence along said common line north 74° 57' 25" west, 427.67 feet to the beginning of a tangent 2045.00 foot radius curve concave northerly; and westerly along the arc of said curve through a central angle of 16° 59' 24", a distance of 606.41 feet to the true point of beginning.

And those properties known as assessors parcel Nos. 212-020-08, 212-020-22, and 212-020-23.

Excepting therefrom, that portion, if any, conveyed to the County of San Diego, by quitclaim deed recorded January 12, 1977, at recorder's file/page No. 012820 of said official records.

No development may occur in the area described in this subdivision until a plan for drainage of the parcel to be developed has been approved by the local government having jurisdiction over the area after consultation with the commission and the Department of Fish and Game. The plan shall assure that no detrimental increase occurs in runoff of water from the parcel to be developed and shall require that the facilities necessary to implement the plan are installed as part of the development.

(d) In the City of Carlsbad and adjacent unincorporated areas, approximately 600 acres consisting of the Palomar Airport and an adjoining industrial park are excluded as specifically shown on maps 31 and 32.

(e) An area consisting of approximately 333 acres lying west and south of the Palomar Airport and bounded on the south by Palomar Airport Road is excluded as specifically shown on maps 31 and 32.

No development may occur in the area described in this subdivision until a plan for drainage of the parcel to be developed has been approved by the local government having jurisdiction over the area after consultation with the commission and the Department of Fish and Game. The plan shall assure that no detrimental increase occurs in runoff of water from the parcel to be developed and shall require that the facilities necessary to implement the plan are installed as part of the development.

(f) On or before October 1, 1980, the commission shall, after public hearing and in consultation with the City of Carlsbad, prepare, approve, and adopt a local coastal program for the following parcels in the vicinity of Batiquitos Lagoon within the City of Carlsbad: lands owned by Rancho La Costa, a registered limited partnership, lands (consisting of approximately 80 acres) owned by

Standard Pacific of San Diego, Inc., that were conveyed by Rancho La Costa on October 8, 1977, and lands owned by the Occidental Petroleum Company. Such parcels shall be determined by ownership as of September 12, 1979. As used in this subdivision, "parcels" means the parcels identified in this paragraph. The local coastal program required by this subdivision shall include all of the following elements:

(1) Protection of agricultural lands and uses to the extent feasible.

(2) Minimization of adverse impacts from sedimentation.

(3) Protection of feasible public recreational opportunities.

(4) Provision for economically feasible development consistent with the three elements specified in this subdivision.

The local coastal program required by this subdivision shall, after adoption by the commission, be deemed certified and shall for all purposes of this division constitute certified local coastal program segments for those parcels in the City of Carlsbad. The segments of the city's local coastal program for those parcels may be amended pursuant to the provisions of this division relating to the amendment of local coastal programs.

If the commission fails to adopt such local coastal program within the time limits specified in this subdivision, those parcels shall be excluded from the coastal zone and shall no longer be subject to the provisions of this division. It is the intent of the Legislature in enacting this subdivision that a procedure to expedite the preparation and adoption of a local coastal program for those parcels be established so that the public and affected property owners know as soon as possible what the permissible uses of such lands are.

(g) In the vicinity of the intersection of Del Mar Heights Road and the San Diego Freeway, approximately 250 acres are excluded as specifically shown on map 33.

(h) In the vicinity of the intersection of Carmel Valley Road and the San Diego Freeway, approximately 45 acres are added as specifically shown on map 33.

(i) Near the head of the south branch of Los Penasquitos Canyon, the boundary is moved seaward to the five-mile limit as described in Section 30103 and as specifically shown on map 33.

(j) In the City of San Diego, approximately 1,855 acres known as the Mount Soledad and La Jolla Mesa areas are added as specifically shown on map 34; provided, however, that on or before February 29, 1980, and pursuant to either subdivision (d) of Section 30610 or Section 30610.5, the commission shall exclude from coastal development permit requirements any single family residence within the area specified in this subdivision. No coastal development permit shall be required for any improvement, maintenance activity, relocation, or reasonable expansion of any commercial radio or television transmission facilities within the area specified in this subdivision unless any such proposed activity could result in a significant change in the density or intensity of use in such area or could have a significant adverse impact on highly scenic resources of public importance; provided, however, that no prior review by the commission of any such activity shall be required.

(k) In the City of San Diego, approximately 30 acres known as the Famosa Slough is added as specifically shown on maps 34 and 35

SEC. 2. Section 30608.5 is added to the Public Resources Code, to read.

30608 5. The Legislature recognizes the unique circumstances applicable to Chapter 2.5 (commencing with Section 30150) because the coastal zone additions proposed therein are primarily intended to ensure application of the planning requirements of this division within such areas Accordingly, no person who proposes a development on land which is added to the coastal zone by Chapter 2 5 (commencing with Section 30150) and who prior to July 1, 1979, has obtained from the city or county of jurisdiction a building permit, grading permit, tentative map approval, or other similar permit defining the scope of the development to be undertaken, shall be required to obtain a coastal development permit in order to proceed with or complete the authorized development The provisions of this section shall apply only to developments actually completed or where substantial work has actually been undertaken prior to July 1, 1981. The provisions of this section shall apply even in the event that completion of development is contingent upon subsequently obtaining one or more additional permits, licenses, or other entitlements from appropriate public agencies

SEC. 3. The California Coastal Commission shall file, with the Secretary of State and the county clerk of each coastal county affected, amended versions of its detailed coastal maps which conform to, and incorporate the changes made by, Section 1 of this act.

SEC. 4. Local governments shall be reimbursed pursuant to Sections 30340.5 and 30340.6 of the Public Resources Code for any costs that may be incurred by them in carrying out any program or performing any service required to be carried on or performed by them by this act.

CHAPTER 1110

An act to amend Section 87483 of the Education Code, and to amend Sections 20002, 20006, 20009.1, 20012, 20013, 20015 5, 20016, 20017, 20017.6, 20017.77, 20017.79, 20018, 20019.1, 20027, 20031, 20035, 20037, 20206, 20230, 20330, 20336, 20360, 20360.5, 20363, 20567.5, 20865, 20981, 21103, 21151.1, 21153, 21251.135, 21258.1, 21330, 21360.1, 21365.6, 22013.8, 22150, 22754.1, 22825, 22825.7, 22826, 22831, 22832, 22840, 22841, and 22842 of, to add Sections 20169.1 and 21330.1 to, to add and repeal Section 21151.2 of, and to repeal Sections 20017 792, 20938, 20981.1, 21263.6, 21388, 21389, and 22825.5 of, the Government Code, relating to retirement, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1979 Filed with Secretary of State September 28, 1979]

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

SECTION 1. Section 87483 of the Education Code is amended to read:

87483. Notwithstanding any other provision, the governing board of a community college district may establish regulations which allow their certificated employees to reduce their workload from full-time to part-time duties.

Such regulations shall include but shall not be limited to the following if such employees wish to reduce their workload and maintain retirement benefits pursuant to Section 22724 of this code or Section 20815 of the Government Code·

(a) The employee must have reached the age of 55 prior to reduction in workload.

(b) The employee must have been employed full time in a position requiring certification for at least 10 years of which the immediately preceding five years were full-time employment.

(c) During the period immediately preceding a request for a reduction in workload, the employee must have been employed full time in a position requiring certification for a total of at least five years without a break in service. For purposes of this subdivision, sabbaticals and other approved leaves of absence shall not constitute a break in service. Time spent on a sabbatical or other approved leave of absence shall not be used in computing the five-year full-time service requirement prescribed by this subdivision.

(d) The option of part-time employment must be exercised at the request of the employee and can be revoked only with the mutual consent of the employer and the employee.

(e) The employee shall be paid a salary which is the pro rata share of the salary he would be earning had he not elected to exercise the option of part-time employment but shall retain all other rights and benefits for which he makes the payments that would be required if he remained in full-time employment.

The employee shall receive health benefits as provided in Section 53201 of the Government Code in the same manner as a full-time employee.

(f) The minimum part-time employment shall be the equivalent of one-half of the number of days of service required by the employee's contract of employment during his final year of service in a full-time position

(g) Notwithstanding the provisions of Section 22724 and with respect to members of the State Teachers' Retirement System, the following contributions, shall be made to the Teachers' Retirement Fund:

(1) The member shall contribute the amount that would have been contributed if the member was employed full time.

(2) The employer shall contribute 13 percent of the salary that would have been paid the member had the member been employed full time.

(h) With respect to members of the Public Employees' Retirement System, the following contributions shall be made to the Public Employees' Retirement Fund·

(1) The member shall contribute the amount that would have been contributed if the member was employed full time.

(2) Contributions based on full salary in accordance with Chapter 6 (commencing with Section 20740) of Part 3 of Division 5 of the Government Code

SEC. 1.5. Section 87483 of the Education Code is amended to read:

87483. Notwithstanding any other provision, the governing board of a community college district may establish regulations which allow their certificated employees to reduce their workload from full-time to part-time duties.

Such regulations shall include but shall not be limited to the following if such employees wish to reduce their workload and maintain retirement benefits pursuant to Section 22724 of this code or Section 20815 of the Government Code:

(a) The employee must have reached the age of 55 prior to reduction in workload

(b) The employee must have been employed full time in a position requiring certification for at least 10 years of which the immediately preceding five years were full-time employment

(c) During the period immediately preceding a request for a reduction in workload, the employee must have been employed full time in a position requiring certification for a total of at least five years without a break in service. For purposes of this subdivision, sabbaticals and other approved leaves of absence shall not constitute a break in service. Time spent on a sabbatical or other approved leave of absence shall not be used in computing the five-year full-time service requirement prescribed by this subdivision.

(d) The option of part-time employment must be exercised at the request of the employee and can be revoked only with the mutual consent of the employer and the employee

(e) The employee shall be paid a salary which is the pro rata share of the salary he would be earning had he not elected to exercise the option of part-time employment but shall retain all other rights and benefits for which he makes the payments that would be required if he remained in full-time employment

The employee shall receive health benefits as provided in Section 53201 of the Government Code in the same manner as a full-time employee.

(f) The minimum part-time employment shall be the equivalent of one-half of the number of days of service required by the employee's contract of employment during his final year of service in a full-time position

(g) The period of such part-time employment shall not exceed five years.

(h) The period of such part-time employment shall not extend beyond the end of the school year during which the employee reaches his 65th birthday.

This section shall remain in effect only until June 30, 1983, and as of such date is repealed, unless a later enacted statute, which becomes operative before that date, deletes or extends such date. However, any member who commences part-time employment pursuant to this section prior to June 30, 1983, may continue such part-time employment and receive such retirement benefits and health benefits until the member has completed five years of such part-time employment.

SEC. 2. Section 20002 of the Government Code is amended to read:

20002. The Public Employees' Retirement System created by Chapter 700 of the Statutes of 1931, as amended, is continued in existence under this part. The system is a unit of the State and Consumer Services Agency.

SEC. 3. Section 20006 of the Government Code is amended to read·

20006. "Actuary" means the chief actuary regularly employed on a full- or part-time basis by the board or the chief actuary's designee

SEC. 4. 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 of governing boards of school districts, the primary purpose of which is the advancing of public education through research and investigation.

(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

SEC. 5. Section 20012 of the Government Code, as amended by Chapter 103 of the Statutes of 1979, is amended to read.

20012. "Employee" means:

(a) Any person in the employ of the state, a county superintendent of schools, or the university whose compensation, or at least that portion of his compensation which is provided by the state, a county superintendent of schools, or the university, is paid out of funds directly controlled by the state, a county superintendent of schools, or the university, excluding all other political subdivisions, municipal, public and quasi-public corporations. "Funds directly controlled by the state" includes funds deposited in and disbursed from the State Treasury in payment of compensation, regardless of their source.

(b) Any person in the employ of any contracting agency, and for the purposes of the Public Employees' Retirement Law, and where a county or city and county becomes a contracting agency, the employees and attachés of the superior court of the State of California in and for said county or city and county shall be considered employees of the contracting agency.

(c) City employees who prior to effective date of the contract with the hospital are assigned to a hospital which became a contracting agency because of Section 20009.8 shall be deemed hospital employees from and after the effective date of contract with the hospital for retirement purposes. City employees who after the effective date of contract with the hospital become employed by such a hospital, shall be considered as new employees of such hospital for retirement purposes.

SEC. 6. Section 20013 of the Government Code is amended to read:

20013 (a) "Member" means an employee who has qualified for

membership in the Public Employees' Retirement System and on whose behalf an employer has become obligated to pay contributions.

(b) "State member" includes·

(1) State miscellaneous members.

(2) University members.

(3) Patrol members

(4) State safety members.

(5) State industrial members

(c) "Local member" includes·

(1) Local miscellaneous members.

(2) Local safety members.

(d) "School member" includes all employees of school districts and employees of the county superintendents of schools who are or become members pursuant to Chapter 4.5 (commencing with Section 20580) of this part.

SEC. 7. Section 20015.5 of the Government Code is amended to read:

20015.5 The provisions of this part extending rights to a member of this system, or subjecting him to any limitation, by reason of his membership in a retirement system established under the County Employees' Retirement Law of 1937, shall apply in like manner and under like conditions to a member of this system by reason of his membership in any retirement system maintained by the university, provided that such member entered this system on or after October 1, 1963, and within 90 days of discontinuance of employment as a member of a retirement system maintained by the university, or he entered into employment as a member of any system maintained by the university on or after October 1, 1963, and within 90 days of discontinuance of employment as a member of this system; provided, further, that this section shall have no application whatsoever unless and until the Board of Regents agrees to provide similar benefits under any university system under like conditions.

This section shall supersede any provision contained in Section 20024.01 which is in conflict herewith, with respect to any person who enters university employment or employment in which he is a member of this system, on or after October 1, 1963

SEC. 8. Section 20016 of the Government Code is amended to read:

20016 "State industrial member" includes all state employees appointed by the Governor or by the Director of Corrections or the Community Release Board or the Department of the Youth Authority and employed in the state prisons or facilities of the Department of Corrections or the Department of the Youth Authority, or employed in the Division of Adult Paroles as chief, deputy chief, agents, or officers, and all parole agents or officers appointed by the Community Release Board under the State Civil Service Act, any parole agents or officers appointed by the Board of Trustees of the California Institution for Women, the members of the

Community Release Board, and the members of the Board of Trustees of the California Institution for Women except such employees who are state safety members.

Except as expressly otherwise provided, the provisions of this part applicable to state miscellaneous members apply to state industrial members.

The provisions of this part providing industrial death and disability benefits to state industrial members shall also apply to any other state employee whose death or disability results from an injury which is a direct consequence of a violent act perpetrated on his person by an inmate of a state prison, correctional school or facility of the Department of Corrections or the Youth Authority or a parolee therefrom subject to the same conditions prescribed by Section 20038.6.

SEC. 9. Section 20017 of the Government Code is amended to read:

20017. "Patrol member" includes all members employed in the Department of the California Highway Patrol or by a county in connection with its highway patrol function, respectively, whose principal duties consist of active law enforcement service, except those whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise clearly do not fall within the scope of active law enforcement service, even though such a person is subject to occasional call, or is occasionally called upon, to perform duties within the scope of active law enforcement service

SEC. 10. Section 20017.6 of the Government Code is amended to read:

20017.6 "State safety member" also includes members employed in the Department of Forestry, whose principal duties consist of active fire suppression or supervision including, but not limited to, members employed to perform duties now performed under the following titles: State Forester; all classes of rangers, all classes of deputy state forester; all classes of fire prevention and law enforcement officers; all classes of foresters; fire captain; all classes of fire crew foreman; all classes of forestry trainees; all classes of forestry equipment and civil engineers; forestry superintendent, conservation camps; fire apparatus engineer; fireman, C.D.F; firefighter (seasonal); equipment maintenance foreman; heavy fire equipment operator; provided however that forestry members shall not include members employed in classes other than those set forth in this section whose principal duties are clerical or such as otherwise clearly do not fall within the scope of active fire suppression.

SEC. 11 Section 20017.77 of the Government Code is amended to read.

20017.77. "State safety member" shall also include officers and employees in (a) the Department of Corrections employed to perform the duties now performed in positions with the following class titles: Director of Corrections; Deputy Director, Department of

Corrections; Deputy Director, Institutions, Camps and Program Services Division; Deputy Director, Parole and Community Services; warden; Warden—San Quentin; superintendent II and III, Department of Corrections; deputy superintendent; correctional administrator; program administrator, correctional institution; all classes of correctional program supervisor; correctional captain; correctional lieutenant; correctional sergeant; correctional officer; all classes of women's correctional supervisor; Assistant Deputy Director, Parole and Community Services; all classes of parole administrator, adult parole; all classes of parole agent, adult parole; Assistant Director, Investigations and Law Enforcement Liaison; senior special agent; special agent; all classes of women's parole agent; medical facility superintendent; Superintendent, California Institution for Women; all classes of correctional counselor; Chief and Assistant Chief Transportation Officer, (b) the Department of the Youth Authority employed to perform the duties now performed in positions with the following class titles: Director, Department of the Youth Authority; Chief, Division of Parole and Community Services; Deputy Chief, Division of Parole and Community Services; program administrator, correctional school; assistant superintendent, correctional school; all classes of superintendent, correctional school; Youth Authority camp superintendent; assistant superintendent, Youth Authority camp; Chief, Division of Institutions; treatment team supervisor; all classes of transportation officers, Youth Authority; security officer; all classes of group supervisors; all classes of parole agent, Youth Authority; all classes of youth counselor; supervisor community treatment programs; correctional casework training supervisor; correctional casework trainee; all classes of correctional counselor, and (c) the Community Release Board employed to perform duties now performed in positions with the following class titles: all classes of parole officer; all classes of correctional counselor.

SEC. 12. Section 20017.79 of the Government Code is amended to read:

20017.79. "State safety member" shall also include officers and employees of the Community Release Board, Department of Corrections or the Department of the Youth Authority in the following classifications:

Classification Code	Classification
0617	Farm manager
0648	Crops farmer
0679	Dairy manager
0682	Dairy supervisor
0683	Assistant Dairy Operator
2303	Supervisor of Correctional Education Programs

2370	Supervisor of Vocational Instruction
2384	Supervisor of Commercial Diver Training
2311	Youth Authority Teacher
2429	Vocational Instructor (Fire Science) (Correctional Facility)
2433	Vocational Instructor (Heavy Equipment Repair) (Correctional Facility)
1575	Prison Canteen Manager I
1576	Prison Canteen Manager II
7158	Production Manager III, Correctional Industries
7157	Production Manager II, Correctional Industries
7156	Production Manager I, Correctional Industries
7154	Industrial Maintenance Superintendent
7170	Detergent Plant Superintendent
7172	Wood Products Factory Superintendent
7175	Assistant Wood Products Factory Superintendent
7178	Wood Products Factory Supervisor
7179	Upholstery Supervisor
7190	Metal Products Factory Superintendent
7189	Assistant Metal Products Factory Superintendent
7191	Metal Products Factory Supervisor
7192	Tool and Die Making Supervisor
7195	Textile Products Factory Superintendent
7196	Bedding Factory Superintendent
7198	Textile Products Factory Supervisor
7201	Tobacco Factory Superintendent
7205	Shoe Factory Superintendent
7206	Shoe Factory Supervisor (Lasting through Packing)
7207	Shoe Factory Supervisor (Cutting and Fitting)
7209	Knitting Mill Superintendent
7210	Knitting Mill Supervisor
7211	Knit Goods Finishing Supervisor
7214	Printing Superintendent, Correctional Industries
7215	Industrial Maintenance Supervisor
7216	Printing Supervisor, Correctional Industries

7218	Book repair and Bindery Supervisor, Correctional Industries
2108	Laundry Superintendent, Correctional Industries
2109	Laundry Supervisor, Correctional Industries
8215	Senior Medical Technical Assistant
9908	Supervising Social Worker II, Youth Authority
9910	Supervising Social Worker I, Youth Authority
9911	Social Worker, Youth Authority
0716	Supervising Groundskeeper II (correctional facility)
0718	Supervising Groundskeeper I (correctional facility)
0720	Lead Groundskeeper (correctional facility)
0743	Groundskeeper (correctional facility)
2004	Janitor Supervisor II (correctional facility)
2005	Janitor Supervisor I (correctional facility)
2006	Janitor (correctional facility)
2044	Supervising Housekeeper I (correctional facility)
2046	Housekeeper (correctional facility)
2068	Shoemaker (correctional facility)
2077	Seamer (correctional facility)
2080	Assistant Seamer (correctional facility)
2084	Barbershop Manager (correctional facility)
2086	Barber (correctional facility)
2111	Laundry Supervisor II (correctional facility)
2114	Laundry Supervisor I (correctional facility)
2117	Laundry Worker (correctional facility)
2120	Laundry Finisher (correctional facility)
2150	Food Manager (correctional facility)
2147	Food Administrator II (correctional facility)
2153	Food Administrator I (correctional facility)
2182	Supervising Cook II (correctional facility)

2183	Supervising Cook I (correctional facility)
2186	Cook II (correctional facility)
2187	Cook I (correctional facility)
2221	Baker II (correctional facility)
2224	Baker I (correctional facility)
2245	Butcher–Meat Cutter II (correctional facility)
2195	Food Service Assistant II (correctional facility)
2196	Food Service Assistant I (correctional facility)
2305	Supervisor of Academic Instruction (correctional facility)
2284	Teacher (arts and crafts) (correctional facility)
2285	Teacher (business education) (correctional facility)
2287	Teacher (elementary education) (correctional facility)
2290	Teacher (high school education) (correctional facility)
2297	Teacher (ethnic studies) (correctional facility)
2291	Teacher (home economics) (correctional facility)
2298	Teacher (librarian) (correctional facility)
2286	Teacher (cerebral palsied children) (correctional facility)
2295	Teacher (recreation and physical education) (correctional facility)
2294	Teacher (music) (correctional facility)
2296	Teacher (speech development and correction) (correctional facility)
2293	Teacher (mentally retarded deaf children) (correctional facility)
2292	Teacher (mentally retarded children) (correctional facility)
2288	Teacher (emotionally handicapped) (correctional facility)
2289	Teacher (family life education) (correctional facility)
2423	Vocational instructor (dog grooming and handling) (correctional facility)
2665	Vocational Instructor (powerplant mechanics) (correctional facility)
2387	Vocational Instructor (airframe me-

	chanics) (correctional facility)
2396	Vocational Instructor (auto body and fender repair) (correctional facility)
2398	Vocational Instructor (auto mechanics) (correctional facility)
2399	Vocational Instructor (baking) (correctional facility)
2400	Vocational Instructor (bookbinding) (correctional facility)
2417	Vocational Instructor (carpentry) (correctional facility)
2420	Vocational Instructor (cosmetology) (correctional facility)
2422	Vocational Instructor (culinary arts) (correctional facility)
2628	Vocational Instructor (merchandising) (correctional facility)
2425	Vocational Instructor (drycleaning works) (correctional facility)
2426	Vocational Instructor (electrical work) (correctional facility)
2428	Vocational Instructor (electronics) (correctional facility)
2431	Vocational Instructor (furniture refinishing and repair) (correctional facility)
2432	Vocational Instructor (garment making) (correctional facility)
2597	Vocational Instructor (household appliance repair) (correctional facility)
2598	Vocational Instructor (industrial arts) (correctional facility)
2599	Vocational Instructor (instrument repair) (correctional facility)
2600	Vocational Instructor (janitorial service) (correctional facility)
2601	Vocational Instructor (landscape gardening) (correctional facility)
2611	Vocational Instructor (laundry work) (correctional facility)
2614	Vocational Instructor (machine shop practice) (correctional facility)
2615	Vocational Instructor (masonry) (correctional facility)
2619	Vocational Instructor (meat cutting) (correctional facility)
2627	Vocational Instructor (mechanical drawing) (correctional facility)

2630	Vocational Instructor (mill and cabinet work) (correctional facility)
2640	Vocational Instructor (offset printing) (correctional facility)
2644	Vocational Instructor (painting) (correctional facility)
2661	Vocational Instructor (plumbing) (correctional facility)
2666	Vocational Instructor (printing) (correctional facility)
2667	Vocational Instructor (radiologic technology) (correctional facility)
2668	Vocational Instructor (refrigeration and air-conditioning repair) (correctional facility)
2669	Vocational Instructor (sewing machine repair) (correctional facility)
2670	Vocational Instructor (sheet metal work) (correctional facility)
2671	Vocational Instructor (shoemaking) (correctional facility)
2672	Vocational Instructor (silk screening process) (correctional facility)
2673	Vocational Instructor (storekeeping and warehousing) (correctional facility)
2674	Vocational Instructor (typewriter repair) (correctional facility)
2675	Vocational Instructor (upholstering) (correctional facility)
2419	Vocational Instructor (commercial diver training) (correctional facility)
2677	Vocational Instructor (welding) (correctional facility)
2676	Vocational Instructor (vocational nursing) (correctional facility)
2945	Senior Librarian (correctional facility)
6216	Building Maintenance Worker (correctional facility)
6221	Warehouse Worker (correctional facility)
1502	Warehouse Manager II (correctional facility)
1504	Warehouse Manager I (correctional facility)
1505	Materials and Stores Supervisor II (correctional facility)
1508	Materials and Stores Supervisor I (cor-

	rectional facility)
6379	Heavy Truck Driver (correctional facility)
6382	Truck Driver (correctional facility)
6392	Automotive Equipment Operator II (correctional facility)
6394	Automotive Equipment Operator I (correctional facility)
6471	Carpenter Supervisor (correctional facility)
6483	Carpenter I (correctional facility)
6521	Painter Supervisor (correctional facility)
6524	Painter II (correctional facility)
6474	Carpenter II (correctional facility)
6528	Painter I (correctional facility)
6534	Electrician Supervisor (correctional facility)
6538	Electrician II (correctional facility)
6544	Electrician I (correctional facility)
6545	Plumber Supervisor (correctional facility)
6550	Plumber I (correctional facility)
6557	Steamfitter Supervisor (correctional facility)
6559	Steamfitter (correctional facility)
6617	Mason (correctional facility)
6941	Maintenance Mechanic (correctional facility)
6643	Locksmith (correctional facility)
6699	Chief Engineer I (correctional facility)
6705	Stationary Engineer Supervisor (correctional facility)
6708	Stationary Engineer II (correctional facility)
6697	Stationary Engineer I (correctional facility)
6709	Boiler Room Tender (correctional facility)
6715	Refrigeration Engineer (correctional facility)
6724	Water and Sewage Plant supervisor (correctional facility)
6748	Chief of Plant Operation III (correctional facility)
6751	Chief of Plant Operation II (correctional facility)

6754	Chief of Plant Operation I (correctional facility)
6763	Supervisor of Building Trades (correctional facility)
6865	Equipment Maintenance Supervisor (correctional facility)
6867	Lead Automobile Mechanic (correctional facility)
6868	Automobile Mechanic (correctional facility)
6893	Automotive Pool Manager I (correctional facility)
6916	Electronics Technician (correctional facility)
8217	Medical Technical Assistant (correctional facilities)
2645	Vocational Instructor (Plastering) (correctional facility)
7200	Dry Cleaning Plant Supervisor
6772	Utility Shops Supervisor (correctional facility)
6801	Machinist (correctional facility)
6826	Heavy Equipment Mechanic (correctional facility)
2688	Vocational Instructor (Eyewear Manufacturing) (correctional facility)
2940	Supervising Librarian (correctional facility)
6504	Plumber II (correctional facility)
7194	Assistant Textile Products Factory Superintendent
7197	Bedding Factory Supervisor
7217	Book Repair and Bindery Superintendent, Correctional Industries
6696	Chief Engineer II (correctional facility)
2000	Janitor Supervisor III (correctional facility)
6222	Laborer (correctional facility)
6955	Fusion Welder (correctional facility)
6213	Skilled Laborer (correctional facility)

Any such officer or employee in employment on the operative date of this section, may elect by a writing filed with the board prior to 90 days after such operative date, to be restored to his previous status as a state industrial member. Upon the filing of such election the member shall cease to be a state safety member, and his rights and obligations shall be adjusted prospectively and retroactively to

the operative date of this section, to what they would have been had this section not been enacted.

This section shall not become applicable to any member included in a classification until such time as a ruling or regulation authorizing the inclusion of persons employed in that classification within the definition of "policeman" is issued by the federal agency for purposes of Section 218(d) (5) (A) of the Social Security Act.

Any officer or employee employed in the last classification listed in this section who is in employment on the operative date of the amendments to this section enacted during 1979 may elect, by a writing filed with the board prior to 90 days after such operative date, to be restored to his previous status as a state industrial member. Upon the filing of such election, the member shall cease to be a state safety member, and his rights and obligations shall be adjusted prospectively and retroactively to the operative date of this section, to what they would have been had this section not been enacted.

This section shall not become applicable to any member employed in the last classification listed in this section until such time as a ruling or regulation authorizing the inclusion of persons employed in such classifications within the definition of "policeman" is issued by the federal agency for purposes of Section 218(d) (5) (A) of the Social Security Act.

SEC. 12.5. Section 20017.792 of the Government Code is repealed.

SEC. 13. Section 20018 of the Government Code is amended to read:

20018. "Local miscellaneous member" includes all employees of a contracting agency who have by contract been included within this system, except local safety members.

SEC. 14. Section 20019.1 of the Government Code is amended to read:

20019.1. Except as otherwise expressly provided, all provisions of this part which on January 1, 1963, were applicable to members under Chapter 4.5 and all provisions of this part made applicable to state miscellaneous members after January 1, 1963, shall apply to school members.

SEC. 15. 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 additional contributions.

SEC. 16. Section 20031 of the Government Code is amended to read:

20031. "Accumulated contributions" means accumulated normal contributions plus any accumulated additional contributions standing to the credit of a member's account; provided, however, that for purposes of refund "accumulated contributions" shall not include any interest on such contributions after June 30 of the fiscal year preceding that in which the refund is accomplished.

SEC. 17. Section 20035 of the Government Code is amended to read:

20035. "Retirement" means the granting of a retirement allowance under this part.

SEC. 18. Section 20037 of the Government Code is amended to read:

20037. "Beneficiary" means any person, including a corporation, designated by a member, or a retired member, to receive, or who qualifies by statute for receipt of, a benefit payable under this part, on account of the death of a member or a retired member.

SEC. 18.5. Section 20169.1 is added to the Government Code, to read:

20169.1. All computations, payments, and other acts heretofore made or done by the board or its officers and employees including those which would be valid if Section 21330.1 had been in effect at the time such computations, payments, or other acts were made or done are hereby ratified, confirmed and validated.

SEC. 19. Section 20206 of the Government Code is amended to read:

20206 The board shall employ investment counsel on its staff or on a consulting basis or trust companies or trust departments of banks to render service in connection with the board's investment program.

Commencing with July 1, 1974, whenever the board elects to contract with outside firms for investment counseling services it shall obtain proposals from all interested firms and conduct a public meeting at which a consultant or consultants shall be selected by the board. At least once in each three-year period after the prior selection, a consultant or consultants shall be obtained by the same procedure upon submission of new proposals.

SEC. 20. 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 accumulated 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 the purposes of this section, all employers subject to Chapter 6 (commencing with Section 20740) shall be deemed to be a single

account with respect to their school and local miscellaneous members, all other employers not subject to Chapter 6 shall be deemed to be a single account with respect to their local miscellaneous members, and all employers of local safety members shall be deemed to be a single account with respect to such members.

SEC. 21. Section 20330 of the Government Code is amended to read:

20330. The following persons are excluded from membership in this system:

(a) Inmates of state or public agency institutions who are allowed compensation for such service as they are able to perform.

(b) Independent contractors who are not employees.

(c) Persons employed as student assistants in the state colleges or the university and persons employed as student aids in the special schools of the State Department of Education and in the public schools of the state.

(d) Persons employed as teacher assistants and excluded under Section 22609 of the Education Code.

(e) Participants, other than staff officers and employees, in the California Conservation Corps.

(f) Persons employed as participants in a program of, and whose wages are paid in whole or in part by federal funds in accordance with, the Comprehensive Employment and Training Act of 1973, Public Law 93-203, as amended

This subdivision does not apply with respect to persons employed in job classes which provide eligibility for patrol or safety membership, or to the career staff employees of an employer.

SEC. 22. Section 20336 of the Government Code is amended to read:

20336. A person in full-time employment which in the opinion of the board is on a seasonal or temporary basis is excluded from membership unless the employment is compensated and:

(a) The appointment or employment contract fixes a term of employment in excess of six months or, if a term is not fixed, the employment under such appointment or contract continues for more than six months; or

(b) The person is employed in one of the positions which provide state safety membership in accordance with Section 20017.6; or

(c) The person is a member at the time of entering such employment.

This section shall supersede any contract provision excluding persons in any temporary or seasonal employment and shall apply only to persons entering employment on and after its effective date. No contract or contract amendment entered into after such effective date shall contain any provision excluding temporary or seasonal employees.

SEC. 23 Section 20360 of the Government Code is amended to read:

20360. A person directly appointed by the Governor, without the

nomination of any officer or board, or an officer or an employee directly appointed by the Attorney General, Lieutenant Governor, Controller, Secretary of State, Treasurer, or Superintendent of Public Instruction exempt from civil service under the provisions of Article VII of the Constitution, except those appointed pursuant to subdivision (i) of Section 4 thereof, is excluded from membership in this system unless he files with the board an election in writing to become a member. He may so elect at any time, and has the option of making contributions to this system in the amount which he would have contributed had he not been so excluded, plus an amount equal to the interest, to the date or dates of his payment, which would have been credited to those contributions had he not been so excluded. Such contributions and interest shall be paid to this system at times, in amounts, and in a manner fixed by the board. If he affirmatively exercises the option.

(a) He shall receive credit for prior service in the same manner as if he had not been excluded, and

(b) The contributions of the state, or contracting agency because of his membership, shall be the same as they would have been had he not been excluded, and

(c) His rate of contribution shall be based on the nearest age at the time he first was excluded.

SEC. 24. Section 20360.5 of the Government Code is amended to read:

20360.5. In lieu of the retirement benefits provided by the Military and Veterans Code, the Adjutant General or Assistant Adjutant General in office on October 1, 1961, and all officers, warrant officers, and enlisted men on full-time active duty with the office of the Adjutant General pursuant to the provisions of Section 142, 167, 230, 321, 340, or 551 of the Military and Veterans Code on October 1, 1961, may irrevocably elect to become members of the Public Employees' Retirement System and to contribute and receive credit for such full-time active duty prior to the date of election in the same manner and under the same conditions as provided by this article (commencing with Section 20360), except that, without regard to the person's employment status, such elections shall be made at any time prior to January 1, 1964. Persons appointed to the office of the Adjutant General or Assistant Adjutant General after October 1, 1961, shall have rights to membership as provided in this article for other persons appointed by the Governor and shall have no rights under the retirement benefit provisions of the Military and Veterans Code, except that persons entitled to retirement benefits under the Military and Veterans Code appointed to the office of the Adjutant General or Assistant Adjutant General shall continue to receive military retirement benefits during their term of office.

SEC 25. Section 20363 of the Government Code is amended to read·

20363 For the purposes of this section "veteran" means a member of the Veterans' Home of California

Any veteran who is employed by the Veterans' Home of California is excluded from membership in this system unless he files, or has filed prior to October 1, 1959, an election in writing to become a member. Such election shall be filed within 90 days after notice of eligibility to participate from the system, and shall not thereafter be revocable.

SEC. 25.5. Section 20567.5 of the Government Code is amended to read:

20567.5. When one or more or all of the functions and the respective employees of a contracting agency are or have been transferred to, or assumed by, another public agency which is not required by law to assume the contract of such agency, the agencies may, if the succeeding agency is or becomes a contracting agency, agree to a merger of the contract, or the portion of the contract relating to employees so transferred, into the contract of such succeeding agency Upon such merger the contract, or the portion of the contract relating to employees so transferred, shall cease to exist and the contract of the succeeding agency shall be considered a continuation and, to the extent of any differences, an amendment to the agency's contract with respect to its former employees. Accumulated contributions held for, or as having been made by, the agency and such employees, and assets derived from such contributions, shall be merged with analogous contributions under the contract of the succeeding agency, and credit for prior and current service of such employees who were members under the agency's contract shall not be changed by the transaction. The liability to the system with respect to service credited under the agency's contract shall become a liability under the contract of the succeeding agency. The agencies may agree to payments between them with respect to such liability but any such agreement shall not affect the liability of the succeeding agency with respect to such service.

SEC. 26. Section 20865 of the Government Code is amended to read:

20865. In determining qualification for retirement and the benefit provided under Section 21365.5 and calculating benefits payable upon death before retirement other than that provided under Section 21365.5, a year of service shall be credited for each year during which the member was employed throughout the year on a part-time basis and was engaged in his duties the full amount of time he was required by his employment to be so engaged. In calculating service to determine such qualification, credit for fractional years shall be granted to the extent of the fraction derived by dividing the time during which the member was engaged in his duties within the year, by the time he was required by his employment to be so engaged

SEC. 27. Section 20938 of the Government Code is repealed.

SEC. 28. Section 20981 of the Government Code is amended to read:

20981. Notwithstanding any other provision of law except Sections 20981.2, 20983.1, 20983.2, 20983.5, 20983.6, and 20988, every state miscellaneous member, school member and local miscellaneous member shall be retired on the first day of the calendar month succeeding that in which he attains age 70; provided that:

(a) Any member who is employed in a teaching capacity on a semester or school-year basis may elect to continue in active service until the end of the semester or school year during which he attains compulsory retirement age.

(b) Any member who is a state college president may elect to continue in active service until the end of the quarter, semester, or academic year during which he attains compulsory retirement age.

(c) Any member who is an academic teaching and administrative employee, as defined in this section, may elect to continue in active service until the end of the quarter, semester, or academic year during which he attains compulsory retirement age. Academic teaching and administrative employee means a state college employee of the rank of professor or lower, department heads and division heads whose principal duty is teaching at the state college and an employee whose principal duty is connected with the administration of the teaching program or related service, and includes, but is not limited to, deans, business managers, admission officer, registrar, placement officer and professional librarians.

SEC. 29. Section 20981.1 of the Government Code is repealed.

SEC. 30. Section 21103 of the Government Code is amended to read:

21103. A person who has been retired under this system for service may be reinstated from retirement pursuant to this article, without regard to the requirements of Section 21101, upon his application to the board if all of the following conditions occur:

(1) Upon such reinstatement, he will be appointed by a state board or commission to the position to which such board or commission is entitled to appoint an employee exempt from civil service under the provisions of Article VII of the Constitution;

(2) In the judgment of the board or commission he has special knowledge, experience and qualifications respecting the activities of such board or commission; and

(3) He has not attained age 73.

A person appointed pursuant to this section shall be retired on the first day of the calendar month succeeding that in which he attains age 73.

SEC. 30.5. Section 21151.2 is added to the Government Code, to read:

21151.2. A person who is serving in an elective office and who was retired and has been reinstated from retirement may elect to retire before expiration of the term for which he was elected without resignation from such office if he waives all salary and compensation which would otherwise be payable on account of such service.

This section 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. 31. Section 21153 of the Government Code is amended to read:

21153. A retired person may serve without reinstatement from retirement or loss or interruption of benefits provided by this system upon appointment by the appointing power of a state agency or any other employer either during an emergency to prevent stoppage of public business or because the retired employee has skills needed in performing specialized work of limited duration. Such appointments shall not exceed a total for all employers of 90 working days in any calendar year, and the rate of pay for such employment shall not be less than the minimum, nor exceed that paid by the employer to other employees performing comparable duties.

SEC. 32. Section 21251.135 of the Government Code is amended to read·

21251 135. Notwithstanding the provisions of Section 21251 13, if the modification to the federal-state agreement occurred on or after July 1, 1971, whenever the fraction of final compensation is reduced pursuant to Section 21251.13 because service of a member has been included in the federal system, such reduction shall apply only as to service after the effective date of the member's coverage under the federal system. This section shall apply to any such member whose effective date of retirement is on or after July 1, 1971.

SEC 33 Section 21258 1 of the Government Code is amended to read:

21258 1. (a) The retirement allowance referred to in this section excludes that portion of a member's service retirement annuity that was purchased by his accumulated additional contributions.

(b) If a member entitled to credit for prior service retires on or after July 1, 1971, and after attaining the compulsory age for service retirement applicable to him, or if there is no compulsory age for service retirement applicable to the member and the member attains age 70, or if a member is entitled to be credited with 20 years of continuous state service and retires after attaining age 60, and his retirement allowance is less than one thousand two hundred dollars ($1,200) per year and less than his final compensation, his prior or current service pension, as the case may be, shall be increased so as to cause his total retirement allowance from this system, and from the retiring annuities system of the university, if any, to amount to one thousand two hundred dollars ($1,200) per year, or his final compensation, whichever is less

If a member to whom this section applies is employed by more than one employer, his aggregate retirement allowances shall be taken into account irrespective of the employer.

SEC 34. Section 21263.6 of the Government Code is repealed.

SEC. 35 Section 21330 of the Government Code is amended to read·

21330. In lieu of the retirement allowance for his life alone, a

member or retired member may elect, or revoke or change a previous election prior to the approval of the previous election, to have the actuarial equivalent of his retirement allowance as of the date of retirement applied to a lesser retirement allowance, in accordance with one of the optional settlements specified in this article. Said election or revocation or change thereof, with respect to a member subject to Section 21263 at retirement, shall apply to all of the retirement allowance, if, at the effective date of retirement, said member has no spouse, children or dependent parents who would qualify for an allowance under Section 21263 after the death of said member; or, if at retirement there are persons who would so qualify, then said election, or revocation, or change thereof, with respect to any optional settlement other than optional settlement one, shall apply only to the portion of the allowance which exceeds the amount of the allowance payable to the survivor.

An actuarial equivalent under this article shall be computed on the basis of the mortality tables and actuarial interest rate in effect under the system on December 1, 1970.

SEC. 35.4 Section 21330 of the Government Code is amended to read:

21330 In lieu of the retirement allowance for his life alone, member or retired member may elect, or revoke or change a previous election prior to the approval of the previous election, to have the actuarial equivalent of his retirement allowance as of the date of retirement applied to a lesser retirement allowance, in accordance with one of the optional settlements specified in this article. Said election or revocation or change thereof, with respect to a member subject to Section 21263 at retirement, shall apply to all of the retirement allowance, if, at the effective date of retirement, said member has no spouse, children or dependent parents who would qualify for an allowance under Section 21263 after the death of said member; or, if at retirement there are persons who would so qualify, then said election, or revocation, or change thereof, with respect to any optional settlement other than optional settlement one, shall apply only to the portion of the allowance which exceeds the amount of the allowance payable to the survivor.

An actuarial equivalent under this article shall be computed on the basis of the mortality tables and actuarial interest rate in effect under the system on December 1, 1970, for retirements effective through December 31, 1979. Commencing with retirements effective January 1, 1980, and at corresponding 10-year intervals thereafter, the board shall change the basis for calculating actuarial equivalents under this article to agree with the interest rate and mortality tables in effect at the commencement of each such 10-year interval.

SEC. 35.5. Section 21330.1 is added to the Government Code, to read:

21330.1. The board may select an optional settlement under this article on behalf of the surviving spouse of a member who applied for retirement but who died prior to the mailing of a retirement

allowance warrant and prior to an election in accordance with this article, if all of the following conditions are met:

(a) The application for retirement was received by the system, prior to the date of death

(b) The document containing the application for retirement received by the system did not provide for a temporary election of the optional settlement 2.

(c) The deceased member had separated from state service at least one day prior to the effective date of retirement.

(d) The deceased member was alive on the effective date of retirement.

(e) The beneficiary designated on the application for retirement is the surviving spouse who requests in writing that the board make such a selection. Upon formal action by the board approving such a request, the request shall become irrevocable.

SEC. 35.7 Section 21360.1 of the Government Code is amended to read:

21360.1 If a member dies on or after the effective date of retirement and prior to the mailing of a retirement allowance warrant and if the member has elected an optional settlement 2 or 3 or an optional settlement 4 involving payment of an allowance throughout the life of the beneficiary or if a partially continued retirement allowance under Sections 21263 to 21263.6, inclusive, is payable, the death shall be considered to be death after retirement and the applicable benefits shall be payable.

However, if the beneficiary designated on the application for retirement is either (1) the surviving unmarried minor child or children of the member and there is no surviving spouse eligible for a partially continued retirement allowance under Sections 21263 to 21263.6, inclusive, or (2) the surviving spouse of the member, the surviving spouse so named or the legal representative of the minor child or children so named may elect to receive benefits which would have been payable had the death occurred under the conditions of Section 21360. Except as provided in Section 21330.1, nothing in this part permits a surviving spouse, surviving children, or any person other than a member to elect an optional settlement. If a formal election of optional settlement and beneficiary designation is received by the system after receipt of the application for retirement and before the member's death, such election of an optional settlement and beneficiary designation shall supersede the application for retirement for purposes of this section.

SEC. 36. Section 21365.6 of the Government Code is amended to read.

21365.6. The surviving spouse of a member who has attained the minimum age for voluntary retirement for service, and who is eligible to receive an allowance pursuant to Section 21365.5 or a special death benefit in lieu of an allowance under Section 21365.5, may elect to instead receive an allowance which is equal to the amount that the member would have received if the member had

been retired from service on the date of death and had elected optional settlement two. The allowance shall be payable as long as the surviving spouse lives or until remarriage. Upon the death or remarriage of the surviving spouse, the benefit will be continued to minor children, as defined in Section 25 of the Civil Code, or a lump sum will be paid as provided under such circumstances in Section 21365.5 or in Sections 21364 and 21366, as the case may be.

This section shall only apply with respect to state members, other than school members, whose death occurs on and after July 1, 1976.

All references in this code to Section 21365 5 shall be deemed to include this section in the alternative.

SEC. 37. Section 21388 of the Government Code is repealed.

SEC. 38. Section 21389 of the Government Code is repealed.

SEC. 38.5. Section 22013 8 of the Government Code is amended to read

22013.8 "Policeman" as used in this part also includes persons employed in classifications listed in Section 20017.79, as amended in 1979; provided, such designation is not contrary to any definition, ruling or regulation relating to the term "policeman" issued by the federal agency for the purposes of Section 218(d) (5) (A) of the Social Security Act.

SEC. 39. Section 22150 of the Government Code is amended to read.

22150 Unless otherwise provided in this article, the board shall authorize a division of a retirement system upon the request of any public agency having employees in positions covered by the system or upon authorization of the Legislature. An election among members of the system shall not be required. A retirement system as defined in subdivisions (d) and (f) of Section 22009.1 shall be divided pursuant to this article only if such division is otherwise authorized by the Legislature. The board shall designate the person to conduct the division, as defined in subdivision (1) of Section 22009 1, of a retirement system

For purposes of this section and all coverage procedures under this part subsequent to division of the retirement system defined in subdivision (g) of Section 22009.1 the University of California shall be deemed to be a public agency.

SEC. 40. Section 22754 1 of the Government Code is amended to read

22754.1. As used in this part, unless the context otherwise requires, the term "employee" includes any judge of a municipal court, and the terms "employer" and "contracting agency" with respect to any such judge enrolled in a health benefits plan include the county in which the municipal court is located, provided that adoption of a resolution under Section 22850 shall not be required The state is not obligated to make any contribution to health benefit plans for active and retired municipal court judges. A municipal court judge may elect to come under the provisions of this part only within 90 days of assuming office for the first time as such a judge

If a municipal court judge elects to come under the provisions of this part, the county employing such judge shall contribute to the Public Employees' Contingency Reserve Fund such sums as it would have otherwise contributed to a health benefit plan provided for county employees, unless the municipal court judge elects to enroll under the county health benefit plan Such contribution shall be applied first to the contribution required of it as an employer under Section 22831 and any remainder shall be applied to the contribution required under Sections 22825 and 22825.6. The municipal court judge whether enrolled as an employee or annuitant shall contribute the cost of such enrollment plus the amount required of an employer under Section 22831 less the amount, if any, contributed by his county A county shall not be required to contribute any portion of the cost of a health benefits plan under this part for a judge after retirement unless the health benefits plan provided for county employees provides such coverage.

SEC. 41. Section 22825 of the Government Code is amended to read·

22825. (a) The employer and each employee or annuitant shall contribute a portion of the cost of providing for each employee and annuitant the benefit coverage afforded under any health benefit plan which the board has approved or for which it has executed a contract pursuant to this part, and in which the employee or annuitant may be enrolled.

The employer's contribution for each employee or annuitant shall be the amount necessary to pay the cost of his enrollment, including the enrollment of his family members, in a health benefits plan or plans, or, if less, sixteen dollars ($16) per month. There shall be only one such contribution with respect to all annuitants receiving allowances as survivors of the same employee or annuitant.

The contribution of each employee and annuitant shall be the total cost per month of the benefit coverage afforded him under the plan or plans less the portion thereof to be contributed by the employer.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 42 Section 22825.5 of the Government Code is repealed.

SEC. 43 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 retired while state employees 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.

SEC. 44. Section 22826 of the Government Code is amended to read.

22826 The State of California shall, in addition to the contributions required by Section 22825, contribute additional amounts necessary to provide funds for the administration of this part, and for the establishment and continuation of the Public Employees' Contingency Reserve Fund

The additional contributions shall be in amounts reasonably adequate to pay the administrative expenses and to establish and maintain the Public Employees' Contingency Reserve Fund, as determined by the board, but shall not exceed, for each employee or annuitant, the following amounts:

(1) For administrative expenses—2 percent of the total of the contributions made by the employee or annuitant, and the state on behalf of the employee or annuitant, under a plan.

(2) For the Public Employees' Contingency Reserve Fund—3 percent of the total of the contributions made by the employee or annuitant, and the state on behalf of the employee or annuitant, under a plan to and including June 30, 1978, and 4 percent thereafter.

SEC 45. Section 22831 of the Government Code is amended to read.

22831. Each contracting agency shall contribute to the Public Employees' Contingency Reserve Fund, an amount sufficient to bear all the administrative costs incurred by the board in providing to the employees and annuitants of such agency the health benefits provided by this part. The amount of the contributions required by this section shall be determined by the board, and may include an appropriate share of overhead costs of the program Such contracting agency shall in addition contribute to said fund for each of its employees and annuitants the same amount as is required of the state under subdivision (2) of Section 22826.

SEC 46. Section 22832 of the Government Code is amended to read

22832 The contributions required of a contracting agency, along with contributions withheld from salaries of its employees, shall be forwarded monthly, no later than the 10th day of the month for which the contribution is due, and shall be deposited in the Public Employees' Contingency Reserve Fund. The county superintendent of schools shall draw requisitions against the county school service fund and the funds of the respective school districts for amounts equal to the total of the employers' contributions required to be paid from the county school service fund and from the funds of the districts, and the contributions deducted from the compensation of employees paid from such funds. The amounts shall be deposited in the county treasury to the credit of the contract retirement fund established under Section 20585.

The county superintendent thereafter shall draw his requisitions against such fund in favor of the board which when allowed by the county auditor shall constitute warrants against said funds and shall forward such warrants to the board in accordance with this section.

SEC. 47. Section 22840 of the Government Code is amended to read·

22840. For all plans which the board has approved or entered into a contract, there shall be maintained in the State Treasury a Public Employees' Contingency Reserve Fund to which shall be credited, from time to time as determined by the board, amounts determined by the board and contributed under Section 22826 to provide an adequate contingency reserve. The income derived from any dividends, rate adjustments, or other refunds by a plan shall be credited to the fund.

The board may invest funds in the Public Employees' Contingency Reserve Fund in accordance with the provisions of law governing its investment of the Retirement Fund.

The Public Employees' Contingency Reserve Fund may be utilized to defray increases in future rates, to reduce the contributions of employees and annuitants and the employers, or to increase the benefits provided by any plan to the extent that amounts in the account are derived from that plan, as determined from time to time by the board. Said fund is appropriated for such purposes to the extent of all amounts credited to it other than the employers' contribution for administrative expenses, and for administrative expense to the extent of the employers' contribution for such purpose.

The total credited to the Public Employees' Contingency Reserve Fund at any time, for all purposes other than administrative expense, shall be limited, in the manner and to the extent the board may find to be most practical, to a maximum of 10 percent of the total of the contributions of the employers and employees and annuitants in any fiscal year. The board may undertake such action as will insure that the maximum amount prescribed for the fund is approximately maintained

Board rules adopted pursuant to Section 22810 to minimize the

impact of adverse selection because of enrollment of annuitants may provide for deposit in and disbursement to carriers from the Public Employees' Contingency Reserve Fund of such portion of the contributions otherwise payable directly to the carriers by the Controller under Section 22841 as may be required for such purpose. The fund is appropriated for such purpose in addition to the other purposes specified in this section. Such deposits shall not be included in applying the limitations, prescribed in this section, on total amounts which may be deposited in or credited to the fund.

SEC. 48. Section 22841 of the Government Code is amended to read:

22841. Contributions of employees and annuitants, and contributions of the state not credited to the Public Employees' Contingency Reserve Fund, shall be utilized to pay the premiums or other charges required to be paid carriers under health benefits plans. The State Controller shall suitably identify and remit the state's contribution for each employee or annuitant monthly to the insurer or insurers of, or others contracting to provide or arrange medical and hospital service under such plans, together with amounts authorized by the employees and annuitants covered under such plans to be deducted from their salaries or retirement allowances for payment of their share of the cost of the plan.

SEC. 49 Section 22842 of the Government Code is amended to read:

22842. Contributions of employees and annuitants of contracting agencies, and contributions of such employer not credited to the Public Employees' Contingency Reserve Fund for purposes specified in Section 22826, shall be utilized for payment of premiums and other charges required to be paid to carriers, and said fund is continuingly appropriated for such purpose to the extent of such contributions. Such amounts shall be suitably identified and remitted monthly to the carriers by warrant of the State Controller upon claims filed by the board.

SEC. 50 It is the intent of the Legislature, if this bill and Assembly Bill 1213 are both chaptered and become effective on or before January 1, 1980, both bills amend Section 87483 of the Education Code, and this bill is chaptered after Assembly Bill 1213, that Section 87483 of the Education Code, as amended by Section 1 of this act, shall remain operative until the effective date of Assembly Bill 1213, and that on the effective date of Assembly Bill 1213 Section 87483 of the Education 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 87483 proposed by Assembly Bill 1213. Therefore, if this bill and Assembly Bill 1213 are both chaptered and become effective on or before January 1, 1980, and Assembly Bill 1213 is chaptered before this bill and amends Section 87483, Section 1 5 of this act shall become operative on the effective date of Assembly Bill 1213

SEC. 51. It is the intent of the Legislature, if this bill and

Assembly Bill 260 are both chaptered and become effective on or before January 1, 1980, both bills amend Section 21330 of the Government Code, and this bill is chaptered after Assembly Bill 260, that the amendments to Section 21330 proposed by both bills be given effect and incorporated in Section 21330 in the form set forth in Section 35.4 of this act Therefore, Section 35.4 of this act shall become operative only if this bill and Assembly Bill 260 are both chaptered and become effective on or before January 1, 1980, both amend Section 21330, and this bill is chaptered after Assembly Bill 260, in which case Section 35 of this act shall not become operative.

SEC 52. Section 30 5 of this act shall become operative on the effective date of this act and all of the other provisions of this act shall become operative on January 1, 1980.

SEC 53. The State Personnel Board shall evaluate the classification of skilled laborers at correctional facilities to determine whether such class meets the board's standards for eligibility for safety membership in the Public Employees' Retirement System and shall report its findings and recommendations to the Legislature by January 1, 1980

Section 20017 79 of the Government Code shall not be applicable to skilled laborers (correctional facility) until such time as a favorable evaluation upon the inclusion of such class within the safety membership in the Public Employees' Retirement System is reported by the State Personnel Board.

SEC 54 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 may go into effect as soon as possible, it is necessary that this act take effect immediately

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CHAPTER 1111

An act to add Sections 40709, 40710, 40711, 40712, and 40713 to the Health and Safety Code, relating to air pollution.

[Approved by Governor September 27, 1979 Filed with Secretary of State September 28, 1979]

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

SECTION 1 Section 40709 is added to the Health and Safety Code, to read.

40709 Every district board may establish by regulation a system by which certain reductions in the emission of air contaminants may be banked and used to offset certain future increases in the emission of air contaminants Such system shall provide that only those reductions in the emission of air contaminants, which are not

otherwise required by any federal, state, or district law, rule, order, permit, or regulation, shall be registered, certified, or otherwise approved by the district air pollution control officer before they may be banked and used to offset future increases in the emission of air contaminants. Such system shall be subject to disapproval by the state board pursuant to Chapter 1 (commencing with Section 41500) of Part 4 of this division within 60 days after adoption by the district.

Such system is not intended to recognize any preexisting right to emit air contaminants, but to provide a mechanism for districts to recognize the existence of reductions of air contaminants that can be used as offsets, and to provide greater certainty that such offsets shall be available for emitting industries.

SEC. 2. Section 40710 is added to the Health and Safety Code, to read.

40710 Upon receipt of approval and pursuant to Section 40709, a certificate evidencing all approved reductions in the emissions of air contaminants shall be issued to the owner or owners of the emissions source, and such reductions shall continue to be banked until they have been used according to district regulations. The owner or owners of such certificates have the exclusive right to use and to authorize the use of the approved reductions evidenced thereby.

SEC. 3. Section 40711 is added to the Health and Safety Code, to read.

40711. Use of approved reductions in emissions of air contaminants may be transferred in whole or in part by any means of conveyance permissible under the laws of this state. No such transfer shall be effective until the district air pollution control officer is notified thereof in writing.

SEC. 4 Section 40712 is added to the Health and Safety Code, to read:

40712. If there is more than one owner of the source of the approved reductions in emission of air contaminants, initial title to such approved reductions shall be deemed held by such co-owners in the same manner as they hold title to the source of such reductions at the time such reductions are approved by the district air pollution control officer.

SEC. 5 Section 40713 is added to the Health and Safety Code, to read·

40713. Any system established pursuant to Section 40709 shall contain procedures for the approval of reductions in emissions of air contaminants comparable to district permit procedures established pursuant to Section 42300, including, without limitation, procedures for public comment within 30 days after notice of any proposed approval In the event the district air pollution control officer refuses to register, certify, or otherwise approve an application for a reduction in the emission of air contaminants pursuant to Section 40709, such applicant may, within 30 days after receipt of the notice of refusal, request the hearing board of the district to hold a hearing on whether the application was properly refused.

CHAPTER 1112

An act to add Section 1198.3 to the Labor Code and Section 1011 to the Water Code, relating to rights, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1979 Filed with Secretary of State September 28, 1979]

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

SECTION 1. Section 1198.3 is added to the Labor Code, to read:

1198.3. (a) The Chief of the Division of Labor Standards Enforcement may, when in his judgment hardship will result, exempt any employer or employees from any mandatory day or days off requirement contained in any order of the commission. Any exemption granted by the chief pursuant to this section shall be only of sufficient duration to permit the employer or employees to comply with the requirements contained in the order of the commission, but not more than one year. The exemption may be renewed by the chief only after he has investigated and is satisfied that a good faith effort is being made to comply with the order of the commission.

(b) No employer shall discharge or in any other manner discriminate against any employee who refuses to work hours in excess of those permitted by the order of the commission

(c) This section 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. 2. Section 1011 is added to the Water Code, to read:

1011. When any person entitled to the use of water under an appropriative right fails to use all or any part of the water because of water conservation efforts, any cessation or reduction in the use of such appropriated water shall be deemed equivalent to a reasonable beneficial use of water to the extent of such cessation or reduction in use. No forfeiture of the appropriative right to the water conserved shall occur upon the lapse of the forfeiture period applicable to water appropriated pursuant to the Water Commission Act or this code or the forfeiture period applicable to water appropriated prior to December 19, 1914.

The board may require that any user of water who seeks the benefit of this section file periodic reports describing the extent and amount of the reduction in water use due to water conservation efforts To the maximum extent possible, such reports shall be made a part of other reports required by the board relating to the use of water. Failure to file such reports shall deprive the user of water of the benefits of this section.

For purposes of this section, the term "water conservation" shall mean the use of less water to accomplish the same purpose or

purposes of use allowed under the existing appropriative right. Where water appropriated for irrigation purposes is not used by reason of land fallowing or crop rotation, the reduced usage shall be deemed water conservation for purposes of this section

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.

Due to the lack of available labor, certain agricultural operations in California are unable to comply with existing orders of the Industrial Welfare Commission without severe hardship and loss of crops In order to allow relief for such operations during the current season and avoid the loss of existing crops, it is necessary that this act take effect immediately

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CHAPTER 1113

An act to add Article 9 (commencing with Section 12140) to Chapter 1 of Part 8 of the Education Code, and to amend Section 13338 of, and to add Section 13338 5 to, the Government Code, relating to state fiscal affairs.

[Approved by Governor September 27, 1979 Filed with Secretary of State September 28, 1979]

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

SECTION 1. Article 9 (commencing with Section 12140) is added to Chapter 1 of Part 8 of the Education Code, to read·

Article 9. Review of Federal Fund Expenditures

12140. It is the intent of the Legislature in enacting this article, consistent with the provisions added by Chapter 1284 of the Statutes of 1978, to provide greater oversight of, and to facilitate the scrutiny of, programs funded by moneys received from the federal government which are deposited in the State Treasury for expenditure by, and disbursement to, state and local educational agencies.

12141. (a) Commencing with the 1979–80 fiscal year and each fiscal year thereafter, the Department of Education, in cooperation with the Department of Finance, shall prepare a comprehensive state plan, to be submitted to the Legislature by January 1st, detailing the prospective expenditure, allocation, and apportionment of federal funds to be appropriated for the next fiscal year pursuant to Section 13338.5 of the Government Code to all educational agencies in this state, including the Department of Education, receiving federal funds for their support.

(b) Commencing with the 1982–83 fiscal year and each fiscal year thereafter, the state plan required by subdivision (a) of this section shall be prepared in the same form and be compatible with fiscal reporting requirements prescribed by subdivision (g) of Section 13337 of the Government Code.

12142. (a) Commencing with the 1979–80 fiscal year and each fiscal year thereafter, the Department of Education, in cooperation with the Department of Finance, shall prepare a comprehensive report to be submitted to the Legislature by January 1st which sets forth in detail the manner in which all federal funds were allocated and apportioned to, and expended by, educational agencies in this state in the prior fiscal year.

(b) Commencing with the 1982–83 fiscal year and each fiscal year thereafter, the report required by subdivision (a) of this section shall be prepared in the same form and be compatible with fiscal reporting requirements prescribed by subdivision (b) of Section 13300 of the Government Code.

SEC. 2. Section 13338 of the Government Code is amended to read:

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, except as otherwise provided in Section 13338.5

(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.

SEC. 3 Section 13338.5 is added to the Government Code, to read:

13338.5 Notwithstanding subdivision (c) of Section 13338, commencing with the bill proposing to enact the Budget Act of 1980 in the 1979–80 fiscal year and in each fiscal year thereafter, the Budget Bill shall provide for the appropriation of federal funds received by the state and deposited in the State Treasury for the purposes of education which are to be expended or disbursed by the State Board of Education, the Department of Education, and the Advisory Council on Vocational Education in the 1980–81 fiscal year, and each fiscal year thereafter.

CHAPTER 1114

An act to amend Section 1026 of, to amend and renumber Section 1026a of, and to add Section 1026 5 to, the Penal Code, relating to insanity, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1979 Filed with Secretary of State September 28, 1979]

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

SECTION 1. Section 1026 of the Penal Code is amended to read

1026. (a) 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. The court shall transmit a copy of its order to the county mental health director or his designee

(b) If the defendant has been found guilty of murder, mayhem, a violation of Section 207 or 209 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 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, a violation of Section 459 in the first degree, assault with intent to commit murder, a violation of Section 220 in which the victim suffers great bodily injury, a violation of Section 12303.1, 12303.2, 12303.3, 12308, 12309, or 12310, 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 Section 1026.1 or subdivision (f) of Section 7375 of the Welfare and Institutions Code.

(c) 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 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.

(d) 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.

(e) 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.

(f) 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 1026a of the Penal Code is amended and renumbered to read:

1026.2. An application for the release of a person who has been committed to a state hospital or other facility, as provided in Section 1026, upon the ground that his sanity has been restored, may be made to the superior court of the county from which he was committed, either by such person or by the superintendent of the state hospital or other facility in which the said person is confined The person or the superintendent in charge of the state hospital or other facility shall transmit a copy of the application to the county mental health director or his designee. No hearing upon such application shall be allowed until the person committed shall have been confined or placed on outpatient treatment for a period of not less than 90 days from the date of the order of commitment. If the finding of the court be adverse to releasing such person upon his application for release, on the ground that his sanity has not been restored, he shall not be permitted to file a further application until one year has elapsed from the date of hearing upon his last preceding application In any hearing authorized by this section the burden of proving that his sanity has been restored shall be upon the applicant.

SEC. 3. Section 1026.5 is added to the Penal Code, to read·

1026.5. (a) (1) In the case of any person committed to a state hospital or other facility pursuant to Section 1026 or 1026.1, who committed a felony on or after July 1, 1977, the court shall state in the commitment order the maximum term of commitment, and the person may not be kept in actual custody longer than the maximum term of commitment, except as provided in this section For the purposes of this section, "maximum term of commitment" shall mean the longest term of imprisonment which could have been imposed for the offense or offenses of which the person was convicted, including the upper term of the base offense and any additional terms for enhancements and consecutive sentences which could have been imposed less any applicable credits as defined by Section 2900.5, and disregarding any credits which could have been earned under Section 2930 to 2932, inclusive.

(2) In the case of a person committed to a state hospital or other facility pursuant to Section 1026 or 1026.1, who committed a felony prior to July 1, 1977, who could have been sentenced under Section

1168 or 1170 if the offense was committed after July 1, 1977, the Community Release Board shall determine the maximum term of commitment which could have been imposed under paragraph (1), and the person may not be kept in actual custody longer than the maximum term of commitment, except as provided in subdivision (b) The time limits of this section are not jurisdictional.

In fixing a term under this section, the board shall utilize the upper term of imprisonment which could have been imposed for the offense or offenses of which the person was convicted, increased by any additional terms which could have been imposed based on matters which were found to be true in the committing court. However, if at least two of the members of the board after reviewing the person's file determine that a longer term should be imposed for the reasons specified in Section 1170.2, a longer term may be imposed following the procedures and guidelines set forth in Section 1170.2, except that any hearings deemed necessary by the board shall be held within 90 days of the operative date of this section. Within 90 days of the date the person is received by the state hospital or other facility, or of the effective date of this subdivision, whichever is later, the Community Release Board shall provide each person with the determination of his maximum term of commitment or shall notify such person that he will be scheduled for a hearing to determine his term.

Within 20 days following the determination of the maximum term of commitment the board shall provide the person, the prosecuting attorney, the committing court, and the state hospital or other facility with a written statement setting forth the maximum term of commitment, the calculations, and any materials considered in determining the maximum term.

(3) In the case of a person committed to a state hospital or other facility pursuant to Section 1026 or 1026.1 who committed a misdemeanor, the maximum term of commitment shall be the longest term of county jail confinement which could have been imposed for the offense or offenses of which the person was found to have committed, and the person may not be kept in actual custody longer than this maximum term.

(4) Nothing in this subdivision limits the power of any state hospital or other facility or of the committing court to release the person, conditionally or otherwise, for any period of time allowed by any other provision of law.

(b) (1) A person may be committed beyond the term prescribed by subdivision (a) only under the procedure set forth in this subdivision and only if such person has been committed under Section 1026 for a felony subject to subdivision (b) of Section 1026 and who by reason of a mental disease, defect, or disorder represents a substantial danger of physical harm to others.

(2) If during a commitment, the medical director of a state hospital or other facility has good cause to believe that a patient is a person described in paragraph (1), the director may submit such

supporting evaluations and case file to the prosecuting attorney who may file a petition for extended commitment in the superior court which issued the original commitment. Such petition shall be filed no later than 90 days before the expiration of the original commitment. Such petition shall state the reasons for the extended commitment, with accompanying affidavits specifying the factual basis for believing that the person meets each of the requirements set forth in paragraph (1).

(3) At the time of filing a petition, the court shall advise the person named in the petition of his right to be represented by an attorney and of his right to a jury trial The rules of discovery in criminal cases shall apply.

(4) The court shall conduct a hearing on the petition for extended commitment. The trial shall be by jury unless waived by both the person and the prosecuting attorney. The trial shall commence no later than 30 days prior to the time the person would otherwise have been released, unless such time is waived by the person

(5) The person shall be entitled to the rights guaranteed under the Federal and State Constitutions for criminal proceedings. All proceedings shall be in accordance with applicable constitutional guarantees. The state shall be represented by the district attorney who shall notify the Attorney General in writing that a case has been referred under this section. If the person is indigent, the county public defender or State Public Defender shall be appointed. The State Public Defender may provide for representation of the person in any manner authorized by Section 15402 of the Government Code Appointment of necessary psychologists or psychiatrists shall be made in accordance with this article and Penal Code and Evidence Code provisions applicable to criminal defendants who have entered pleas of not guilty by reason of insanity or asserted diminished capacity defenses.

(6) If the court or jury finds that the person is a person described in paragraph (1), the court may order the patient recommitted to the facility in which he was confined at the time the petition was filed for an additional period of two years from the date of termination of the previous commitment.

(7) A person committed under this subdivision shall be eligible for outpatient or parole release as provided in Section 1026.1 or Section 7375 of the Welfare and Institutions Code.

(8) Prior to termination of a commitment under this subdivision, a petition for recommitment may be filed to determine whether the person remains a person described in paragraph (1). Such recommitment proceeding shall be conducted in accordance with the provisions of this subdivision.

(9) Any commitment under this subdivision places an affirmative obligation on the treatment facility to provide treatment for the underlying causes of the person's mental disorder.

SEC. 4. It is the intent of the Legislature that the provisions of this act which provide for the extension of the commitment of a

defendant shall not affect an extension of the commitment of a person ordered prior to the effective date of this act as authorized by the decision of In re Moye, 22 Cal. 3d 457

SEC. 5 Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because this act merely affirms for the state that which has been declared existing law or regulation by action of the courts. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 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:

Presently, no statutory procedures are available to provide for extended commitments, under certain conditions, for criminal defendants who have been confined pursuant to a specific term of commitment stated in the commitment order of the court. In order to provide the maximum protection to the public, it is necessary that this act take immediate effect.

CHAPTER 1115

An act to amend Sections 50901, 50905, 50908, 50909, 50910, 50911, 50912, 50913, 50914, 50916, 51005, 51006, 51050, 51359, and 51360 of, to add Sections 51000.1 and 51000.3 to, and to repeal Section 50917 of, the Health and Safety Code, relating to the California Housing Finance Agency.

[Approved by Governor September 27, 1979 Filed with Secretary of State September 28, 1979]

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

SECTION 1. Section 50901 of the Health and Safety Code is amended to read.

50901. The agency shall be administered by a board of directors consisting of 11 voting members, including a chairperson Members in office on January 1, 1978, shall continue to hold office until the expiration of their term, their ceasing to be qualified, or their removal from office. The State Treasurer, the Secretary of the Business and Transportation Agency, and the Director of Housing and Community Development, or their designees, shall be members, in addition to five members appointed by the Governor, one member appointed by the Speaker of the Assembly, and one member appointed by the Senate Rules Committee The Director of Finance, the Director of the State Office of Planning and Research,

and the executive director of the agency shall serve as nonvoting ex officio members of the board.

SEC. 2 Section 50905 of the Health and Safety Code is amended to read·

50905. (a) No officer or employee of the agency shall be employed by, hold any paid official relation to, or have any financial interest in, any housing sponsor or any housing development financed or assisted under this part No real property to which a member of the board or an officer or employee of the agency holds legal title or in which such person has any financial interest shall be purchased by the agency or sold by such member of the board or officer or employee of the agency to a housing sponsor for a housing development to be financed under this part.

Any violation of this section shall be a conflict of interest which shall be grounds for disqualification of the member from the board or the officer or employee of the agency from his office or employment with the board or agency.

(b) Except as provided by subdivision (c), the following actions shall be voidable in the discretion of the agency:

(1) Any purchase by the agency of real property in which a member of the board or an officer or employee of the agency has legal title or a financial interest.

(2) Any commitment by the agency to provide financial assistance to a housing sponsor in which a member of the board or officer or employee of the agency is employed, holds any official relation, or has any financial interest.

(3) Any commitment by the agency to provide financial assistance to a housing sponsor to which real property has been or is transferred for a housing development to be financed under this part, if a member of the board or officer or employee of the agency has or has had legal title or any financial interest in such real property.

(c) Any commitment by the agency to provide financial assistance under the circumstances specified in paragraph (2) or (3) of subdivision (b) shall not be voidable following release of the funds.

(d) Notwithstanding the provisions of this section and Section 50904, any conflict of interest by a member of the board or officer or employee of the agency shall not affect the validity of any bonds or insurance issued pursuant to this division.

(e) Notwithstanding the provisions of this section, agency employees who do not hold a management or policymaking position may, if such persons are not acting as an investor and if such persons are otherwise eligible, participate in owner-occupied single family financing and insurance programs operated by the agency.

SEC. 2.2. Section 50908 of the Health and Safety Code is amended to read:

50908. The Governor shall, subject to confirmation by the Senate, appoint an executive director of the agency and shall, subject solely to supervision by the board, administer and direct the day-to-day

operations of the agency. The term of office of the executive director is five years; provided, that the person serving as president of the agency on December 31, 1979, shall continue in office as executive director only for the remainder of the term to which he or she was appointed, unless reappointed prior to expiration of such term. The board shall from time to time determine the total number of authorized employees within the agency. The board shall determine the salaries of those employees of the agency whose salaries are not paid from moneys appropriated to the agency from the General Fund, other than moneys appropriated by Chapter 1, Statutes of 1975, First Extraordinary Session.

SEC. 2.5. Section 50909 of the Health and Safety Code is amended to read:

50909. The compensation of the executive director shall be established by the board in such amount as is reasonably necessary, in the discretion of the board, to attract and hold a person of superior qualifications. However, the salary of the executive director shall not exceed the salary of the Secretary of the Business and Transportation Agency. Members of the board shall not receive a salary but shall be entitled to a per diem allowance of fifty dollars ($50) for each day's attendance at a meeting of the board or a meeting of a committee of the board, not to exceed three hundred dollars ($300) in any month, and reimbursement for expenses incurred in the performance of their duties under this part, including travel and other necessary expenses.

SEC. 2.7. Section 50910 of the Health and Safety Code is amended to read:

50910. The executive director may from time to time employ technical experts and such other employees as may, in his or her judgement, be necessary for the conduct of the business of the agency.

SEC. 3. Section 50911 of the Health and Safety Code is amended to read:

50911. Notwithstanding the provision of Sections 11042 and 11043 of the Government Code, the executive director may employ as general counsel for the agency an attorney at law licensed in this state. The general counsel shall advise the board, the chairperson, and the executive director, when so requested, with regard to all matters in connection with the powers and duties of the agency and the board members and officers thereof. The general counsel shall perform all duties and services as general counsel to the agency which the agency may require of such person.

Except as provided in Section 11040 of the Government Code, the Attorney General shall represent and appear for the people of the State of California and the agency in all court proceedings involving any question under this division or any order or act of the agency; provided, however, that the agency may also employ private counsel to assist in any such court proceeding.

Notwithstanding the provision of Section 11042 and 11043 of the

Government Code, the executive director may appoint as bond counsel for the agency an attorney or attorneys. Nothing in this section or any other provision of law shall preclude the appointment of more than one attorney to serve as bond counsel, however, at all times at least one such attorney shall be licensed to practice law in this state. If the agency appoints more than one bond counsel for a bond issue, combined fees paid to all bond counsel shall not exceed those fees which would have been paid had only one bond counsel been appointed

Under the authority of this section, the president may appoint or retain an attorney or attorneys to undertake other appropriate legal studies and assignments not in conflict with this section.

SEC. 3.5. Section 50912 of the Health and Safety Code is amended to read:

50912. There shall be within the agency a director of financing appointed by the Governor and serving at the pleasure of the executive director of the agency.

The director of financing shall have responsibility for the financial operations of the agency and shall perform such other duties as may be required by the executive director

SEC 4. Section 50913 of the Health and Safety Code is amended to read:

50913. For its activities under this division, the executive director shall prepare a preliminary budget on or before December 1 of each year for the ensuing fiscal year to be reviewed by the Secretary of the Business and Transportation Agency, the Director of Finance, and the Joint Legislative Budget Committee. An analysis of the agency's proposed budget prepared by the Joint Legislative Budget Committee, together with any comments of the committee, shall be transmitted to the chairpersons of the fiscal committee of each house of the Legislature and to the chairperson of the board prior to the board's final adoption of the agency's budget

SEC. 4.2. Section 50914 of the Health and Safety Code is amended to read:

50914. (a) The board shall authorize any sale of obligations or securities or other debt obligations and shall approve other major contractual agreements. Any other contractual agreements or debt obligations may be approved by the executive director pursuant to regulations of the board

(b) Actions of the board may be taken only by a concurrence of a majority of the entire membership thereof, excepting nonvoting ex officio members.

SEC. 4.5. Section 50916 of the Health and Safety Code is amended to read:

50916. All meetings of the board and of all committees of the board including those committees whose membership constitutes less than a quorum of the board shall be open and public and all persons shall be permitted to attend and address the board or its committees, except when such meetings are held as executive

sessions, as authorized by Section 11126 of the Government Code.

SEC. 4.7 Section 50917 of the Health and Safety Code is repealed.

SEC. 5. Section 51000.1 is added to the Health and Safety Code, to read:

51000.1 Notwithstanding any other provision of law, except as provided in Section 51000.3, no officer or division of state government shall transfer any sums of money from any fund or account of the agency, except as may be ordered or authorized by either of the following:

(a) The president of the agency or such person's designee.

(b) The designated trustee, pursuant to authority contained in appropriate adopted resolutions pertaining to notes or bonds issued by the agency.

SEC 6. Section 51000.3 is added to the Health and Safety Code, to read:

51000.3. Section 51000.1 does not supersede any provision of Article 2 (commencing with Section 11270) of Chapter 3 of Division 3 of Title 2 of the Government Code.

SEC. 7. Section 51005 of the Health and Safety Code is amended to read:

51005. The agency shall, within 90 days following the close of each fiscal year, submit an annual report of its activities under this division for the preceding year to the Governor, the Secretary of the Business and Transportation Agency, the Director of Housing and Community Development, the State Treasurer, and the Legislature Within 90 days following the close of each fiscal year, the agency shall also submit an annual report to the Joint Legislative Budget Committee. Each such report shall set forth a complete operating and financial statement of the agency during the concluded fiscal year. The report shall specify the number of units assisted, the distribution of units among the metropolitan, nonmetropolitan, and rural areas of the state, and shall contain a summary of statistical data relative to the incomes of households occupying assisted units, the monthly rentals charged to occupants of rental housing developments, and the sales prices of housing developments purchased during the previous fiscal year by housing sponsors who are persons or families of low or moderate income. The report shall also include a statement of accomplishment during the previous year with respect to the agency's progress, priorities, and affirmative action efforts. The agency shall specifically include in its report on affirmative action goals, statistical data on the numbers and percentages of minority sponsors, developers, contractors, subcontractors, suppliers, architects, engineers, attorneys, mortgage bankers or other lenders, insurance agents and managing agents The agency shall cause an audit of its books and accounts with respect to its activities under this division to be made at least once during each fiscal year by an independent certified public accountant and the agency shall be subject to audit by the Department of Finance not more often than once each fiscal year

Within 90 days following receipt of the agency's annual report, the Joint Legislative Budget Committee shall submit a report on the agency's activities under this division to the Legislature.

SEC 7.5. Section 51006 of the Health and Safety Code is amended to read.

51006. The executive director of the agency shall immediately certify in writing to the Joint Legislative Audit Committee, the Joint Legislative Budget Committee, the Speaker of the Assembly, the Senate Rules Committee, and the Governor, if the agency is notified by the trustee in writing that moneys of the agency will not be sufficient to meet principal payments, sinking fund payments, and interest payments on bonds authorized under Chapter 7 (commencing with Section 51350) of this part and to restore and maintain the bond reserve funds provided for in Section 51366; provided, however, that no such certification need be made unless such insufficiency will result in an event of default under the respective bond resolution authorizing such bonds.

SEC. 8. Section 51050 of the Health and Safety Code is amended to read:

51050. The agency shall have all of the following powers:

(a) To sue and be sued in its own name.

(b) To have an official seal and to alter the same at pleasure.

(c) To have perpetual succession

(d) To maintain offices at such place or places within the state as it may designate.

(e) To adopt, and from time to time amend and repeal, by action of the board, rules and regulations, not inconsistent with the provisions of this part, to carry into effect the powers and purposes of the agency and the conduct of its business. Rules and regulations of the agency shall be adopted, amended, repealed, and published 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 With respect to regulations in areas specified in Section 50462, the agency may propose regulations, but such regulations shall become effective only upon concurrence of the Secretary of the Business and Transportation Agency, or his designated representative, or the Director of Housing and Community Development.

(f) Notwithstanding any other provision of law, to make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this part with any governmental agency, private corporation or other entity, or individual, and to contract with any local public entity for processing of any aspect of financing housing developments Contracts made or executed under the authority of this part shall not be subject to any provision of law requiring competitive bidding, but the agency shall take into consideration any applicable state policies respecting competitive bidding prior to letting a contract on a negotiated bid.

In exercising the powers set forth in this subdivision, the agency

shall be subject to any applicable provisions of law requiring the supervision or approval of another division or officer of state government, except with respect to the following, which shall be exempt from such requirements:

(1) Contracts and instruments made or executed in connection with the issuance or marketing of the agency's bonds, including procurement of financial consultants, underwriters, actuaries, bond counsel, and computer and printing services related to the issuance or marketing of the bonds

(2) Contracts and instruments relating to protection of the security interests of holders of the agency's bonds or the management, acquisition, or disposition of any property, funds, assets, or loans that are either acquired with the proceeds of any bonds or pledged or held in trust for the benefit of holders of the agency's bonds.

(3) Contracts and instruments made or executed pursuant to Chapter 5 (commencing with Section 51100) of this part.

(g) To acquire real or personal property, or any interest therein, on either a temporary or long-term basis in its own name by gift, purchase, transfer, foreclosure, lease, option, or otherwise, including easements or other incorporeal rights in property

(h) To hold, sell, assign, lease, encumber, mortgage, or otherwise dispose of any real or personal property or any interest therein; to hold, sell, assign, or otherwise dispose of any mortgage interest owned by it, under its control or custody, or in its possession; and, as applicable, to do any of the acts specified in this subdivision by public or private sale, with or without public bidding, notwithstanding any other provision of law.

(i) To release or relinquish any right, title, claim, lien, interest, easement, or demand however acquired, including any equity or right of redemption in real property foreclosed by it.

(j) To determine the terms and conditions of any mortgage instrument, deed of trust, or promissory note used or executed in conjunction with the financing of any housing development.

(k) To employ architects, engineers, attorneys, accountants, housing construction and financial experts, and such other advisers, consultants, and agents as may be necessary in its judgment and to fix their compensation.

(*l*) To provide advice, technical information, and consultative and technical service in connection with the financing of housing developments pursuant to this part.

(m) To procure insurance against any loss in connection with its property and other assets, including mortgages and mortgage loans, in such amounts and from such insurers as it deems desirable.

(n) To establish, revise from time to time, and charge and collect fees and charges in connection with loans made by the agency.

(o) To borrow money and issue bonds, as provided in this part.

(p) To enter such agreements and perform such acts as are necessary to obtain federal housing subsidies for use in connection

with housing developments.

(q) To provide bilingual staff in connection with services of the department and make available agency publications in a language, other than English, where necessary to effectively serve all groups for which such services or publications are made available.

(r) To require any individual, corporation, or other legal entity operating, managing, or providing maintenance services for a housing development or a residential structure to maintain a current certificate of qualification developed and approved by the agency.

(s) To do any and all things necessary to carry out its purposes and exercise the powers expressly granted by this part.

SEC. 9. Section 51359 of the Health and Safety Code is amended to read.

51359. The members of the board, the executive director of the agency, or any other person executing such notes or bonds shall not be subject to any personal liability or accountability by reason of the issuance thereof.

SEC. 10. Section 51360 of the Health and Safety Code is amended 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 executive director of the agency. 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.

CHAPTER 1116

An act to add Article 8.5 (commencing with Section 54235) to Chapter 5 of Part 1 of Division 2 of Title 5 of the Government Code, and to amend Section 118 of the Streets and Highways Code, relating to surplus property, and declaring the urgency thereof, to take effect

immediately

[Approved by Governor September 27, 1979 Filed with Secretary of State September 28, 1979.]

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

SECTION 1. Article 8.5 (commencing with Section 54235) is added to Chapter 5 of Part 1 of Division 2 of Title 5 of the Government Code, to read:

Article 8.5. Surplus Residential Property

54235. The Legislature reaffirms its finding that the disposition of surplus property owned by public agencies should be utilized to further state policies.

The Legislature reaffirms its finding that 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 can afford, and consequently a pressing and urgent need for the preservation and expansion of the low and moderate income housing supply. The Legislature further reaffirms its finding that highway and other state activities have contributed to the severe shortage of such housing. The Legislature reaffirms that the provision of decent housing for all Californians is a state goal of the highest priority. The Legislature finds and declares that actions of state agencies including the sales of surplus residential properties which result in the loss of decent and affordable housing for persons and families of low or moderate income is contrary to state housing, urban development, and environmental policies and is a significant environmental effect, within the meaning of Article XIX of the California Constitution, which will be mitigated by the sale of surplus residential property pursuant to the provisions of this article.

The Legislature further finds and declares that the displacement of large numbers of persons as a result of the sale of surplus residential property owned by agencies of the state is a significant environmental effect, within the meaning of Article XIX of the California Constitution which will be mitigated by sale of such properties pursuant to the provisions of this article. The Legislature further finds that the effect of displacing small numbers of persons, as a result of individual sales, is a significant environmental effect, within the meaning of Article XIX of the California Constitution, which will be mitigated by the sale of surplus residential property pursuant to the provisions of this article.

The Legislature further finds and declares that the sale of surplus residential property pursuant to the provisions of this article will directly serve an important public purpose. Wherefore, the Legislature intends by this article to preserve, upgrade and expand the supply of housing available to persons and families of low or

moderate income. The Legislature further intends by this article to mitigate the environmental effects, within the meaning of Article XIX, of the California Constitution, caused by highway activities.

54236 (a) As used in this article, the term "offer" means to solicit proposals prior to sale in a manner calculated to achieve a sale under the conditions specified, and to hold such offer open for a reasonable period of time, which shall be no more than one year, unless such time is extended by the selling agency at its discretion, for a period to be specified by the selling agency.

(b) As used in this article, the term "affordable price" means, in the case of a purchaser, other than a lower income household, the price for residential property for which the purchaser's monthly payments will not exceed that portion of the purchasing household's adjusted income as determined in accordance with the regulations of the United States Department of Housing and Urban Development, issued pursuant to Section 235 of the National Housing Act; and, in the case of a purchaser that is a lower income household, the price for residential property for which the purchaser's monthly payments will not exceed that portion of the purchasing household's adjusted income as determined in accordance with the regulations of the United States Department of Housing and Urban Development issued pursuant to Section 8 of the United States Housing Act of 1937.

(c) As used in this article, the term "single-family residence" means a real property improvement used, or intended to be used, as a dwelling unit for one family.

(d) As used in this article, the term "surplus residential property" means land and structures owned by any agency of the state that is determined to be no longer necessary for such agency's use, and which is developed as single-family or multi-family housing, except property being held by the agency for the purpose of exchange.

Surplus residential properties shall only include land and structures which, at the time of purchase by the state, the state had intended to remove the residences thereon and to use the land for state purposes.

(e) As used in this article the term "displacement" includes, but is not limited to, persons who will have to move from surplus residential property that they occupy when it is sold by a state agency because they are unable to afford to pay the price which the state agency is asking for the residential property.

(f) As used in this article, the term "fair market value" shall mean fair market value as of the date the offer of sale is made by the selling agency pursuant to the provisions of this article. This definition shall not apply to terms of sale that are described as mitigation measures in an environmental study prepared pursuant to the Public Resources Code if such study was initiated prior to the enactment of this measure

(g) As used in this article, the term "affordable rent" means, in the case of an occupant person or family, other than a person or

family of low or moderate income, rent for residential property which is not more than 25 percent of the occupant household's gross monthly income, and in the case of an occupant person or family of low or moderate income, rent for residential property which is not more than the percentage of the adjusted income of the occupant person or family as permitted under regulations of the United States Department of Housing and Urban Development issued pursuant to Section 8 of the United States Housing Act of 1937, but not in excess of the market rental value for comparable property.

(h) As used in this article, the term "area median income" means median household income, adjusted for family size as determined in accordance with the regulations of the United States Department of Housing and Urban Development issued pursuant to Section 235 of the National Housing Act, as amended (P.L. 90-448), for the Standard Metropolitan Statistical Area (S.M.S.A.), in which surplus residential property to be disposed of pursuant to this article is located, or the county in which such property is located, if it is outside an S.M.S.A.

(i) As used in this article, the term "persons and families of low or moderate income" means persons and families of low or moderate income as defined by Section 50093 of the Health and Safety Code.

(j) As used in this article, the term "lower income households" means lower income households as defined in Section 50079.5 of the Health and Safety Code

54237. (a) Notwithstanding Section 11011.1, any agency of the state disposing of surplus residential property shall do so in accordance with the following priorities and procedures:

(1) First, all single family residences presently occupied by their former owners shall be offered to such former owners at the appraised fair market value.

(2) Second, all single-family residences shall be offered, pursuant to this article, to their present occupants who have occupied the property two years or more and who are persons and families of low or moderate income.

(3) Third, all single-family residences shall be offered, pursuant to this article, to their present occupants who have occupied the property five years or more and whose household income does not exceed 150 percent of the area median income.

(b) Single-family residences offered to their present occupants pursuant to paragraphs (2) and (3) of subdivision (a) shall be offered to such present occupants at an affordable price, which price shall not be less than the price paid by the agency for original acquisition, unless the acquisition price was greater than the current fair market value, and shall not be greater than fair market value When such single-family residences are offered to present occupants at a price which is less than fair market value, the selling agency shall impose such terms, conditions and restrictions to assure that such housing will remain available to persons and families of low or moderate income and households with incomes no greater than the incomes of the present occupants in proportion to the area median income. The

Department of Housing and Community Development shall provide to the selling agency recommendations of standards and criteria for such prices, terms, conditions and restrictions. The selling agency shall provide repairs required by lenders and government housing assistance programs.

(c) If single-family residences are offered to their present occupants pursuant to paragraphs (2) and (3) of subdivision (a) the occupants shall certify their income to the selling agency. When such single-family residences are offered to present occupants at a price which is less than fair market value, the selling agency may verify such certifications, in accordance with procedures utilized for verification of incomes of purchasers and occupants of housing financed by the California Housing Finance Agency. The income limitations and term of residency requirements of paragraphs (2) and (3) of subdivision (a) shall not apply to sales that are described as mitigation measures in an environmental study prepared pursuant to the Public Resources Code, if such study was initiated prior to the enactment of this measure

(d) All other surplus residential properties, and all properties described in paragraphs (1), (2), and (3) of subdivision (a) which are not purchased by the former owners or the present occupants shall be then offered to housing-related private and public entities at a reasonable price, which is best suited to economically feasible use of the property as decent, safe, and sanitary housing at affordable rents and affordable prices for persons and families of low or moderate income, on the condition that the purchasing entity shall cause the property to be rehabilitated and developed as limited equity cooperative housing with first right of occupancy to present occupants, except that where the development of such cooperative or cooperatives is not feasible, the purchasing agency shall cause the property to be used for low and moderate income rental or owner-occupied housing, with first right of occupancy to the present tenants. The price of the property in no case shall be less than the price paid by the agency for original acquisition unless the acquisition price was greater than current fair market value, and shall not be greater than fair market value. Subject to the foregoing, it shall be set at the level necessary to provide housing at affordable rents and affordable prices for present tenants and persons and families of low or moderate income When such residential property is offered at a price which is less than fair market value, the selling agency shall impose such terms, conditions and restrictions as will assure that such housing will remain available to persons and families of low or moderate income The Department of Housing and Community Development shall provide to the selling agency recommendations of standards and criteria for such prices, terms, conditions and restrictions.

(e) Any surplus residential properties not sold pursuant to subdivisions (a) to (d), inclusive, shall then be sold at fair market value, with priority given first to purchasers who are present

occupants and then to purchasers who will be owner occupants.

54238. In the event a purchaser of surplus residential property does not comply with terms, conditions, and restrictions imposed pursuant to Section 54237 of this article, to assure that such housing will remain available to persons and families of low or moderate income, the state agencies which sold the property may require that the purchasers pay the state the difference between the actual price paid by the purchaser for the property and the fair market value of such property, at the time of the agency's determination of noncompliance, plus 6 percent interest on such amount for the period of time the land has been held by the purchaser. This section does not limit the right to seek injunctive relief to enforce the provisions of this article.

54238.4. This article is intended to benefit persons and families subject to displacement and persons and families of low or moderate income. The article shall be liberally construed to permit such persons or families to enforce the rights, duties, and benefits created by the article.

54238.5. Failure to comply with the provisions of this article shall not invalidate the transfer, sale, or conveyance to a bona fide purchaser for value or an encumbrancer for value.

54238.6. If a 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 thereof, and to this end the provisions of this article are severable.

SEC. 2. Section 118 of the Streets and Highways Code is amended to read:

118 Whenever the department determines that any real property or interest therein, heretofore or hereafter acquired by the state for highway purposes, is no longer necessary for such purposes, the department may sell, contract to sell, sell by trust deed, or exchange such real property or interest therein in the manner and upon terms, standards, and conditions established by the commission. The payment period in any such contract of sale or sale by trust deed shall not extend longer than 10 years from the time such contract of sale or trust deed is executed, and any such transaction involving a contract of sale or sale by trust deed to private parties shall require a downpayment of at least 30 percent of the purchase price, except that, in the case of unimproved real property sold or exchanged for the purpose of housing for persons of low and moderate income, as defined in Section 50093 of the Health and Safety Code, the payment period may not exceed 40 years and the downpayment shall be at least 5 percent of the purchase price. All contracts of sale or sales by trust deed, for the purpose of housing for low and moderate income persons shall bear interest. The rate of interest for any such contract or sale 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 payment is made. Such contract of sale and sales by trust deeds shall not be utilized if the proposed development or sale qualifies for financing from other sources and if such financing makes feasible the provision of low and moderate income housing. Any such conveyance shall be approved by the commission and shall be executed on behalf of the state by the director and the purchase price shall be paid into the State Treasury to the credit of any fund, available to the department for highway purposes, which the commission designates.

Any such real property or interest therein may in like manner be exchanged, either as whole or part consideration, for any other real property or interest therein needed for state highway purposes.

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 surplus residential properties owned by state agencies may be disposed of in a manner that will provide additional housing in this state, thereby improving the health and welfare of the residents of this state, at the earliest possible time, it is essential that this act take immediate effect.

CHAPTER 1117

An act to amend Sections 13371, 13372, 13373, and 13374 of, and to add Sections 13375, 13376, 13377, 13378, and 13379 to, the Public Utilities Code, relating to municipal utility districts.

[Approved by Governor September 27, 1979 Filed with Secretary of State September 28, 1979]

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

SECTION 1. Section 13371 of the Public Utilities Code is amended to read:

13371 A district may borrow money and incur indebtedness for the purposes of this chapter by the issuance of bonds, notes or other evidences of indebtedness by a majority vote of its board of directors and without the necessity of calling and holding an election in the district. Such evidences of indebtedness shall constitute general obligations of the district or shall be payable solely from the revenues of the district as the board may determine in the resolution authorizing their issuance; provided, that if the board determines that the evidences of indebtedness shall constitute general obligations of the district, their issuance shall be approved by a four-fifths vote of the board Such indebtedness may be incurred for any of the following purposes.

(a) The purchase, processing, storage, and disposal of fuel to be

used for the generation and transmission of electricity, of materials to be used in the manufacture of such fuel, and of the products of such fuel, the purchase of real property and manufacturing and processing facilities from which such fuel or materials may be obtained, or interests therein.

(b) The planning, design, engineering, and licensing of facilities for the generation or transmission of electricity, and the preparation of sites and the purchase of equipment for such facilities.

(c) The replacement of works of the district that have been damaged or demolished by reason of fire, flood, earthquake, sabotage, or acts of God or the public enemy.

(d) Any expenses or charges incurred in connecton with the foregoing purposes, and to reimburse the district for expenditures incurred for any of such purposes.

The indebtedness incurred under this chapter shall be evidenced by bonds, notes or other evidences of indebtedness maturing in not to exceed seven years from their date, shall not result in interest costs exceeding such limits as may be fixed by the board, and may be sold either by public or by private sale. All other terms and conditions of such evidences of indebtedness shall be fixed by the board. The district may arrange for bank credit for the purposes of this section or to provide an additional source of repayment for indebtedness incurred under this chapter The maximum principal amount of all indebtedness outstanding under this chapter, including the amounts drawn on available bank lines of credit, shall not at any one time exceed fifty million dollars ($50,000,000) or 25 percent of the district's annual gross revenues during the preceding calendar year, whichever is greater

The authority contained in this chapter shall be in addition to the authority contained in Chapter 6 (commencing with Section 12701) and Chapter 7 (commencing with Section 13201) of this division, and any indebtedness incurred pursuant to this chapter shall not be included in ascertaining the aggregate indebtedness permitted by Section 12842.

SEC. 2. Section 13372 of the Public Utilities Code is amended to read:

13372. The district may issue refunding bonds, notes, or other evidences of indebtedness for the purpose of paying and redeeming at or before maturity any bonds, notes, or other evidences of indebtedness issued under this chapter, provided that such refunding bonds, notes, or other evidences of indebtedness shall not be in excess of the limitation of indebtedness authorized under this chapter and shall mature in not to exceed seven years from the date of the original indebtedness. Such refunding bonds, notes, or other evidences of indebtedness may in turn be refunded under like terms and conditions, provided that in no event shall such refunding notes mature in excess of seven years from the date of the original indebtedness

SEC 3 Section 13373 of the Public Utilities Code is amended to

read:

13373. General obligation indebtedness issued pursuant to this chapter shall be payable from any sources of available funds, including revenues or taxes. The board is hereby authorized to levy and collect taxes upon all property in the district subject to taxation by the district without limitation of rate or amount for the payment of the evidences of such general obligation indebtedness and the interest thereon. Such taxes shall be in addition to all other taxes levied for district purposes and shall be levied at the same time and in the same manner as other district taxes are levied and when collected shall be deposited in a special fund and shall be used for no purpose other than the payment of the principal of and interest on such general obligation indebtedness.

SEC. 4. Section 13374 of the Public Utilities Code is amended to read:

13374. This chapter shall be applicable only to districts which have owned and operated an electric distribution system or electric generating facilities for at least eight years and which contain a population of 250,000 or more.

SEC. 5. Section 13375 is added to the Public Utilities Code, to read:

13375. As used in this chapter, the term "revenues of the district" shall have the same meaning as is provided in Section 54315 of the Government Code

SEC. 6. Section 13376 is added to the Public Utilities Code, to read:

13376. When bonds are issued under this article, the preliminary resolution of the board adopted pursuant to this article shall take effect upon its adoption by the board subject to the right of referendum provided for in this article. Successive issues of bonds may be authorized under this article from time to time and the authority herein contained shall not be limited to any particular issue.

SEC. 7. Section 13377 is added to the Public Utilities Code, to read:

13377. Whenever a resolution authorizes the issuance of bonds pursuant to Section 13371, the board shall cause the resolution to be published in the manner provided for the publication of notices. At any time within 60 days after the date of the second such publication a referendum petition, signed by voters in number equal to at least 3 percent of the total vote cast, as defined in Section 11507, demanding the submission of such resolution to a vote of the voters of the district for their assent to the issuance of the proposed bonds, may be filed with the secretary. Upon presentation to the secretary of a petition meeting the requirements of this section, the resolution which is the subject thereof shall be of no effect unless and until it has been approved by the voters.

SEC. 8. Section 13378 is added to the Public Utilities Code, to read:

13378. If no such referendum petition is presented within the period of 60 days, then upon the expiration of such period, or if the proposition of issuing the bonds specified in the resolution of the board adopted pursuant to this article has been assented to by a majority of the voters voting on the proposition, whether upon referendum or pursuant to Section 13379, then upon such proposition having been so assented to, the resolution shall take full and final effect, and the board may proceed in accordance with the provisions of this article and issue bonds within the terms of the resolution.

SEC. 9 Section 13379 is added to the Public Utilities Code, to read:

13379. The board at any time may, and upon the filing of a referendum petition as provided in Section 13377 shall, adopt a resolution calling a special election for the purpose of submitting to the voters of the district the proposition of issuing revenue bonds in conformity with the preliminary resolution adopted pursuant to this article. The resolution calling the election shall fix the date on which the election is to be held, the proposition to be submitted thereat, the manner of holding the election and of voting for or against the proposition, and shall state that in all other particulars the election shall be held and the votes canvassed as provided by law for the holding of elections within the district. Such election may be held separately or may be consolidated with any other election authorized by law at which the voters of the district may vote. The resolution calling the election shall be published and no other notice of the election need be given The votes of a majority of all the voters voting on the proposition at the election are required to authorize the issuance of bonds pursuant to Section 13371.

SEC. 10. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because this act is in accordance with the request of a local governmental entity or entities which desired legislative authority to carry out the program specified in this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 1118

An act to add Division 17 (commencing with Section 26500) to the Public Resources Code, relating to geologic hazards.

[Approved by Governor September 27, 1979. Filed with Secretary of State September 28, 1979.]

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

SECTION 1. Division 17 (commencing with Section 26500) is added to the Public Resources Code, to read

DIVISION 17 GEOLOGIC HAZARD ABATEMENT DISTRICTS

CHAPTER 1. DEFINITIONS

26500. Unless the context otherwise requires, the definitions set forth in this chapter govern the construction of this division.

26501. "Board of directors" means the governing body of the district.

26502. "Bonds" means bonds, notes, or other evidence of indebtedness issued by a district pursuant to this division.

26503 "Local agency" means a city, a city and county, or a county

26504 "Clerk", where not otherwise modified, means the clerk of the district

26505. "Improvement" means any activity necessary or incidental to the prevention, mitigation, abatement, or control of a geologic hazard, including, but not limited to, the acquisition of property or any interest therein, construction, or the maintenance, repair, or operation of any improvement, or the issuance and servicing of bonds issued to finance any of the foregoing.

26506. "District" means a geologic hazard abatement district created pursuant to this division.

26507. "Geologic hazard" means an actual or threatened landslide, land subsidence, soil erosion, or any other natural or unnatural movement of land or earth.

26508. "Legislative body" means the legislative body of a local agency.

26509 "Plan of control" means a report prepared by an engineering geologist certificated pursuant to Section 7822 of the Business and Professions Code or a firm of engineering geologists which describes in detail a geologic hazard, its location and the area affected thereby, and a plan for the prevention, mitigation, abatement, or control thereof.

26510. "Section", unless otherwise modified, refers to a section of the Public Resources Code.

26511 "State" means the State of California and, where the context requires, any agency or instrumentality thereof.

26512 "Treasurer" means the treasurer of the district.

CHAPTER 2. DISTRICT FORMATION

Article 1. Purpose

26525 A geologic hazard abatement district may be formed

pursuant to this division for the purpose of prevention, mitigation, abatement, or control of a geologic hazard.

Article 2. Lands Included

26530. The lands included within a district may be contiguous or noncontiguous.

26531. The lands included within a district may be situated in more than one local agency.

26532. The lands included within a district may be publicly or privately owned.

26533. No parcel of real property shall be divided by the boundaries of the proposed district.

26534 All lands included within a district shall be specially benefitted by construction proposed in a plan of control approved by the legislative body.

Article 3. Initiation of Proceedings

26550. The provisions of this chapter shall be inoperative as to a legislative body unless and until the legislative body adopts a resolution declaring that it is subject to its provisions and has forwarded a copy of such resolution to the State Controller.

26550 5. Proceedings for the formation of a district may be initiated by either of the following methods:

(a) A petition signed by owners of not less than 10 percent of the real property to be included within the proposed district.

(b) By resolution of the legislative body.

26551. If the territory proposed to be included within a district is located in more than one local agency, the legislative body of the local agency wherein lies the greater amount of assessed valuation of real property as shown on the assessment roll last equalized by the county, shall initiate and conduct the proceedings to form a district.

26552 A petition initiating proceedings for formation of a district may be presented to the clerk of the legislative body, and shall contain substantially all of the following:

(a) A statement that the petition is made pursuant to this division

(b) An indication, opposite each signature, of the lot, tract, and map number or other legal description sufficient to identify such signature as that of the owner of land within the territory included within the proposed district.

(c) An indication, opposite each signature, of the date each signature was affixed to the petition.

(d) A legal description and map of the boundaries of the territory to be included within the proposed district.

26553 A plan of control shall be attached to the petition.

26554 Upon receipt of a petition in the form described in Sections 26550.5, 26551, and 26553, the clerk of the legislative body shall place such petition on the agenda for the regular meeting of the

legislative body next following the clerk's determination that such petition is substantially in the form described in Sections 26551 and 26552 and upon verification that the signatures affixed to the petition represent owners of not less than 10 percent of the real property to be included within the proposed district.

26555. No petition shall be accepted by the clerk of the legislative body unless the signatures thereon shall have been secured within 120 days of the date on which the first signature on the petition was affixed and such petition is submitted to the clerk within 30 days after the last signature was affixed

26556. The clerk of the legislative body shall notify the person whose signature first appears on the petition of any irregularity in the petition Such notification shall be by certified mail with return receipt requested. Within 10 days of the date of such mailing, a supplemental petition curing any irregularity may be submitted to the clerk.

26557. Upon presentation to the legislative body of a petition in the form prescribed by Sections 26551 and 26552, the legislative body shall adopt a resolution setting a public hearing on such petition and directing notice thereof to be mailed to all owners of real property to be included within the proposed district as shown on the assessment roll last equalized by the county.

26558. A resolution of the legislative body intiating proceedings for the formation of a district shall contain substantially the following:

(a) A statement that the resolution is made pursuant to this division.

(b) A statement that the legislative body has been presented with and has reviewed a plan of control, and has determined that the health, safety, and welfare require formation of a district

(c) The setting of a public hearing on such determination and directing that notice be mailed to all owners of real property included within the proposed district.

26559. All activities of a local agency taken pursuant to this division for the formation of a district or the annexation of territory thereto are specific actions necessary to prevent or mitigate an emergency within the meaning of paragraph (4) of subdivision (b) of Section 21080.

26560. Notwithstanding any other provision of law, proceedings for the formation of a district pursuant to this division are exclusive.

Article 4. Notice and Hearing

26561 Notice of the hearing set pursuant to Section 26557 or subdivision (c) of Section 26558 shall be mailed by certified mail with return receipt requested and postmarked not less than 20 nor more than 30 days preceding the date of the public hearing.

26562 A copy of the petition described in Section 26552 or the resolution described in Section 26558 shall be attached to the notice

26563. The notice shall set forth the time, date, and place of the

hearing, breifly describe the purpose thereof, and indicate where the plan of control may be reviewed or duplicated, at a cost not to exceed the cost of duplication. The notice shall also set forth the address where objections to the proposed formation may be mailed or otherwise delivered up to and including the time of the hearing.

26564 At any time not later than the time set for hearing objections to the proposed formation, any owner of real property within the proposed district may make a written objection to the formation Such objection shall be in writing, shall contain a description of the land by lot, tract, and map number, and shall be signed by such owner. Objections shall be mailed or delivered as specified in the notice described in Section 26561. If the person whose signature appears on such objection is not shown on the assessment roll last equalized by the county as the owner of the subject real property, the written objection shall be accompanied by evidence sufficient to indicate that such person is the owner of such property. The determination by the legislative body of ownership for purposes of this section shall be final and conclusive.

26565. At the time set for hearing objections, the legislative body shall be presented with all objections made pursuant to Section 26564 The legislative body may adjourn such hearing from time to time, but not to exceed 60 days from the date specified in the original notice

26566 If it appears at the hearing that owners of more than 50 percent of the assessed valuation of the proposed district object to the formation thereof, the legislative body shall thereupon close the hearing and direct that proceedings for the formation of a district be abandoned.

26567 At the close of the hearing or within 60 days thereafter, the legislative body may proceed by resolution to order the formation of the proposed district. Such resolution shall appoint five owners of real property within the district to the initial board of directors for terms not to exceed four years, or, as an alternative to the appointment of five such owners, the legislative body may appoint itself to act as the initial board of directors for a term not to exceed four years Thereafter, the board of directors shall be elected as provided by Section 26583

CHAPTER 3 NATURE AND POWERS OF THE DISTRICT

Article 1. Nature of the District

26570. A district is a political subdivision of the state A district is not an agency or instrumentality of a local agency

26571 A district is comprised of an area specially benefitted by and subject to special assessment to pay the cost of an improvement. While a district performs certain governmental and proprietary functions as a political subdivision of the state, it is not a special district within the meaning of Section 54775 of the Government

Code.

26573. The powers of a district are vested in the board of directors.

Article 2. Powers of a District

26574. A district may do all of the following:

(a) Sue and be sued.

(b) Make, amend, and repeal bylaws.

(c) Have a seal.

(d) Exercise all powers necessary or incidental to carry out the purposes of this division.

26575 A district may obtain, hire, purchase, or rent office space and equipment.

26576. Within the territorial limits of the district, or for the purposes set forth in this division, a district may acquire real property or any interest therein by eminent domain.

26577 A district may purchase, lease, obtain an option upon, acquire by gift, grant, bequest, or devise, or otherwise acquire any property or any interest in property.

26578. A district may sell, lease, exchange, assign, encumber, or otherwise dispose of property or any interest in property.

26579. The district may enter into contracts and agreements with the United States, any state or local unit of government, public agency, including any other geologic hazard abatement district or public district, private organization, or any person in furtherance of the purposes of the division.

26580. The district may:

(a) Acquire, construct, operate, manage, or maintain improvements on public or private lands. Such improvements shall be with the consent of the owner, unless effected by the exercise of eminent domain pursuant to Section 26576.

(b) Accept such improvements undertaken by anyone.

26581. At any time following the adoption of the resolution pursuant to Section 26567, the board of directors may proceed to annex territory to the district. The proceedings for annexation shall follow the procedure contained in Article 3 (commencing with Section 26550) and Article 4 (commencing with Section 26561) of Chapter 2 of this division. In such instance, the board of directors shall assume the responsibilities of the legislative body. Annexation of territory to a district shall be subject to the approval of the legislative body which ordered formation of the district. Such approval shall be given by resolution, following the order by the board of directors for annexation of territory to the district

Article 3. Meetings

26582. A district shall keep a record of the proceedings of its meetings. A district is subject to the provisions of the Ralph M Brown

Act (commencing with Section 54950 of the Government Code).

Article 4. Officers

26583. Following the four-year term of the initially appointed board of directors formed pursuant to Section 26567, the board of directors shall be composed of five elected directors. The term of office of directors shall be four years. The expiration of the term of any director shall not constitute a vacancy and he shall hold office until his successor has qualified. Elections shall be called and conducted, and the results canvassed, returned, and declared pursuant to the Uniform District Election Law (commencing with Section 23500 of the Elections Code).

26584 The board of directors shall appoint a clerk of the district.

26585. The board of directors shall appoint a treasurer of the district

26586. The board of directors may appoint other officers of the district and delegate thereto such powers of the district as may be appropriate in the circumstances.

Chapter 4. Finances

Article 1 Improvement Act of 1911, Municipal Improvement Act of 1913; Improvement Bond Act of 1915

26587 A district may use the Improvement Act of 1911 (commencing with Section 5000 of the Streets and Highways Code) or the Municipal Improvement Act of 1913 (commencing with Section 10000 of the Streets and Highways Code) or the Improvement Bond Act of 1915 (commencing with Section 8500 of the Streets and Highways Code) to pay the costs of an improvement pursuant to this division.

26588. The powers and duties conferred by the Improvement Act of 1911 or the Municipal Improvement Act of 1913 or the Improvement Bond Act of 1915 on the various boards, officers, and agents of cities shall be exercised by the corresponding boards, officers, and agents of the district.

26589 In the application of the Improvement Act of 1911 or the Municipal Improvement Act of 1913 or the Improvement Bond Act of 1915 to proceedings instituted by a district, the terms used in the Improvement Act of 1911 or the Municipal Improvement Act of 1913 or the Improvement Bond Act of 1915 have the following meanings:

(a) "City council" or "council" or "legislative body" means the board of directors of the district.

(b) "Municipality" or "city" means the district.

(c) "Clerk" or "city clerk" means the clerk of the district.

(d) "Superintendent of streets," "street superintendent," or "city engineer" means any person appointed by the board to perform or effect an improvement.

(e) "Tax collector" means the county tax collector.

(f) "Treasurer" or "city treasurer" means the treasurer of the district

(g) "Mayor" means the board of directors or an officer of the district to whom such powers and duties are delegated by the board of directors.

(h) "Right-of-way" means any parcel of land in, on, under, or through which a right-of-way or easement has been granted to the district for the purpose of performing or effecting an improvement.

26590. Any certificates or documents required by the Improvement Act of 1911 or the Municipal Improvement Act of 1913 or the Improvement Bond Act of 1915 to be filed or recorded in the office of the superintendent of streets or street superintendent shall be filed or recorded in the office of the clerk of the district.

Article 2. Financial Assistance

26591. A district may accept financial or other assistance from any public or private source and may expend any funds so accepted for any of the purposes of this division.

26592. Contributions by a local agency, the state, or any instrumentality or political subdivision thereof, are hereby declared to be for a public purpose.

26593. A district may borrow money from or otherwise incur an indebtedness to a local agency, the state, or any instrumentality or political subdivision thereof, or the federal government, and may comply with any conditions imposed upon the incurring of such indebtedness.

26594. A district may repay any financial assistance accepted pursuant to Section 26591.

26595. A district may reimburse the local agency for all or any part of the cost and expenses incurred by the local agency in formation of the district.

CHAPTER 5. IMPROVEMENTS

26600. The board of directors may negotiate improvement contracts or may award such contracts by competitive bidding pursuant to procedures approved by the board of directors.

26601. Improvement caused to be undertaken pursuant to this division, and all activities in furtherance thereof or in connection therewith, shall be deemed to be specific actions necessary to prevent or mitigate an emergency within the meaning of paragraph (4) of subdivision (b) of Section 21080.

SEC. 2. 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 1119

An act to add Chapter 8 (commencing with Section 865) to Part 2 of Division 3 6 of the Government Code, relating to public liability, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1979. Filed with Secretary of State September 28, 1979]

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

SECTION 1. Chapter 8 (commencing with Section 865) is added to Part 2 of Division 3.6 of the Government Code, to read:

CHAPTER 8. ACTIVITIES TO ABATE AN IMPENDING PERIL

865. The Legislature hereby finds and declares that:

(a) The gradual movement of land, such as in prehistoric slide areas, or as a result of subsidence due to the depletion of underground or subterranean supporting substances, such as minerals, petroleum sources, water, and similar substances, can result in danger to persons or property. Although the movement is gradual and expressed in terms of numbers of inches, feet or meters per day, week or year, at some point the forces that are exerted by the movement will sever underground utilities, such as water, sewer, gas, electricity or telephone services and can cause the destruction of aboveground structures whose foundations become undermined or where support is denied altogether. Unlike an earthquake or rapid rockslide or landslide, these gradual earth movements permit possible intervention to arrest the movement and avoid harm which is posed to persons or property. If there is an adequate manifestation of the problem before actual harm to persons or property, it is possible to make some determinations as to a method of remedial action which can abate the hazard. However, any undertaking to arrest the earth movement may not be successful or may have within it the potential for hastening the movement and the damages resulting from such movement. Regardless of how slight that potential for aggravating the damages, local public entities are unwilling to undertake action to alleviate the hazard if such undertaking may invite potential liability.

(b) It is the intent of the Legislature in enacting this chapter to create an incentive for local public entities, upon learning of the particular earth movement which will result in possible damage to substantial areas of property and constitute a threat of injury to persons, to undertake remedial action to abate the earth movement or protect against the danger therefrom without fear of incurring liability as a result of undertaking such action

866 (a) Subject to the provisions of subdivisions (b) and (c), in the event of public necessity and to avoid impending peril to persons

or property as a result of gradual earth movement, a local public entity is not liable for damages for injury to persons or property resulting from such impending peril or from any action taken to abate such peril providing the legislative body of the local public entity has, on the basis of expert opinion or other reasonable basis, done all of the following:

(1) On the basis of adequate evidence such as expert opinion or otherwise, found the existence of such impending peril.

(2) Determined appropriate remedial action to halt, stabilize, or abate such impending peril.

(3) Undertaken to implement such remedial action

As used in this chapter, "gradual earth movements" includes, but is not limited to, perceptible changes in the earth either in a subterranean area or at the surface, or both, which if not arrested or contained will over a gradual period of time result in damage to or destruction of underground or aboveground property or harm to persons. However, "gradual earth movement" does not include movement which is caused by activity undertaken by a local public entity for purposes other than the abatement of peril caused by gradual earth movement.

As used in this chapter, "local public entity" has the meaning set forth in Section 900.4.

(b) If the local public entity is unable to complete the steps described in paragraphs (1) to (3), inclusive, of subdivision (a) because of the cessation of the hazard or because such actions cannot be completed before the occurrence of the hazard sought to be avoided, or because such legislative body of such entity shall reasonably determine that such remedial action will not abate such danger, the immunity provided herein shall nevertheless apply to such actions by such local public entity.

(c) The immunity provided herein is in addition to any other immunity of the local public entity provided by law or statute, including this part, and any claim of liability based upon the impending peril or any action of the local public entity is subject to such immunities and any defenses that would be available to the local public entity if it were a private person.

867. An employee of a local public entity is not liable for damages for injury to persons or property resulting from an impending peril or from any action taken to abate such peril pursuant to Section 866.

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 local public entities which are presently confronted with situations involving an impending peril to take immediate action, it is necessary that this act go into effect immediately.

CHAPTER 1120

An act to add Part 13 (commencing with Section 15950) to Division 3 of Title 2 of the Government Code, and to amend Sections 99203 and 99233.7 of, and to add Section 99204.5 to, the Public Utilities Code, relating to transportation, and making an appropriation therefor.

[Approved by Governor September 27, 1979 Filed with Secretary of State September 28, 1979.]

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

SECTION 1. Part 13 (commencing with Section 15950) is added to Division 3 of Title 2 of the Government Code, to read:

PART 13. SOCIAL SERVICE TRANSPORTATION

CHAPTER 1. TITLE OF ACT AND POLICY

15950. This part shall be known and cited as the "Social Service Transportation Improvement Act."

15951. It is the intent of the Legislature, through the enactment of this part, to improve transportation service required by social service recipients by promoting the consolidation of social service transportation services so that the following benefits may accrue:

(a) Combined purchasing of necessary equipment so that some cost savings through larger number of unit purchases can be realized.

(b) Adequate training of vehicle drivers to insure the safe operation of vehicles Proper driver training should promote lower insurance costs and encourage use of the service.

(c) Centralized dispatching of vehicles so that efficient use of vehicles results.

(d) Centralized maintenance of vehicles so that adequate and routine vehicle maintenance scheduling is possible.

(e) Centralized administration of various social service transportation programs so that elimination of numerous duplicative and costly administrative organizations can occur. Centralized administration of social service transportation services can provide more efficient and cost effective transportation services permitting social service agencies to respond to specific social needs.

(f) Identification and consolidation of all existing sources of funding for social service transportation services can provide more effective and cost efficient use of scarce resource dollars. Consolidation of categorical program funds can foster eventual elimination of unnecessary and unwarranted program constraints.

15952. (a) Centralized administration of consolidated social service transportation services shall utilize, to the maximum extent possible, existing public and private administrative capabilities and

expertise Utilization of existing administrative capabilities and expertise shall not require employment of those public and private administrative personnel nor shall it preclude any consolidated agency from developing a necessary administrative organization

(b) Efficient and continual use of all existing sources of funding, utilized prior to the enactment of this part for social service transportation services, shall, to the maximum extent possible, be continued. Social service agencies participating in consolidation or coordination shall continue to maintain funding levels for consolidated services necessary to meet the transportation needs of their social service consumers. Rescinding or eliminating funding for consolidated services by any participating agency shall require cancellation of service to the agency's consumers by the consolidated agency Cancellation of such service shall not be required if recission or elimination of funding occurs because of a program change with respect to the source of funding.

(c) Consolidation of social service transportation services shall, to the maximum extent possible, utilize existing agency operating and maintenance personnel and expertise. Effective use of employees of participating agencies shall be achieved without mandating that such employees become directly employed by the designated consolidated agency.

(d) Consolidation of existing social service transportation services shall more appropriately be achieved if local elected officials are involved in the process. Local elected officials shall, to the maximum extent possible, be involved in the development of the action plans and other local actions necessary for the successful implementation of this part.

Chapter 2. Definitions

15955. Unless the context otherwise requires, the provisions of this chapter govern the construction of this part.

15956. "County transportation commission" means such a commission created pursuant to Division 12 (commencing with Section 130000) of the Public Utilities Code

15957. "Secretary" means the Secretary of the Business and Transportation Agency.

15958 "Transportation planning agency" means an entity designated by the secretary pursuant to Section 29532.

For purposes of this part, the Counties of Imperial and Ventura shall serve as the transportation planning agency for their respective jurisdictions. The San Diego Metropolitan Transit Development Board shall serve as the transportation planning agency for its area of jurisdiction

CHAPTER 3. EXEMPTIONS

15960. For the purposes of this part, the following agencies, organizations, and programs enumerated in this chapter shall be exempt from consolidation required by this part;

(a) Vehicles owned and operated by school districts shall be exempt from this part.

(b) Employees of school districts shall be exempt from this part.

(c) Individual transportation allowances and recipients of such allowances, as defined in Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code, shall be exempt from this part.

(d) Individual transportation allowances and recipients of such allowances, as defined in Part 5 (commencing with Section 17000) of Division 9 of the Welfare and Institutions Code, shall be exempt from this part.

(e) Individual transportation allowances and recipients of such allowances, as defined in Article 3 (commencing with Section 12550) of Chapter 4 of Part 3 of the Welfare and Institutions Code, shall be exempt from this part.

(f) Individual transportation allowances and recipients of such allowances, as provided under Title XX of the Social Security Act shall be exempt from this part.

CHAPTER 4. REPORTS

15970 The requirements of this chapter shall be completed by December 31, 1980

15971. (a) The Director of Finance shall identify in the proposed budget all state funds that are available for the support of social service transportation services. The director shall also identify, to the maximum extent possible, all federal funds that are available for funding social service transportation services

(b) The Director of Finance shall request the federal government and appropriate state agencies to ascertain which, if any, categorical funding constraints exist regarding the eventual use of federal or state funds for consolidated social service transportation services.

(c) The Director of Finance shall request all federal and state agencies providing funds for social service transportation services to notify the county transportation commissions and transportation planning agencies of the transportation services provided from funding by the agency.

(d) Funding for these responsibilities of the Director of Finance shall be included in the proposed budget.

15972. The secretary shall contract for a study of the insurance problems of existing social service transportation services. The Department of Transportation and the Department of Insurance shall cooperate with the secretary in contracting for the study. The study shall specify the reasons for high insurance rates charged to

social service agencies for transportation purposes The study shall include, but not be limited to, an evaluation of the accident history of these services and the relationship of the accident history to insurance rates, and the cost of liability insurance provided by insurance companies and the relationship of such cost to actual liability claims filed against the social service transportation services agencies. The report of the study shall make specific recommendations regarding changes in state law which would assist in reduction of the high costs of insurance and resolve the problem of insurance availability. The study shall be coordinated with efforts of the Social Service Transportation Task Force. Funding for this study shall be provided pursuant to Section 15980.

15973 The transportation planning agencies and the county transportation commissions shall prepare, adopt, and submit reports to the secretary on all existing social services transportation services in their respective geographic areas Funding for these reports shall be provided from local transportation funds made available under the Mills-Alquist-Deddeh Act (Chapter 4 (commencing with Section 99200), Part 11, Division 10 of the Public Utilities Code) The reports shall include, but not be limited to, the following·

(a) An inventory of all existing public and private social service transportation services within its geographic area of jurisdiction A description of the amount and source of funds utilized by the service, the geographic coverage of the service, and the type and number of social service recipients being served.

(b) A concise statement on the drivers and management of the service, with an evaluation of the operating, capital, and administrative costs for the service.

(c) A synopsis of the average miles of vehicle travel to provide services during each month and a brief analysis of the eligibility requirements for obtaining the service.

(d) A description of the background of the service in the community and any other pertinent information necessary to adequately document and describe the service

CHAPTER 5. PLANS

15975. Upon completion of the report required pursuant to Section 15973, the transportation planning agencies and the county transportation commissions shall prepare, adopt, and submit an action plan to the secretary, not later than December 31, 1981, that describes in detail the steps required to accomplish the consolidation of social service transportation services The action plan shall substantiate that one or more of the benefits indicated in Sections 15951 and 15952 are feasible for such services in a given geographic area. The action plan shall include, but not be limited to, the following

(a) The designation of consolidated transportation service agencies within the geographic area of jurisdiction of the

transportation planning agency or county transportation commission. The action plan may designate more than a single agency or multiple agencies as consolidated transportation service agencies, if improved coordination of all services is demonstrated within the geographic area

The action plan may also specify that the consolidation of some services and the coordination of other services is the most feasible approach, at the time the action plan is submitted, which will provide improved efficiency and effectiveness of such services.

(b) The identification of the social service recipients to be served, of funds available for use by the consolidated or coordinated services, and of an orderly strategy and schedule detailing the steps required to develop the financial program and management structure necessary to implement consolidated or coordinated services.

(c) Measures to coordinate the services provided under subdivision (a) with existing fixed route service provided by public and private transportation providers.

(d) Measures to insure that the objectives of the action plan are consistent with the legislative intent declared in Section 15951.

15976. A public hearing shall be held on the action plan prior to its adoption by the transportation planning agency or the county transportation commission.

The action plan shall be flexible, recognizing as much as is feasible, the special needs and characteristics of existing social service transportation consumers and services. The plan shall reflect the strengths of such existing services, correct deficiencies, and maximize transportation benefits possible through consolidation of services. While it is probable that certain courses of action will prove to be most efficient and effective in obtaining the benefits of a consolidated transportation service, the Legislature recognizes that the action plan for each service area could differ.

CHAPTER 6. STATE REVIEW

15980. The secretary shall be responsible for generally monitoring the implementation of this part and submitting a report to the Governor and Legislature on January 1, 1981, and January 1, 1982, on significant problems or issues that arise concerning implementation of this part. The report shall include recommendations for resolution of such problems or issues, including necessary changes in federal or state law. The funds for administration and monitoring of this program by the secretary shall be funded by funds made available for that purpose from federal funds, but if federal funds are not available for such purpose, the sum of one hundred eighty thousand dollars ($180,000), ninety-five thousand dollars ($95,000) for the 1979–80 fiscal year and eighty-five thousand dollars ($85,000) for the 1980–81 fiscal year, is hereby appropriated to the secretary from the State Transportation Planning and Development Account in the State Transportation

Fund.

To assist in monitoring the implementation of this part, the secretary shall convene and act as the Chairman of the Social Service Transportation Task Force consisting of the Secretary of the Health and Welfare Agency, the Director of Finance, a representative of a private for-profit social service transportation provider, a representative of a private nonprofit social service transportation provider, a representative of public transit operators, a representative of the County Supervisors Association of California, a representative of the League of California Cities, and two representatives of the transportation planning agencies, one from a rural area of the state and one from an urban area of the state, two representatives of county transportation commissions, one from a rural area of the state and one from an urban area of the state, a representative of an elderly group, and a representative of a handicapped group. The task force shall meet, as necessary, to discuss issues of concern and to coordinate state and local implementation activities.

15981. The secretary shall review and comment on the adequacy of each action plan not later than May 31, 1982. The secretary shall submit a summary of the content of the reports and action plans, with recommendations for the Legislature and federal government, to the Legislature not later than June 30, 1982.

15982. (a) Any social service transportation provider may request an exemption from coordination or consolidation as required under the action plan. The request for exemption shall be submitted to the secretary, who shall render a decision within 60 days after receiving the request. If the secretary denies the request, it shall be forwarded to the California Transportation Commission, which shall render a decision within 60 days after receiving it.

The request for exemption shall be granted if, on the basis of information submitted with the request, the secretary or the commission, as the case may be, finds that the effectiveness of the social transportation service provided the recipients would be impaired by consolidation or coordination.

(b) The secretary shall work closely with the Social Service Transportation Task Force to adequately inform social service program managers about these requirements well in advance of the deadlines outlined in this section.

(c) The commission shall periodically review, as it deems necessary, the performance of the designated agencies to determine compliance with the action plans and conditions for approval.

SEC. 2. Section 99203 of the Public Utilities Code is amended to read.

99203. "Claimant" or any derivative term, such as "applicant," means an operator, city, county, or consolidated transportation service agency.

SEC. 3. Section 99204.5 is added to the Public Utilities Code, to read:

99204 5 "Consolidated transportation service agency" means an agency designated pursuant to subdivision (a) of Section 15975 of the Government Code.

SEC 4. Section 99233.7 of the Public Utilities Code, as amended by Chapter 161 of the Statutes of 1979, is amended to read:

99233.7. Up to 5 percent of the remaining money in the fund shall be made available to cities, counties, and operators for claims filed pursuant to Article 4 5 (commencing with Section 99275) in those areas where claims may not be filed for those purposes specified in Article 8 (commencing with Section 99400), and may be made available to consolidated transportation service agencies, unless the transportation planning agency, or a county transportation commission created pursuant to Division 12 (commencing with Section 130000), having jurisdiction finds, after considering the claims pursuant to subdivision (c) of Section 99275.5, that such allocations of money could be used to better advantage for the purposes stated in Article 4 (commencing with Section 99260) in the development of a balanced transportation system.

The money may be allocated without respect to Section 99231 and shall not be included in determining the apportionment to a city or county for purposes of Sections 99233.8 and 99233.9.

This section shall remain in effect only until July 1, 1982, and as of such date is repealed, unless a later enacted statute, which is chaptered before July 1, 1982, deletes or extends such date.

SEC. 5. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because self-financing authority is provided in this act to cover costs that may be incurred by local government in carrying on any program or performing any service required to be carried on or performed by this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 1121

An act to add Section 11008.11 to, to add and repeal Chapter 7 (commencing with Section 9520) to Division 8.5 of, the Welfare and Institutions Code, and to add Section 17160 to the Revenue and Taxation Code, relating to the Senior Companion Program, and making an appropriation therefor.

[Approved by Governor September 27, 1979. Filed with Secretary of State September 28, 1979]

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

SECTION 1. Section 17160 is added to the Revenue and Taxation Code, to read:

17160. Gross income does not include stipends, meals, transportation, or other income received by a senior companion pursuant to Chapter 7 (commencing with Section 9520) of Division 8 5 of the Welfare and Institutions Code.

SEC. 2. Chapter 7 (commencing with Section 9520) is added to Division 8.5 of the Welfare and Institutions Code, to read:

CHAPTER 7. SENIOR COMPANION PROGRAM

9520. The Legislature finds and declares that there are many senior citizens in this state who have insufficient income, who are able-bodied, interested in remaining independent, and who want to become actively involved with helping people throughout their community.

9521. In enacting this chapter, it is the intent of the Legislature to provide personally meaningful volunteer community service opportunities to low-income senior adults for the benefit of adults who need additional assistance in their daily living. It is the purpose of this chapter to enable senior adults to provide care and support on a person-to-person basis to adults with special needs such as the frail elderly, physically handicapped adults and those adults who are mentally or neurologically impaired, in accordance with Public Law 93-113, as amended.

9522. The Department of Aging shall enter into a memorandum of agreement with the federal ACTION agency on establishing and expanding the Senior Companion Program in accordance with the standards specified under P.L. 93-113, as amended. The memorandum of agreement shall specify that participants under this chapter shall be eligible for the same benefits, transportation allowances, stipends and income exemptions as provided to federal senior companions. Any city, county, city and county, or department of the state or any suitable private, nonprofit organization, which is interested in participating in the program may apply to the department to administer a program. Such administration shall include:

(a) The implementation and management of a program;

(b) The recruitment and selection of program staff; recruitment, selection, and assignment of senior companions; orientation and in-service instruction for volunteers;

(c) The provision of or arrangement for meals, transportation, and supervision; and

(d) Other related program activities.

9523. (a) Senior adults who wish to participate in this program shall be known as "senior companions." Senior adults who are 60 years of age or older and who have an insufficient income, as

determined by the department, shall be eligible to participate.

(b) Senior companions may be provided expenses for transportation to and from their home to the place where they render their services or may have transportation in schoolbuses or other transportation made available to them by the department. In addition, such senior companions shall receive a free meal daily

(c) The department shall provide accident insurance, an annual physical examination, and a nontaxable hourly stipend for each senior companion.

(d) Each senior companion shall be required to participate four hours a day, five days a week.

9524. Adults eligible for the services of senior companions shall be persons who are in residential, nonresidential, institutional, and in-home, settings and who are:

(a) Adults, some of whom were formerly active, but who are now bedfast, too frail, or too ill to be transported to special programs.

(b) Physically handicapped adults who cannot leave their homes due to the extent of their handicaps.

(c) Geriatrics who, due to old age debilitation, fear of a fast-moving society and the possibility of bodily harm, are afraid to go out.

(d) Physically handicapped adults who are capable of interacting in programs for the handicapped, but because of their limitations have been overprotected by their guardians

(e) Physically or mentally handicapped individuals who have become so depressed that they have withdrawn from all social interaction and are confined as a result of psychological handicaps.

(f) Physically handicapped older persons who are anxious to be enrolled in day care programs but who have to stay on waiting lists until there is an opening.

9525 Senior companions funded under this chapter shall not be assigned to persons already receiving in-home supportive services.

9526. The Director of the Department of Aging shall report to the Legislature on the progress of the Senior Companion Program no later than January 1, 1982.

9527. This chapter 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. 3 Section 11008 11 is added to the Welfare and Institutions Code, to read:

11008.11. To the extent permitted by federal law, any stipends, meals, transportation, or other income received by a senior companion pursuant to Chapter 7 (commencing with Section 9520) of Division 8.5 shall not be considered as income or resources of the recipient and shall not be deducted from the amount of any public assistance or aid to which the recipient would otherwise be entitled under this division

SEC. 4 There is hereby appropriated from the General Fund to

the Department of Aging the sum of two hundred fifty thousand dollars ($250,000) for expenditure for the purposes of the Senior Companion Program established pursuant to Chapter 7 (commencing with Section 9520) of Division 8.5 of the Welfare and Institutions Code, as added by this act. The funds appropriated pursuant to this act shall be distributed according to the formula devised by ACTION and the Department of Aging. Priority shall be given to existing programs demonstrating special needs. No more than 7 percent of the funds appropriated pursuant to this act shall be used for the administration of this program by the state. No more than 10 percent of the funds appropriated for individual projects shall be used for the administration of those projects, except in the case of newly created projects, in which case the Director of the Department of Aging may waive the limitation upon demonstration of good and sufficient reason. The money appropriated by this act shall be required to be spent within one year from the operative date of this act.

CHAPTER 1122

An act to add Section 11008.12 to, and Chapter 8 (commencing with Section 9540) to Division 8.5 of, the Welfare and Institutions Code, and to add Section 17161 to the Revenue and Taxation Code, relating to the Foster Grandparent Program, and making an appropriation therefor.

[Approved by Governor September 27, 1979 Filed with Secretary of State September 28, 1979.]

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

SECTION 1. Section 17161 is added to the Revenue and Taxation Code, to read:

17161. Gross income does not include any stipends, meals, transportation, or other income received by a foster grandparent pursuant to Chapter 8 (commencing with Section 9540) of Division 8.5 of the Welfare and Institutions Code.

SEC. 2 Chapter 8 (commencing with Section 9540) is added to Division 8.5 of the Welfare and Institutions Code, to read:

CHAPTER 8. FOSTER GRANDPARENT PROGRAM

9540. It is the purpose of this article to provide meaningful part-time volunteer opportunities for low-income, elderly persons to render supportive personal services to children with exceptional needs in accordance with P L. 93-113, as amended.

9541. The Department of Aging shall enter into a memorandum of agreement with the federal ACTION agency on establishing and

expanding the Foster Grandparent Program in accordance with the standards specified under P.L. 93-113, as amended. The memorandum of agreement shall specify that the volunteer participants under this chapter shall be eligible for the same benefits, transportation and stipends and income exemptions as provided to federally funded grandparents. Any city, county, city and county, or department of the state, or any suitable private, nonprofit organization, which is interested in participating in the program may apply to the department to administer a program. Such administration shall include:

(a) The implementation and management of a program;

(b) The recruitment and selection of program staff; recruitment, selection, and assignment of foster grandparents; orientation and in-service instruction for volunteers;

(c) The provision or arrangement for meals, transportation, and supervision; and

(d) Other related program activities

9542. The Foster Grandparent Program shall serve in a variety of settings, including, but not limited to, pediatric wards of hospitals, institutions or schools for the physically, emotionally, or mentally handicapped, correctional facilities, schools, day care centers, and homes.

9543. The functions and goals of the program shall be:

(a) To provide benefits and meaningful service opportunities to low-income persons 60 years of age and older;

(b) To serve children 20 years of age and under, who have special needs and are deprived of normal relationships with adults;

(c) To provide services to, but not limited to:

(1) Premature and failure-to-thrive babies, abused, neglected, battered, and chronically ill children in hospitals.

(2) Autistic children, children with cerebral palsy, and mentally retarded children placed in institutions for the developmentally disabled.

(3) Physically handicapped children, mentally disabled children, emotionally disturbed children, developmentally disabled children, and children who are socially and culturally deprived in school settings and child care centers.

(4) Dependent, neglected children, mentally disabled children, emotionally disturbed or physically handicapped children, and battered and abused children in residential settings.

(5) Delinquent children and adolescents in correctional institutions.

9544. (a) Any senior adult who participates in this program shall be known as a "foster grandparent." A senior adult who is 60 years of age or older and who has an insufficient income, as determined by the department, shall be eligible to participate.

(b) The department may provide to a foster grandparent expenses for transportation to and from their home and the place where they render their services or may provide transportation in

schoolbuses or in other transportation made available to them by the department. In addition, the department shall provide each foster grandparent one free meal during each day in which the foster grandparent renders services.

(c) The department shall provide accident insurance, an annual physical examination, and a nontaxable hourly stipend for each foster grandparent.

(d) Each foster grandparent shall be required to participate four hours a day, five days a week.

SEC. 3. Section 11008.12 is added to the Welfare and Institutions Code, to read:

11008.12. To the extent permitted by federal law, any stipend, meals, transportation, or other income received by a foster grandparent pursuant to Chapter 8 (commencing with Section 9540) of Division 8.5 shall not be considered as income or resources of the recipient and shall not be deducted from the amount of any public assistance or aid to which the recipient would otherwise be entitled under this division.

SEC. 4. There is hereby appropriated from the General Fund to the Department of Aging the sum of two hundred fifty thousand dollars ($250,000) for expenditure for the purposes of the Foster Grandparent Program established pursuant to Chapter 8 (commencing with Section 9540) of Division 8.5 of the Welfare and Institutions Code, as added by this act. The funds appropriated pursuant to this act shall be distributed according to the formula devised by ACTION and the Department of Aging. Priority shall be given to the existing programs demonstrating special needs. No more than 7 percent of the funds appropriated pursuant to this act shall be used for the administration of this program by the state. No more than 10 percent of the funds appropriated for individual projects shall be used for the administration of those projects, except in the case of newly created projects, in which case the Director of the Department of Aging may waive the limitation upon demonstration of good and sufficient reason. The money appropriated by this act shall be required to be spent within one year from the operative date of this act.

CHAPTER 1123

An act to add Sections 25135, 25136, and 25137 to, and to add Chapter 7.3 (commencing with Section 25630) and Chapter 7.6 (commencing with Section 25675) to Division 15 of, the Public Resources Code, relating to energy, and making an appropriation therefor.

[Approved by Governor September 27, 1979 Filed with Secretary of State September 28, 1979]

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

SECTION 1 Section 25135 is added to the Public Resources Code, to read:

25135 "Conversion" means the processes by which residue is converted to a more usable energy form, including, but not limited to, combustion, anerobic digestion, and pyrolysis, and is used for heating, process heat applications, and electric power generation.

SEC. 2. Section 25136 is added to the Public Resources Code, to read:

25136. "Residue" means any organic matter left as residue, such as agricultural and forestry residue, including, but not limited to, conifer thinnings, dead and dying trees, commercial hardwood, noncommercial hardwoods and softwoods, chaparral, burn, mill, agricultural field, and industrial residues, and manure.

SEC. 3. Section 25137 is added to the Public Resources Code, to read:

25137. "Project," as used in Chapter 7 3 (commencing with Section 25630), means an energy technology to convert residue to a usable energy form and includes the cost of feasibility studies, environmental impact reports, and design, construction, and initial operation of a conversion facility.

SEC. 4. Chapter 7.3 (commencing with Section 25630) is added to Division 15 of the Public Resources Code, to read:

CHAPTER 7.3. RESIDUE CONVERSION

25630. This chapter shall be known and may be cited as the "State Agricultural and Forestry Residue Utilization Act of 1979."

25631. The Legislature hereby finds and declares that residues from the agricultural and forestry industries are potential energy resources that should become an important element of the state's energy supply mix.

25631.5. (a) The Legislature further finds and declares that residues are a plentiful and renewable energy source which could substantially replace or supplement the use of oil, gas, and other fossil fuels, and which may create new industries and employment opportunities

(b) The Legislature further finds and declares that financial commitment by public agencies, public and private utilities, and private industry for the expeditious development and deployment of residue conversion technologies depends upon credible and timely demonstrations of the feasibility, efficiency, environmental acceptability, and reliability of this technology in units of commercial scale.

25632. It is the intent of the Legislature in enacting this chapter

to promote the immediate development and implementation of residue conversion as an energy generating technology, and to provide funds to encourage the development and demonstration of residue conversion. It is further the intent of the Legislature to encourage private sector, public utility, and investor-owned utility participation in this program, to the greatest extent possible.

25632.5. As used in this chapter:

(a) "Account" means the State Agricultural and Forestry Residue Utilization Account.

(b) "Equipment" means all hardware, buildings, and facilities needed to handle, store, process, convert, and utilize for the operation of a residue conversion technologies demonstration project, including environmental controls. It does not include land or nonrecoverable structures such as foundations. It does include installation costs.

25633. The commission, as the lead agency, in consultation with the Department of Forestry, the Solid Waste Management Board, the Department of Food and Agriculture, the State Air Resources Board, and the State Water Resources Control Board, and the Department of Finance, shall do all of the following:

(a) Implement a program to demonstrate residue conversion technologies at appropriate locations throughout the state.

(b) Establish criteria for the selection of projects consistent with subdivision (a). The criteria shall assess each project considering the feasibility of the particular process, the availability of markets, project economics, local employment, environmental quality, and conformance with applicable local land use plans. The criteria shall recognize the intent of the Legislature that the commission select and provide substantial support for projects such as, but not limited to, combustion, anaerobic digestion, and gasification. The criteria for selection of projects shall include, but not be limited to, those projects which do all of the following:

(1) Reduce the consumption of petroleum fuels.

(2) Utilize residues with the greatest energy potential.

(3) Utilize a technology with the potential for widespread adoption throughout California.

(4) Promote the use of cogeneration or other methods of increasing end use efficiency.

(5) Reduce the environmental impacts of current methods of residue disposal.

(6) Emphasize near-term economic and technical feasibility.

(c) Select 20 or more projects and sites, consistent with the established criteria, for the establishment of facilities for the conversion of residue into energy or synthetic fuels.

25634 (a) Funds appropriated to the commission for the purpose of funding projects selected pursuant to subdivision (c) of Section 25633 shall be disbursed, in a manner determined by the commission, for the purchase or construction of all or part of the equipment necessary for operation of a project. Title to specific

equipment acquired by the state for the project shall remain with the state until purchased by a project proponent pursuant to paragraph (2) of subdivision (c).

(b) The project proponents shall submit detailed work programs, schedules, estimates, and such other information as may be required by the commission.

(c) The commission shall require the project proponent, as a condition of eligibility, to:

(1) Fund the entire cost of a project except for equipment funded pursuant to subdivision (a).

(2) Enter into an agreement for purchase of equipment funded pursuant to subdivision (a) if the equipment has been determined to be successful. Successful performance of the equipment shall be determined by engineering performance specifications agreed to by the project proponent and the commission. The time for determination of successful performance shall be agreed upon by the project proponent and the commission. The amount of the purchase of the equipment shall be equal to the amount disbursed by the commission for the equipment pursuant to subdivision (a). If the purchased equipment meets specifications, but the project proves not economical or technologically feasible for other reasons, the state shall secure the equipment for resale. If the purchased equipment does not meet specifications, the state shall assist the industry in enforcing the contract with the equipment supplier or negotiating a reduced cost to the state if the overall project is satisfactory to both industry and the state in proportion to the degree to which the equipment meets specifications.

(d) The commission shall establish selection criteria for projects based on the recommendations of the Department of Forestry and the Department of Food and Agriculture, which shall submit their recommendations to the commission not later than February 1, 1980.

25634.1. The Department of Forestry and the Department of Food and Agriculture shall, not later than July 1, 1980, and each January 1 thereafter, provide the commission with a list of potential projects which, in the judgment of such agencies, will satisfy the criteria established by the commission.

25635. The commission shall include with its annual budget request, commencing with the 1980–81 fiscal year, a report to the Chairmen of the Senate Finance Committee, the Assembly Ways and Means Committee, and the Joint Legislative Budget Committee on the status and results of projects and their funding, including recommendations for legislation and identifying those state and federal financial incentives which can best accelerate and maximize the development of demonstrated bioconversion technologies.

25636. The Controller shall establish, maintain, and administer a separate account within the General Fund of the State of California to effect the provisions of this chapter.

25637. The name of the account shall be the "State Agricultural and Forestry Residue Utilization Account," which account shall be

continuously appropriated for the purposes of this chapter.

25638. The Controller shall deposit in the account all moneys authorized and appropriated by the Legislature for the purposes of this chapter and all moneys received from project proponents pursuant to paragraph (2) of subdivision (c) of Section 25634.

25639. The Controller shall disburse such moneys from the account as the commission may authorize to carry out the provisions of this chapter. The moneys to be disbursed in the first project year shall not exceed five million dollars ($5,000,000).

25640. (a) The money in the account shall be used for the following purposes:

(1) Ten million dollars ($10,000,000) for funding projects pursuant to subdivision (c) of Section 25633.

(2) Five hundred thousand dollars ($500,000) to be allocated by the commission to administer the provisions of this chapter from January 1, 1980, through June 30, 1981. Beginning July 1, 1981, and each fiscal year thereafter, funds for administering this chapter shall be appropriated in the Budget Act from the State Energy Resources Conservation and Development Special Account

(b) The commission may contract for services to be performed in order to carry out the provisions of this chapter. Such services may include, but are not limited to, environmental control assessment, feasibility analysis, and the review of project design, field management responsibilities, and project scheduling and control.

(c) All unobligated moneys in the account at the end of the fifth project year, and each year thereafter, shall revert to the General Fund unless reappropriated by the Legislature.

25641 The Controller shall loan to the account an amount up to five million dollars ($5,000,000) for cash flow purposes, as determined by the Controller, under the following conditions:

(a) The maximum term of the loan shall be four years. The total amount of the loan shall not exceed five million dollars ($5,000,000) annually.

(b) No interest shall be charged for loans to the commission under this chapter.

SEC. 5. Chapter 7.6 (commencing with Section 25675) is added to Division 15 of the Public Resources Code, to read:

25675. The Controller shall establish, maintain, and administer a separate account within the General Fund of the State of California to effect the provisions of this chapter.

25676. The name of the account shall be "The Clean Coal Account."

25677. The State Energy Resources Conservation and Development Commission shall use the money in the account for the following purposes:

(1) Two million dollars ($2,000,000) to contract for the development and demonstration of an energy efficient coal fired, nonsteam cycle, energy source, utilizing coal substantially free of sulfur, moisture and ash, and for the other purposes and under the

conditions described in Item 189 of the Budget Act of 1979.

(2) Two million dollars ($2,000,000) to contract for the development and demonstration of energy efficient, coal fired, internal combustion engines, utilizing coal substantially free of sulfur, moisture, and ash and for the other purposes and under the conditions described in Item 189.5 of the Budget Act of 1979.

SEC. 6. There is hereby appropriated from the General Fund the sum of fourteen million five hundred thousand dollars ($14,500,000), to be allocated as follows: Ten million five hundred thousand dollars ($10,500,000) to the State Agricultural and Forestry Residue Utilization Account established pursuant to Chapter 7.3 (commencing with Section 25630) of Division 15 of the Public Resources Code and four million dollars ($4,000,000) to the Clean Coal Account established pursuant to Chapter 7.6 (commencing with Section 25675) of Division 15 of the Public Resources Code to carry out the purposes of this act

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CHAPTER 1124

An act to add and repeal Chapter 5.2 (commencing with Section 25410) to Division 15 of the Public Resources Code, relating to energy conservation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1979 Filed with Secretary of State September 28, 1979]

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

SECTION 1. Chapter 5.2 (commencing with Section 25410) is added to Division 15 of the Public Resources Code, to read:

CHAPTER 5.2. ENERGY CONSERVATION ASSISTANCE

25410. This chapter shall be known and may be cited as the Energy Conservation Assistance Act of 1979.

25411. As used in this chapter:

(a) "Allocation" means a loan of funds by the commission pursuant to the procedures specified in this chapter.

(b) "Building" means any occupied structure which includes a heating or cooling system, or both, the construction of which was completed on or before April 20, 1977. Additions to an original building shall be considered part of that building rather than a separate building.

(c) "Eligible institution" means a school, hospital, public care institution, or a unit of local government.

(d) "Energy audit" means a determination of the energy consumption characteristics of a building or facility which does all of

the following.

(1) Identifies the type, size, and energy use level of such building or facility and the major energy using systems of such building or facility

(2) Determines appropriate energy conservation maintenance and operating procedures.

(3) Indicates the need, if any, for the acquisition and installation of energy conservation measures.

(e) "Energy conservation maintenance and operating procedure" means a modification or modifications in the maintenance and operations of a building or facility, and any installations therein (based on the use time schedule of the building or facility), which are designed to reduce energy consumption in such building or facility and which require no significant expenditure of funds

(f) "Energy conservation measure" means an installation or modification of an installation in a building or facility which is primarily intended to reduce energy consumption or allow the use of a more desirable energy source

(g) "Energy conservation project" means an undertaking to acquire and to install one or more energy conservation measures in a building or facility, and technical assistance in connection with any such undertaking.

(h) "Facility" means any major energy using system of an eligible institution whether or not housed in a building.

(i) "Hospital" means a public or nonprofit institution which is:

(1) A general hospital, tuberculosis hospital, or any other type of hospital, other than a hospital furnishing primarily domiciliary care; and

(2) Duly authorized to provide hospital services under the laws of this state.

(j) "Hospital building" means a building housing a hospital and related operations, including laboratories, laundries, outpatient departments, nurses' home and training activities, and central service operations in connection with a hospital, and also includes a building housing education or training activities for health professions personnel operated as an integral part of a hospital.

(k) "Local government building" means a building which is owned and primarily occupied by offices or agencies of a unit of local government or by a public care institution and shall not include any building intended for seasonal use or any building used primarily by a school or hospital

(*l*) "Project" means a purpose for which an allocation may be requested and made under this chapter. Such purposes shall include energy audits, energy conservation and operating procedures, energy conservation measures, energy conservation projects, and technical assistance programs

(m) "Public care institution" means a public or nonprofit institution which owns.

(1) A long-term care institution.

(2) A rehabilitation institution.

(3) An institution for the provision of public health services, including related publicly owned services such as laboratories, clinics, and administrative offices operated in connection with such an institution.

(4) A residential child care center.

(n) "Public or nonprofit institution" means an institution owned and operated by:

(1) The state, a political subdivision of the state, or an agency or instrumentality of either.

(2) An organization exempt from income tax under Section 501(c)(3) of the Internal Revenue Code of 1954.

(3) In the case of public care institutions, an organization also exempt from income tax under Section 501(c)(4) of the Internal Revenue Code of 1954.

(o) "School" means a public or nonprofit institution, including a local educational agency, which:

(1) Provides, and is legally authorized to provide, elementary education or secondary education, or both, on a day or residential basis.

(2) Provides, and is legally authorized to provide, a program of education beyond secondary education, on a day or residential basis and:

(A) Admits as students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such certificate.

(B) Is accredited by a nationally recognized accrediting agency or association.

(C) Provides an education program for which it awards a bachelor's degree or higher degree or provides not less than a two-year program which is acceptable for full credit toward such a degree at any institution which meets the requirements of paragraphs (A) and (B) and which provides such a program.

(3) Provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provisions of (2).

(p) "School building" means a building housing classrooms, laboratories, dormitories, athletic facilities, or related facilities operated in connection with a school.

(q) "Technical assistance costs" means costs incurred for the use of existing personnel or the temporary employment of other qualified personnel (or both such types of personnel) necessary for providing technical assistance.

(r) "Technical assistance program" means assistance to schools, hospitals, local government, and public care institutions for:

(1) Conducting specialized studies identifying and specifying energy savings and related cost savings that are likely to be realized as a result of.

(A) Modification of maintenance and operating procedures in a building or facility, in addition to those modifications implemented after the preliminary energy audit, or

(B) Acquisition and installation of one or more specified energy conservation measures in such building or facility, or as a result of both.

(2) Planning of specific remodeling, renovation, repair, replacement, or insulation projects related to the installation of energy conservation measures in such building or facility.

(s) "Unit of local government" means a unit of general purpose government below the state or a special district.

25412. Any eligible institution may submit an application to the commission for an allocation for the purpose of financing all or a portion of the costs incurred in implementing a project. The application shall be in such form and contain such information as the commission shall prescribe.

An application may be for the purpose of financing the eligible institution's share of such costs which are to be jointly funded through a state, local, or federal-local program.

25413. Applications may be approved by the commission only in those instances where the eligible institution has furnished information satisfactory to the commission that the costs of the project, plus interest on state funds loaned, calculated in accordance with Section 25415, will be recovered through savings in the cost of energy to such institution during the repayment period of the allocation.

The commission shall give priority to applications which, based on anticipated savings in the cost of energy, will most rapidly recover the cost of the allocation.

25414. Annually at the conclusion of each fiscal year, but not later than October 31, each eligible institution which has received an allocation pursuant to the provisions of this chapter shall compute the cost of the energy saved as a result of implementing a project funded by such allocation. Such cost shall be calculated in a manner prescribed by the commission.

25415. Each eligible institution to which an allocation has been made under this chapter shall repay the principal amount of such allocation, plus interest calculated on the basis of the rate of return for moneys in the Pooled Money Investment Account, in not more than 22 equal semiannual payments, as determined by the commission. The first semiannual payment shall be made on or before December 22 of the fiscal year following the year in which the project is completed.

(b) The governing body of each eligible institution shall annually budget an amount at least sufficient to make the semiannual payments required in this section. Such amount shall not be raised by the levy of additional taxes but shall instead be obtained by a savings in energy costs.

25416. (a) The Controller shall establish, maintain, and

administer a separate account within the General Fund to carry out the provisions of this chapter. The account shall be named the State Energy Conservation Assistance Account.

(b) The Controller shall deposit in the State Energy Conservation Assistance Account all moneys authorized and appropriated to it by the Legislature and all moneys received by the commission pursuant to Sections 25414 and 25415.

(c) The Controller shall disburse such moneys from the account, when appropriated, as the commission may authorize pursuant to Section 25412

25417. (a) An allocation made pursuant to this chapter shall be used for the purposes specified in an approved application.

(b) In the event that the commission determines that an allocation has been expended for purposes other than those specified in an approved application, it shall immediately request the return of the full amount of the allocation The eligible institution shall immediately comply with such request

25418. The Department of Finance, at its discretion, may audit the expenditure of any allocation made pursuant to this chapter or the computation of any payment made pursuant to Section 25415

25419. In addition to the powers specifically granted to the commission by the other provisions of this chapter, the commission shall have the following powers·

(a) To establish qualifications and priorities, consistent with the objectives of this chapter, for making allocations.

(b) To establish such procedures and policies as may be necessary for the administration of this chapter

25420. The commission may expend from the State Energy Conservation Assistance Account an amount to pay for the actual administrative costs incurred by the commission pursuant to this chapter. Such amount shall not exceed 5 percent of the total appropriation, to be held in reserve and used to defray costs incurred by the commission for allocations made by the commission pursuant to this chapter.

25421. This chapter shall remain in effect until January 1, 1991, and as of such date is repealed; provided, that all loans outstanding on such date shall continue to be repaid on a semiannual basis, as specified in Section 25415, until paid in full irrespective of such repeal. All unexpended funds in the State Energy Conservation Assistance Account on January 1, 1991, and thereafter shall revert to the General Fund

SEC. 2. Ten million dollars ($10,000,000) is hereby appropriated from the General Fund to the State Energy Conservation Assistance Account for each of the fiscal years 1979–80 and 1980–81 for the purposes of Chapter 5.2 (commencing with Section 25410) of Division 15 of the Public Resources 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:

There is an urgent, immediate need to reduce dependency on domestic and foreign sources of conventional fuels and to promote conservation of conventional energy resources. Thus, it is necessary that this act take effect immediately

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CHAPTER 1125

An act to add Section 24384.5 to the Health and Safety Code, relating to beverages.

[Approved by Governor September 27, 1979 Filed with Secretary of State September 28, 1979]

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

SECTION 1. Section 24384.5 is added to the Health and Safety Code, to read

24384 5 (a) On and after July 1, 1981, or after a date one year after the determination by the State Solid Waste Management Board that degradable plastic connectors are commercially available, whichever date occurs later, no beverage shall be sold or offered for sale at retail in this state in beverage containers connected to each other with plastic rings or similar plastic devices which are not classified by the State Solid Waste Management Board as degradable, except as provided in subdivision (c).

(b) For the purposes of this section, "degradable" means all of the following:

(1) Degradation by biologic processes, photodegradation, chemodegradation, or degradation by other natural degrading processes.

(2) Degradation at a rate which is equal to, or greater than, the degradation by a process specified in paragraph (1) of other commercially available plastic devices.

(3) Degradation, which, as determined by the board, will not produce or result in a residue or byproduct which, during or after such process of degrading, would be a hazardous or extremely hazardous waste identified pursuant to Chapter 6.5 (commencing with Section 25100) of Division 20

(c) This section shall not apply to plastic devices which the Solid Waste Management Board finds conform to either one of the following·

(1) Plastic devices which do not contain an enclosed hole or circle of more than 1½ inches in diameter or which do not contain a hole.

(2) Plastic devices in which the ring is broken at the time the beverage container is removed from the ring.

(d) Any person who sells at wholesale or distributes to a retailer for sale at retail in this state a beverage in containers which are

connected to each other in violation of the provisions of this section is guilty of an infraction and shall be punished by a fine not exceeding one thousand dollars ($1,000).

SEC. 2. It is the intent of the Legislature in enacting this measure that plastic rings or similar plastic devices conforming to the requirements of this act be developed, evaluated, and classified at the earliest practicable time. The State Solid Waste Management Board shall report to the Legislature on or before July 1, 1980, describing efforts made by private industry to develop such devices and describing studies and actions undertaken by the board to identify, evaluate, classify, and certify such devices.

SEC. 3. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 1126

An act to repeal and add Sections 4 and 9 of, and to add Sections 9.2, 9.3 and 9 4 to, Chapter 819 of the Statutes of 1971, relating to the Stockton-East Water District, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1979. Filed with Secretary of State September 28, 1979]

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

SECTION 1. Section 4 of Chapter 819 of the Statutes of 1971 is repealed.

SEC. 2. Section 4 is added to Chapter 819 of the Statutes of 1971, to read:

Sec. 4. (a) The definition of a word applies to any of its variants.

(b) The following words and phrases shall have the following meanings:

(1) "Accumulated overdraft" means the aggregate amount by which the quantity of ground water removed from the ground water supplies within the district during all preceding water years shall have exceeded the quantity of water replaced therein by the replenishment of the ground water supplies in such water years by any natural or artificial means, based upon reports, records, and other data or evidence appropriate for the purpose of making such determination.

(2) "Administration division" means the budgeting and

accounting division established by Section 9 which is primarily concerned with administration of the district and with obtaining and making available to the other divisions a supply of water.

(3) "Advisory commission" means the California District Securities Advisory Commission.

(4) "Agricultural division" means the budgeting and accounting division established by Section 9 which is primarily concerned with the supply of water for agricultural purposes.

(5) "Agricultural water" and "water used for agricultural purposes" shall mean water used primarily in the commercial production of agricultural crops or livestock on parcels of land of more than two acres and shall not include water used for agricultural product-processing purposes.

(6) "Annual overdraft" means the amount by which the production of water from the ground water supplies within the district during the water year exceeds the natural replenishment of such ground water supplies in such year.

(7) "Assessor" means the assessor of the county.

(8) "Auditor" means the auditor of the county.

(9) "Benefit review procedure" means the procedure set forth in subdivisions (g) through (i) of Section 28

(10) "Board" means the board of directors of the Stockton-East Water District

(11) "Board of supervisors" means the board of supervisors of the county

(12) "Collector" means the person appointed by the board to determine and collect the accounts due the district prior to their transfer to the auditor, as set forth in this act. The collector shall be appointed by the board and hold office at the pleasure of the board. The collector may hold other offices, including, but not limited to, the office of secretary, or may perform other duties for the district but shall not be a member of the board.

(13) "Committee" means a group of directors of the district consisting of three directors, one of whom shall be appointed chairperson by the president of the board, together with an alternate member, which shall study particular areas and recommend policy to the full board. The members and alternate member shall be appointed by the president of the board. There shall be the Agricultural Operations Committee and the Municipal Operations Committee, and there may be such other committees as may be established by the board.

(14) "County" means the County of San Joaquin.

(15) "Delinquent account" means any sum or sums due the district from an owner as disclosed by an annual bill presented by the collector pursuant to Section 13 which is not paid within the times set forth in Section 15, together with all penalties applicable to such sum or sums pursuant to this act

(16) "Delinquent landowner" means the owner or owners of a parcel of land upon which one or more delinquent water-producing

facilities are located as such ownership is disclosed by the last equalized assessment roll of the county.

(17) "Delinquent parcel" means a parcel of land upon which one or more delinquent water-producing facilities are located

(18) "Delinquent water-producing facility" means a water-producing facility for which payment is required by this act and for which payment in full has not been received by the district within the times set forth in Section 15.

(19) "Director" means a member of the board.

(20) "District" means the Stockton-East Water District.

(21) "Division" means a division of the district established pursuant to the Water Conservation District Law of 1931, Division 21 (commencing with Section 74000) of the Water Code.

(22) "Domestic ground water" means water produced from the underground on any parcel of two acres or less where the water is used and disposed of on that parcel, and also means water produced from the underground and used for residential or commercial purposes on agricultural parcels larger than two acres.

(23) "Dry year" means any year in which the board determines that there may be insufficient quantities of surface water to meet the needs of users who are dependent upon surface water sources.

(24) "Full tax area" means any area within a planning area which has been excluded from the partial tax area in the manner provided in subdivision (b) of Section 27

(25) "Ground water" means potable water beneath the surface of the ground suitable for municipal, domestic and irrigation use.

(26) "Municipal division" means the budgeting and accounting division established by Section 9 which is primarily concerned with the supply of water for municipal and industrial purposes.

(27) "Municipal ground water" means water produced from the underground other than domestic ground water or agricultural ground water

(28) "Owner" means the person or persons owning any water-producing facility or any interest therein other than a lien to secure the payment of a debt or other obligation. Unless there is filed with the district by an owner, information to the contrary, the district may presume that the owner of the parcel of land on which a water-producing facility is located is the owner of the water-producing facility.

(29) "Partial tax area" means all areas of the district which pursuant to the terms of subdivision (a) of Section 27 are not required to pay the taxes, assessments, and charges specified in subdivision (a) of Section 27.

(30) "Person" means any public agency or public corporation, whether federal, state, or local, or any private corporation, firm, partnership, individual, or group of individuals.

(31) "Planning area" means any one of the planning areas mentioned in subdivision (a) of Section 24 or in Section 35.

(32) "Prior act" means Chapter 1775 of the Statutes of 1963, as

amended.

(33) "Production" or "producing" means the diversion or taking of stream-delivered water or the extraction or extracting of ground water, by any means, for domestic, municipal, irrigation, industrial, or other beneficial use.

(34) "Revenue sources" means those sources of expected revenue which shall be used to establish a budget, respectively, for each of the administration, agricultural, and municipal divisions. These revenue sources for each division are as follows:

(i) Administration division· General property taxes, other general revenue sources which may be provided by state law, payments from other divisions, or other sources of revenue which may be established in the future by law or by rule of the board.

(ii) Agricultural division· Stream-delivered water charges, domestic ground water assessments, agricultural ground water assessments, penalties collected on such charges and assessments, and other sources of revenue which may be established in the future by law or by rule of the board.

(iii) Municipal division· Contract sales of treated surface water, contract sales of ground water, municipal ground water assessments, penalties collected on such sales and assessments, and other sources of revenue which may be established in the future by law or by rule of the board

(35) "Stream-delivered water" means surface water used for agricultural purposes and taken by an owner's water-producing facility directly from the Stockton Diverting Canal, the Calaveras River, the Old Calaveras River, Mosher Creek, Mormon Slough, Potter Creek, or any other watercourse within the district except those portions of any of the foregoing watercourses which are located within the boundaries of the Sacramento-San Joaquin Delta, as such boundaries are presently defined by Section 12220 of the California Water Code

(36) "Tax collector" means the tax collector of the county

(37) "Treasurer" means the treasurer of the county.

(38) "Water-producing facility" means any device or method, mechanical or otherwise, for the production of ground water from the ground water supplies within the district, or for the diversion of stream-delivered water.

SEC. 3. Section 9 of Chapter 819 of the Statutes of 1971 is repealed

SEC. 4. Section 9 is added to Chapter 819 of the Statutes of 1971, to read·

Sec 9 (a) There are hereby established within the district, budgeting and accounting divisions as follows: administration, agricultural, and municipal. Each such budgeting and accounting division shall have established a separate budget, and separate accounts shall be kept of the revenues and expenditures for each division.

(b) Notwithstanding the establishment of such divisions, the

board shall have authority to approve temporary transfers between divisions on such terms, and with such repayment provisions, as may be approved by the board.

SEC. 6. Section 9.2 is added to Chapter 819 of the Statutes of 1971, to read:

Sec. 9.2. (a) The board at a regular, special, or continued meeting between November 1st and December 15th of each year shall hold a public hearing to consider the budget for each of the administration, agricultural and municipal divisions, and an overall budget for the district, for the next calendar year.

(b) Notice of the hearing shall be published pursuant to Section 6061 of the Government Code at least 10 days prior to the date of the hearing. Any person interested in the district may, in person or by representative, appear and submit evidence concerning the water conditions of the district, the financial needs of the district, proposals for rates, and other relevant matters.

(c) The board shall at the hearing receive recommendations from the Agricultural Operations Committee as to the budget to be established for the agricultural division, and from the Municipal Operations Committee as to the budget to be established for the municipal division. Each of such committees shall also make recommendations to the board as to the budget of the administration division.

(d) Following the budget hearing by the full board, the board shall adopt by resolution prior to December 15 of each year, a budget for the administration division, for the agricultural division, for the municipal division and for the district overall

SEC 7. Section 9.3 is added to Chapter 819 of the Statutes of 1971, to read:

Sec. 9.3. The rates to be established pursuant to Section 9.4 shall equitably divide the cost of meeting a balanced agricultural division budget among the sources of revenue for the agricultural division, but in a manner which will encourage the use of surface water available for agricultural use within the district.

SEC 8. Section 9.4 is added to Chapter 819 of the Statutes of 1971, to read:

Sec. 9.4. (a) The board at a regular, special, or continued meeting between March 15 and April 15 of each year shall hold a public hearing to consider the necessity, amount, and rates of a municipal ground water assessment, an agricultural ground water assessment, and a domestic ground water assessment, if any, to be levied for the then current calendar year and charges to be made for stream-delivered water to the extent that such charges for stream-delivered water are not controlled by contract or agreement.

(b) Notice of the hearing shall be published pursuant to Section 6061 of the Government Code at least 10 days prior to the date of the hearing. Any person interested in the district may, in person or by representative, appear and submit evidence concerning the water conditions of the district, the financial needs of the district, proposals

for rates, and other relevant matters.

(c) Following the hearing, and prior to April 15 of that year, the board may, by adoption of an ordinance, determine, levy, and assess a municipal ground water assessment against all owners of water-producing facilities within the district which produce municipal ground water during the current year and an agricultural ground water assessment against all owners of water-producing facilities within the district which produce water from the ground during the current year for agricultural purposes and a domestic ground water assessment against all owners of water-producing facilities within the district which produce domestic ground water and shall determine and fix charges for stream-delivered water for the current year to the extent that such charges for stream-delivered water are not governed by contract or agreement.

(d) The method of computing ground water assessments and charges for stream-delivered water may be uniform for all water-producing facilities or may be uniform for each of several classes of water-producing facilities. The board shall, by rule, establish one or more methods to be used in computing the amount of water production from a water-producing facility which is not measured by a water-measuring device approved by the collector. Such methods shall be established by rule adopted by the board and may be based on any criteria which may be used to determine or estimate with reasonable accuracy the amount of water production.

(e) The board, by rule, may waive any assessment upon any class or classes of water-producing facilities which it determines because of the small amount of water produced by such facilities, would yield to the district a sum less than the estimated cost of making and collecting the assessment.

(f) Any ground water assessment or charges for stream-delivered water levied or made pursuant to this section shall be in addition to any general assessment levied by the district.

(g) Clerical errors in the name of any owner or in other recorded information, or in the making or extension of any assessment upon the records which do not affect the substantial rights of the subject owner or owners shall not invalidate the assessment

(h) The procedure established by Sections 9 to 9.4, inclusive, shall not be applicable for calendar year 1979. The rates for calendar year 1979 only are established as follows:

(1) The domestic ground water assessment shall be ten dollars ($10) per domestic use unit, as such unit is established by the board.

(2) The rate for sales of stream-delivered water shall be seven dollars and sixty cents ($7.60) per acre-foot of water

(3) The agricultural ground water assessment rate shall be one dollar and sixteen cents ($1.16) per acre-foot of water.

(4) The municipal ground water assessment rate shall be set at three dollars ($3) per acre-foot of water

It is not the intent of the Legislature that the rates set for 1979 shall

serve as precedent for future rates.

(i) For calendar year 1980 and thereafter, water rates shall be established in accordance with Sections 9 to 9.4 except that no rate may be established in any calendar year which exceeds the individual rates set in paragraph (1), (2), or (3) of subdivision (h) by 20 percent plus a factor to reflect the percentage increase in the federal consumer price index with calendar year 1979 as a base; provided, however, that this subdivision (i) shall not be effective from and after the date of any election in which a majority of those electors voting approve a contract by the district for new supplemental water or approve bonds for financing a distribution system for new supplemental water

(j) During calendar year 1980 and thereafter, water rates shall be established by ordinance following public notice. Such ordinances shall be subject to referendum, provided, however, that no referendum shall modify or affect the terms of any bond resolution issuing bonds approved by the voters.

SEC 9. There is presently underway a study by representatives of the City of Stockton, the County of San Joaquin, the Stockton-East Water District, and public representatives of the possibility of dividing the Stockton-East Water District into a municipal agency and an agricultural agency. The board of directors of the district shall file a report as to the practicality and method of such a division with the Legislature not later than July 1, 1980.

SEC 10. 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 governmental entity which desires legislative authority to carry out the program specified in this act.

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.

In order to permit increased charges for stream-delivered water to be made by the Stockton-East Water District during the current year and to thereby provide adequate revenue to finance the cost of providing stream-delivered agricultural water, it is necessary that this act go into immediate effect

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CHAPTER 1127

An act to add Section 99408 to, the Public Utilities Code, relating to transportation.

[Approved by Governor September 27, 1979 Filed with Secretary of State September 28, 1979]

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

SECTION 1. Section 99408 is added to the Public Utilities Code, to read:

99408. Any action to review, set aside, void, or annul the decision of a transportation planning agency made pursuant to Section 6658 of Title 21 of the California Administrative Code shall be filed within 30 days after the agency makes its decision, or after the secretary has reviewed the decision pursuant to Section 99242, whichever is later. However, the action need not be filed until September 15 if the action is with respect to a decision made prior to August 15 for the fiscal year which commenced on the July 1 immediately preceding such August 15.

CHAPTER 1128

An act to add Sections 30174 and 31270 to the Public Resources Code, relating to coastal resources.

[Approved by Governor September 27, 1979 Filed with Secretary of State September 28, 1979]

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

SECTION 1 Section 30174 is added to the Public Resources Code, to read:

30174. Notwithstanding the maps adopted pursuant to Section 17 of Chapter 1330 of the Statutes of 1976, as amended by Section 29 of Chapter 1331 of the Statutes of 1976, the inland boundary of the coastal zone, as shown on detailed coastal map 157 adopted by the commission on March 1, 1977, shall be amended to conform to the inland boundary shown on map A which is hereby adopted by reference and which shall be filed in the office of the Secretary of State and the commission on the date of enactment of this section.

The areas deleted and added to the coastal zone which are specifically shown on map A are in the County of San Diego and are generally described as follows:

(a) In the vicinity of the intersection of Del Mar Heights Road and the San Diego Freeway, approximately 250 acres are excluded as specifically shown on map A.

(b) In the vicinity of the intersection of Carmel Valley Road and the San Diego Freeway, approximately 45 acres are added as specifically shown on map A

(c) Near the head of the south branch of Los Penasquitos Canyon, the boundary is moved seaward to the five-mile limit as described in Section 30103 and as specifically shown on map A

SEC. 2 Section 31270 is added to the Public Resources Code, to read:

31270. Notwithstanding the geographic limitations of this division or Division 20 (commencing with Section 30000), the conservancy may undertake a coastal resource enhancement project in the City of San Diego, within the area known as Famosa Slough and bounded by West Point Loma Boulevard and the seaward side of the right-of-way of Famosa Boulevard and the seaward side of the right-of-way of Adrian Street.

SEC. 3. The California Coastal Commission shall file with the Secretary of State and the county clerk of each coastal county affected, amended versions of its detailed coastal maps which conform to, and incorporate the changes made by, Section 1 of this act.

SEC 4. Local governments shall be reimbursed pursuant to Sections 30340.5 and 30340.6 of the Public Resources Code for any costs that may be incurred by them in carrying out any program or performing any service required to be carried on or performed by them by this act.

CHAPTER 1129

An act to amend, add, and repeal Section 35551 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 27, 1979. Filed with Secretary of State September 28, 1979.]

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

SECTION 1 Section 35551 of the Vehicle Code is amended to read:

35551 (a) Except as otherwise provided in this section or Section 35551.5, the total gross weight in pounds imposed on the highway by any group of two or more consecutive axles shall not exceed that given for the respective distance in the following table:

Distance in feet between the extremes of any group of 2 or more consecutive axles	*2 axles*	*3 axles*	*4 axles*	*5 axles*	*6 axles*
4	34,000	34,000	34,000	34,000	34,000
5	34,000	34,000	34,000	34,000	34,000
6	34,000	34,000	34,000	34,000	34,000
7	34,000	34,000	34,000	34,000	34,000
8	34,000	34,000	34,000	34,000	34,000
9	39,000	42,500	42,500	42,500	42,500

10	40,000	43,500	43,500	43,500	43,500
11	40,000	44,000	44,000	44,000	44,000
12	40,000	45,000	50,000	50,000	50,000
13	40,000	45,500	50,500	50,500	50,500
14	40,000	46,500	51,500	51,500	51,500
15	40,000	47,000	52,000	52,000	52,000
16	40,000	48,000	52,500	52,500	52,500
17	40,000	48,500	53,500	53,500	53,500
18	40,000	49,500	54,000	54,000	54,000
19	40,000	50,000	54,500	54,500	54,500
20	40,000	51,000	55,500	55,500	55,500
21	40,000	51,500	56,000	56,000	56,000
22	40,000	52,500	56,500	56,500	56,500
23	40,000	53,000	57,500	57,500	57,500
24	40,000	54,000	58,000	58,000	58,000
25	40,000	54,500	58,500	58,500	58,500
26	40,000	55,500	59,500	59,500	59,500
27	40,000	56,000	60,000	60,000	60,000
28	40,000	57,000	60,500	60,500	60,500
29	40,000	57,500	61,500	61,500	61,500
30	40,000	58,500	62,000	62,000	62,000
31	40,000	59,000	62,500	62,500	62,500
32	40,000	60,000	63,500	63,500	63,500
33	40,000	60,000	64,000	64,000	64,000
34	40,000	60,000	64,500	64,500	64,500
35	40,000	60,000	65,500	65,500	65,500
36	40,000	60,000	66,000	66,000	66,000
37	40,000	60,000	66,500	66,500	66,500
38	40,000	60,000	67,500	67,500	67,500
39	40,000	60,000	68,000	68,000	68,000
40	40,000	60,000	68,500	70,000	70,000
41	40,000	60,000	69,500	72,000	72,000
42	40,000	60,000	70,000	73,280	73,280
43	40,000	60,000	70,500	73,280	73,280
44	40,000	60,000	71,500	73,280	73,280
45	40,000	60,000	72,000	76,000	80,000
46	40,000	60,000	72,500	76,500	80,000
47	40,000	60,000	73,500	77,500	80,000
48	40,000	60,000	74,000	78,000	80,000
49	40,000	60,000	74,500	78,500	80,000
50	40,000	60,000	75,500	79,000	80,000
51	40,000	60,000	76,000	80,000	80,000
52	40,000	60,000	76,500	80,000	80,000
53	40,000	60,000	77,500	80,000	80,000
54	40,000	60,000	78,000	80,000	80,000
55	40,000	60,000	78,500	80,000	80,000
56	40,000	60,000	79,500	80,000	80,000
57	40,000	60,000	80,000	80,000	80,000
58	40,000	60,000	80,000	80,000	80,000

59	40,000	60,000	80,000	80,000	80,000
60	40,000	60,000	80,000	80,000	80,000

(b) In addition to the weights specified in subdivision (a), two consecutive sets of tandem axles may carry a gross weight of 34,000 pounds each if the overall distance between the first and last axles of such consecutive sets of tandem axles is 36 feet or more. The gross weight of each set of tandem axles shall not exceed 34,000 pounds and the gross weight of the two consecutive sets of tandem axles shall not exceed 68,000 pounds.

(c) In addition to the weights specified in subdivision (a), two consecutive sets of tandem axles on a combination of vehicles may carry a gross weight of 64,000 pounds if the overall distance between the first and last axles of the consecutive sets of tandem axles is not less than 25 feet nor more than 33 feet, and if the gross weight carried by each set of axles does not exceed 32,000 pounds.

(d) The distance between axles shall be measured to the nearest whole foot. When a fraction is exactly six inches, the next larger whole foot shall be used.

(e) Nothing contained in this section shall affect the right to prohibit the use of any highway or any bridge or other structure thereon in the manner and to the extent specified in Article 4 (commencing with Section 35700) and Article 5 (commencing with Section 35750) of this chapter.

(f) The gross weight limits expressed by this section and Section 35550 shall include all enforcement tolerances

This section shall remain in effect only until December 31, 1983, and as of such date is repealed, unless a later enacted statute, which is chaptered before December 31, 1983, deletes or extends such date.

SEC. 2 Section 35551 is added to the Vehicle Code, to read:

35551. (a) Except as otherwise provided in this section or Section 35551.5, the total gross weight in pounds imposed on the highway by any group of two or more consecutive axles shall not exceed that given for the respective distance in the following table:

Distance in feet between the extremes of any group of 2 or more consecutive axles	*2 axles*	*3 axles*	*4 axles*	*5 axles*	*6 axles*
4	34,000	34,000	34,000	34,000	34,000
5	34,000	34,000	34,000	34,000	34,000
6	34,000	34,000	34,000	34,000	34,000
7	34,000	34,000	34,000	34,000	34,000
8	34,000	34,000	34,000	34,000	34,000
9	39,000	42,500	42,500	42,500	42,500
10	40,000	43,500	43,500	43,500	43,500
11	40,000	44,000	44,000	44,000	44,000
12	40,000	45,000	50,000	50,000	50,000

13	40,000	45,500	50,500	50,500	50,500
14	40,000	46,500	51,500	51,500	51,500
15	40,000	47,000	52,000	52,000	52,000
16	40,000	48,000	52,500	52,500	52,500
17	40,000	48,500	53,500	53,500	53,500
18	40,000	49,500	54,000	54,000	54,000
19	40,000	50,000	54,500	54,500	54,500
20	40,000	51,000	55,500	55,500	55,500
21	40,000	51,500	56,000	56,000	56,000
22	40,000	52,500	56,500	56,500	56,500
23	40,000	53,000	57,500	57,500	57,500
24	40,000	54,000	58,000	58,000	58,000
25	40,000	54,500	58,500	58,500	58,500
26	40,000	55,500	59,500	59,500	59,500
27	40,000	56,000	60,000	60,000	60,000
28	40,000	57,000	60,500	60,500	60,500
29	40,000	57,500	61,500	61,500	61,500
30	40,000	58,500	62,000	62,000	62,000
31	40,000	59,000	62,500	62,500	62,500
32	40,000	60,000	63,500	63,500	63,500
33	40,000	60,000	64,000	64,000	64,000
34	40,000	60,000	64,500	64,500	64,500
35	40,000	60,000	65,500	65,500	65,500
36	40,000	60,000	66,000	66,000	66,000
37	40,000	60,000	66,500	66,500	66,500
38	40,000	60,000	67,500	67,500	67,500
39	40,000	60,000	68,000	68,000	68,000
40	40,000	60,000	68,500	70,000	70,000
41	40,000	60,000	69,500	72,000	72,000
42	40,000	60,000	70,000	73,280	73,280
43	40,000	60,000	70,500	73,280	73,280
44	40,000	60,000	71,500	73,280	73,280
45	40,000	60,000	72,000	76,000	80,000
46	40,000	60,000	72,500	76,500	80,000
47	40,000	60,000	73,500	77,500	80,000
48	40,000	60,000	74,000	78,000	80,000
49	40,000	60,000	74,500	78,500	80,000
50	40,000	60,000	75,500	79,000	80,000
51	40,000	60,000	76,000	80,000	80,000
52	40,000	60,000	76,500	80,000	80,000
53	40,000	60,000	77,500	80,000	80,000
54	40,000	60,000	78,000	80,000	80,000
55	40,000	60,000	78,500	80,000	80,000
56	40,000	60,000	79,500	80,000	80,000
57	40,000	60,000	80,000	80,000	80,000
58	40,000	60,000	80,000	80,000	80,000
59	40,000	60,000	80,000	80,000	80,000
60	40,000	60,000	80,000	80,000	80,000

(b) In addition to the weights specified in subdivision (a), two consecutive sets of tandem axles may carry a gross weight of 34,000 pounds each if the overall distance between the first and last axles of such consecutive sets of tandem axles is 36 feet or more. The gross weight of each set of tandem axles shall not exceed 34,000 pounds and the gross weight of the two consecutive sets of tandem axles shall not exceed 68,000 pounds.

(c) The distance between axles shall be measured to the nearest whole foot. When a fraction is exactly six inches, the next larger whole foot shall be used.

(d) Nothing contained in this section shall affect the right to prohibit the use of any highway or any bridge or other structure thereon in the manner and to the extent specified in Article 4 (commencing with Section 35700) and Article 5 (commencing with Section 35750) of this chapter.

(e) The gross weight limits expressed by this section and Section 35550 shall include all enforcement tolerances.

This section shall become operative on January 1, 1984.

CHAPTER 1130

An act to add Sections 39037.1 and 41515 to the Health and Safety Code, relating to air pollution.

[Approved by Governor September 27, 1979. Filed with Secretary of State September 28, 1979.]

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

SECTION 1. Section 39037.1 is added to the Health and Safety Code, to read:

39037.1. "Marine vessel" means any tugboat, tanker, freighter, passenger ship, barge, or other boat, ship, or watercraft, except those used primarily for recreation.

SEC. 2 Section 41515 is added to the Health and Safety Code, to read:

41515. (a) The board shall prepare and submit to the Legislature its recommendations with regard to the regulation of marine vessels on or before January 1, 1981 The report shall be prepared in consultation with the maritime industry, air pollution control districts, and members of the public.

(b) The board shall not adopt any regulation to implement the study recommendations or otherwise establish emission requirements for marine vessels prior to July 1, 1981.

(c) Nothing in this chapter shall be construed to prohibit enforcement of any rule or regulation governing marine vessels which had been adopted by any local air pollution control district prior to July 1, 1979, or is amended thereafter.

CHAPTER 1131

An act to amend Section 955.1 of the Government Code, to amend Section 19167, as added by Senate Bill No. 445, of the Health and Safety Code, and to amend Sections 2621.5 and 2621.6 of the Public Resources Code, relating to geologic hazards.

[Approved by Governor September 27, 1979 Filed with Secretary of State September 28, 1979]

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

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

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

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

(c) The state, its agencies, its political subdivisions, and public employees may, on the basis of a warning issued pursuant to subdivision (b), take, or fail or refuse to take, any action with relation to the warning which is otherwise authorized by law. In taking, or failing or refusing to take such action, the state, its agencies, its political subdivisions, and public employees shall not be liable for any injuries caused thereby.

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

SEC. 2. Section 19167 of the Health and Safety Code, as added by Senate Bill No. 445, is amended to read:

19167. No city, city and county, or county, nor any employee of any such entity, shall be liable for damages for injury to persons or

property, resulting from an earthquake or otherwise, on the basis of any assessment or evaluation performed, any ordinance adopted, or any other action taken pursuant to this article, irrespective of whether such action complies with the terms of this article, or on the basis of failure to take any action authorized by this article. The immunity from liability provided herein is in addition to all other immunities of the city, city and county, or county provided by law.

SEC. 3. Section 2621 5 of the Public Resources Code is amended to read:

2621.5. It is the purpose of this chapter to provide for the adoption and administration of zoning laws, ordinances, rules, and regulations by cities and counties in implementation of the general plan that is in effect in any city or county. The Legislature declares that the provisions of this chapter are intended to provide policies and criteria to assist cities, counties, and state agencies in the exercise of their responsibility to prohibit the location of developments and structures for human occupancy across the trace of active faults as defined by this board.

This chapter is applicable to any project, as defined in Section 2621.6, upon issuance of the official special studies zones maps to affected local jurisdictions, but does not apply to any development or structure in existence prior to May 4, 1975. The implementation of this chapter shall be pursuant to policies and criteria established and adopted by the State Mining and Geology Board.

SEC. 4. Section 2621.6 of the Public Resources Code is amended to read.

2621.6. (a) As used in this chapter, "project" means:

(1) Any subdivision of land which is subject to the Subdivision Map Act, Division 2 (commencing with Section 66410) of Title 7 of the Government Code, and which contemplates the eventual construction of structures for human occupancy.

(2) Structures for human occupancy, with the exception of:

(A) Single-family wood frame dwellings to be built on parcels of land for which geologic reports have been approved pursuant to the provisions of paragraph (1) of this subdivision.

(B) A single-family wood frame dwelling not exceeding two stories when such dwelling is not part of a development of four or more dwellings.

(b) For the purposes of this chapter, a mobilehome whose body width exceeds eight feet shall be considered to be a single-family wood frame dwelling not exceeding two stories.

SEC 5. Section 2 of this act shall become operative only if Senate Bill No. 445 is enacted by the Legislature at the 1979–80 Regular Session and, in such case, at the same time as Senate Bill No. 445 takes effect.

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

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CHAPTER 1132

An act to add Chapter 4.5 (commencing with Section 19350) to Part 2 of Division 10 of the Welfare and Institutions Code, relating to habilitation services, and making an appropriation therefor

[Approved by Governor September 28, 1979 Filed with Secretary of State September 29, 1979]

I am deleting the $3,847,000 appropriation contained in Section 2 of Assembly Bill No 1164

This appropriation is unnecessary at this time since the new rate system will not go into effect until July 1, 1980 Appropriate financing will be accomplished through the budget process and submitted as part of my proposed 1980–81 budget Necessary funds should be appropriated to the Department of Developmental Services and not to the Department of Rehabilitation

In addition, late amendments to the bill erroneously eliminated the Department of Finance from review of the proposed regulations I will instruct the Department of Rehabilitation to submit these regulations to Finance for approval, as the author has indicated he intended

With this deletion, I approve Assembly Bill No 1164

Edmund G Brown, Jr , Governor

The people of the State of California do enact as follows

SECTION 1 Chapter 4.5 (commencing with Section 19350) is added to Part 2 of Division 10 of the Welfare and Institutions Code, to read:

CHAPTER 4.5. HABILITATION SERVICES FOR THE DEVELOPMENTALLY DISABLED

19350 The Legislature reaffirms its intent that habilitation services for developmentally disabled adults should be planned and provided as a part of a continuum and that habilitation services should be available to enable persons with developmental disabilities to approximate the pattern of everyday living available to nondisabled people of the same age. The Legislature further intends that habilitation services shall be provided to adults with developmental disabilities as specified in this chapter in order to guarantee the rights stated in Section 4502

19351. It is the intent of the Legislature that the department shall establish an interdepartmental coordinating group to include at minimum the Director of Rehabilitation, the Director of Developmental Services, the Director of Mental Health, the Director of Social Services, the Superintendent of Public Instruction and the Chancellor of the California Community Colleges, or a

designee of each of these officers, and consumer representatives of each major disability group and service providers affected by habilitation programs, for purposes of coordinating the state's efforts to enhance the effectiveness of the continuum of community habilitation services It is further the intent of the Legislature that no new costs be incurred in establishing and operating such coordinating group, since each state agency can participate through reallocation of existing resources.

19352. As used in this chapter.

(a) "Habilitation services" means those community-based services purchased or provided for adults with developmental disabilities to prepare them for competitive employment, to prepare and maintain them at their highest level of vocational functioning, or to prepare them for referral to vocational rehabilitation services.

(b) "Individual program plan" means the overall plan developed by a regional center pursuant to Section 4646.

(c) "Habilitation component" means the plan developed for each eligible person for whom services are purchased under this chapter.

(d) "Department" means the State Department of Rehabilitation.

(e) "Work activity program" includes, but is not limited to, those programs licensed under existing regulations as sheltered workshops, or workshops or work activity centers.

19353. A person shall be eligible for habilitation services under this chapter when all of the following exist:

(a) The person is an adult who has been diagnosed as developmentally disabled.

(b) The disability of the person is so severe that he or she does not presently have potential for competitive employment.

(c) The person has been determined by the Department of Rehabilitation to be too disabled to benefit from vocational rehabilitation services.

(d) The person is determined to be in need of habilitation services in an individual program plan developed by a regional center pursuant to Section 4646.

19354 The individual program plan shall remain in effect as the overall service plan that is the responsibility of the regional center except that the department shall be responsible for the development of the habilitation component of the individual program plan and the purchase of habilitation services through a contract with the State Department of Develomental Services It is the intent of the Legislature that no person shall lose services as a result of such contractual agreement. By April 1, 1980, the department and the State Department of Developmental Services shall enter into an interagency agreement defining the roles and responsibilities of each in relation to the individual program plan and the purchase of services as determined in Section 19358. It is further intended that funds referred to in subdivisions (a) and (b) of Section 19358 be used only for the purposes stated therein.

19354.5. On July 1, 1982, funds for habilitation services, as defined under this chapter, shall be appropriated in the Budget Act to the department which, notwithstanding Section 19354, shall not thereafter be required to contract with the State Department of Developmental Services under that section, unless a report submitted on or before January 1, 1982, to the Legislature and the Governor, by the department and the State Department of Developmental Services contains findings and a recommendation that such appropriation should not be made to the department based on an evaluation of the following criteria:

(a) Effective implementation of the interagency agreement specified in Section 19354.

(b) Service quality assurance.

(c) Cost effectiveness.

(d) Cost containment.

(e) Protections for persons receiving services.

(f) Equitable rate system.

It is the intent of the Legislature that all persons receiving service at the end of any fiscal year shall be continued in service as identified in the habilitation component of the individual program plan in the subsequent fiscal year.

19355. On and after July 1, 1980, the department shall purchase at reasonable cost, as defined in Section 19356, such habilitation services as it determines necessary for eligible adults with developmental disabilities from accredited community nonprofit work activity programs. Habilitation services shall continue as long as reasonable progress is being made toward achieving the objectives of the individual program plan or as long as such services are determined jointly by the regional centers and the department to be necessary to maintain the current level of functioning of the person.

19356. The department shall promulgate regulations to establish rates, after consulting with the State Department of Developmental Services and subject to the approval of the department, by July 1, 1980. The regulations shall provide for an equitable ratesetting procedure in which each specific allowable service, activity, and provider administrative cost comprising an overall habilitation service, as determined by the department, reflects the reasonable cost of the service. Reasonable costs shall be determined and audited by the department annually.

19357. The department shall also:

(a) Work cooperatively with appropriate state agencies to ensure uniformity in service systems applying to community programs providing habilitation services and their eligible recipients of service in such areas as:

(1) Eligibility requirements;

(2) Program planning and evaluation;

(3) Accreditation standards;

(4) Rate setting.

(b) Assist in the development of new and innovative work activity

programs for adults with developmental disabilities in the community.

19358 By February 1, 1980, the State Department of Developmental Services shall, in cooperation with regional centers, determine all of the following.

(a) The exact amounts for work activity program funds budgeted or encumbered, or both, for each person by each regional center in fiscal year 1979–80 and projected for fiscal year 1980–81.

(b) The amount of funds budgeted or encumbered, or both, in 1979–80 and 1980–81 by each regional center to provide transportation for persons receiving such services.

(c) The amount to cover the cost to administer these work activity program and transportation funds.

19358.5. Those persons who are receiving services from day training and activity centers purchased by regional centers shall be evaluated and referred as appropriate by regional centers through a contract between the State Department of Developmental Services and the department for habilitation services no later than July 1, 1981

19359. Nothing in this chapter shall be interpreted to mean that agencies other than regional centers may not refer developmentally disabled adults with funding from other sources to work activity programs or the department

19360. The Director of Rehabilitation, in consultation with the Director of General Services, shall, by February 1, 1980, report to the Assembly Subcommittee on Mental Health and Developmental Disabilities and the Senate Health and Welfare Committee on methods of utilizing the provisions of Sections 19403 and 19404 to increase the financial stability of work activity programs.

19361. The work activity programs shall, at the request of the department or the regional center, release accreditation and state licensing reports.

SEC. 2. The sum of three million eight hundred forty-seven thousand dollars ($3,847,000) is hereby appropriated from the General Fund to the Department of Rehabilitation for expenditure as follows:

(a) For the purposes of carrying out this act, the sum of seven hundred forty-seven thousand dollars ($747,000);

(b) For the purchase of services pursuant to this act, commencing July 1, 1980, the sum of three million one hundred thousand dollars ($3,100,000).

CHAPTER 1133

An act to amend Section 11836 of the Health and Safety Code, to add Section 4011.1 to the Penal Code, to add Section 98.7 to the Revenue and Taxation Code, to amend Sections 5705, 10817, 11450, 15200.4, 16700, 16701, 16702, 16703, 16704, 16710, 16713, 18905, and 18906.5 of, to amend and renumber Sections 11406 and 11407 of, to add Sections 5705, 10823, and 16714 to, and to repeal Sections 5705 and 10821 of, the Welfare and Institutions Code, to amend Items 263 and 288 of Chapter 259 of the Statutes of 1979, and to amend Sections 98, 99, and 100 of Chapter 282 of the Statutes of 1979, relating to funding of governmental agencies, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1979 Filed with Secretary of State September 29, 1979]

I am deleting the $585,000 appropriation contained in Section 29 of Assembly Bill No 339 The appropriation is unnecessary AB 8 contains sufficient funds for the schools in 1979–80

With this deletion, I approve Assembly Bill No 339

Edmund G Brown Jr , Governor

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

SECTION 1. Section 11836 of the Health and Safety Code, as amended by Section 58 of Chapter 282 of the Statutes of 1979, is amended to read.

11836. Each county shall provide matching funds for programs and services provided by the county under this part, as follows:

(a) During the 1979–80, 1980–81, and 1981–82 fiscal years, the required county match for local participation under this chapter shall be waived except for state hospital services provided on and after January 1, 1980. The required county match for state hospital services under this chapter shall only be waived until January 1, 1980.

(b) From January 1, 1980, through June 30, 1982, state hospital programs shall be funded on the basis of 90 percent state funds and 10 percent county funds.

(c) Commencing with the 1982–83 fiscal year and for every fiscal year thereafter, 90 percent state funds and 10 percent county funds shall be required for support of programs and services provided by a county under this part, unless a later enacted statute which is chaptered before July 1, 1982, provides a different arrangement for state and county matching funds. Alcohol programs and services financed through other public or private sources as provided in the county program budget shall not be considered for purposes of state and county matching funds under this part.

If Assembly Bill 272 of the 1979–80 Regular Session is chaptered, whether prior or subsequent to the act of the 1979–80 Regular Session by which this section is amended, and becomes effective on or before

January 1, 1980, this section shall remain in effect only until January 1, 1980, and on such date is repealed, unless a later enacted statute, which is chaptered on or before January 1, 1980, deletes or extends such date.

If Assembly Bill 272 of the 1979–80 Regular Session is not chaptered in 1979, this section shall remain in effect only until July 1, 1982, and on that date is repealed unless a later enacted statute, which is chaptered before July 1, 1982, deletes or extends such date.

SEC. 2 Section 11836 of the Health and Safety Code, as added by Section 58.5 of Chapter 282 of the Statutes of 1979, is amended to read:

11836. The cost of all services specified in the approved county program budget shall be financed on a basis of 90 percent state funds and 10 percent county funds, except that services to be financed from other public or private sources as provided for in the county program budget shall not be considered for purposes of state and county matching funds under this part. Where the services specified in the approved program budget are provided pursuant to other general health or social programs, only that portion of the service dealing with the prevention of alcoholism, and the treatment and rehabilitation of alcoholics and their families may be financed under this division.

For the purposes of this section, "county program budget" shall mean the total of state funds to be advanced to the county and the required county match.

If Assembly Bill 272 of the 1979–80 Regular Session of the Legislature is not chaptered or, if chaptered, does not become effective on or before January 1, 1980, this section shall become operative on July 1, 1982. If Assembly Bill 272 of the 1979–80 Regular Session is chaptered, whether prior or subsequent to the act of the 1979–80 Regular Session by which this section is amended, and becomes effective on or before January 1, 1980, this section shall not become operative, and shall be repealed January 1, 1980, unless a later enacted statute, which is chaptered on or before January 1, 1980, deletes or extends such date.

SEC. 3. Section 4011.1 is added to the Penal Code, to read:

4011 1. Notwithstanding Section 29602 of the Government Code and any other provisions of this chapter, a county, city or the Department of the Youth Authority is authorized to make claim for and recovery of the costs of necessary hospital, medical, surgical, dental, or optometric care rendered to any prisoner confined in a county or city jail or any juvenile confined in a detention facility, who would otherwise be entitled to such care under the Medi-Cal Act (Chapter 7 (commencing with Section 14000) Part 3, Division 9, Welfare and Institutions Code), and who is eligible for such care on the first day of confinement or detention, to the extent that federal financial participation is available, or under the provisions of any private program or policy for such care, and the county, city or the Department of the Youth Authority shall be liable only for the costs

of such care as cannot be recovered pursuant to this section. No person who is eligible for Medi-Cal shall be eligible for benefits under the provisions of this section, and no county or city or the Department of the Youth Authority is authorized to make a claim for any recovery of costs for services for any such person, unless federal financial participation is available for all or part of the costs of providing services to such persons under the Medi-Cal Act. Necessary hospital, medical, surgical, dental, or optometric care as used in this section does not include care rendered with respect to an injury caused during confinement in a county or city jail or juvenile detention facility.

Notwithstanding any other provision of law, any county or city making a claim pursuant to this section and under the Medi-Cal Act shall reimburse the Health Care Deposit Fund for the state costs of paying such medical claims. Funds allocated to the county from the County Health Services Fund pursuant to Part 4.5 (commencing with Section 16700) of Division 9 of the Welfare and Institutions Code may be utilized by the county or city to make such reimbursement.

SEC. 4. Section 98.7 is added to the Revenue and Taxation Code, to read:

98.7. In the case of any special district created pursuant to Chapter 6 (commencing with Section 880) of Part 2 of Division 1 of the Health and Safety Code, as enacted by Chapter 60 of the Statutes of 1939, for purposes of computations pursuant to this chapter, except Section 98.6, the amount of state assistance payments with respect to such district shall be increased by five hundred four thousand nine hundred fifty-seven dollars ($504,957).

The Legislature finds and declares that public health services, which are financed and provided by county government in most of the counties in this state, are both financed and provided by a special district in San Joaquin County. As a result of the passage of Proposition 13 at the June 6, 1978, statewide election, the funding levels of special districts are far below those of county government. In order to assure that public health services in the San Joaquin Health District are supported at the same level such services would be supported if they were provided by the county, additional funds are provided to this special district pursuant to this section.

SEC. 5. Section 5705 of the Welfare and Institutions Code, as amended by Section 61 of Chapter 282 of the Statutes of 1979, is amended to read:

5705. (a) Commencing with the 1979–80 fiscal year, the net cost of all services specified in the approved county Short-Doyle plans shall be financed on a basis of 90 percent state funds and 10 percent county funds, irrespective of where or by whom the services are provided, except for services to be financed from other public or private sources as indicated in the county Short-Doyle plan. The cost of the services shall be the actual cost as determined in accordance with standard accounting practices or a negotiated net amount or

rate approved by the Director of Mental Health.

(b) Negotiated net amounts or rates may be used as the cost of services only in accordance with the following paragraphs:

(1) Negotiated net amounts may be used as the cost of services in a contract which provides for the delivery of all or part of the total county Short-Doyle annual plan for each fiscal year. The negotiated net amount shall be approved by the State Department of Mental Health prior to commencing services for reimbursement Providers under this paragraph shall report to the State Department of Mental Health and the local mental health program cost accounting and any other information required by the State Department of Mental Health in accordance with procedures established by the Director of Mental Health emphasizing success in program outcome versus providers' expenditures. Contracts entered into pursuant to this paragraph shall be financed within an approved Short-Doyle plan. For the purposes of this paragraph, the cost-sharing formula of such contracts shall be 90 percent state funds, and 10 percent funding from the contracting organization which shall not include state or federal funds directly allocated to contracting organizations.

(2) Negotiated rates may be used as the cost of services in contracts by providers with counties. The negotiated rate shall be approved by the State Department of Mental Health prior to commencing services for reimbursement Providers under this paragraph shall report to the State Department of Mental Health and the local mental health program cost accounting and any other information required by the State Department of Mental Health in accordance with procedures established by the Director of Mental Health.

During the 1979–80, 1980–81, and 1981–82 fiscal years, the requirement for local financial participation in the net cost of services provided under this part shall be waived except for state hospital services provided on and after January 1, 1980 The required local financial participation in the net cost of state hospital services under this part shall only be waived until January 1, 1980.

This section shall remain in effect only until July 1, 1982, and on that date is repealed, unless a later enacted statute, which is chaptered before July 1, 1982, deletes or extends such date.

SEC. 6. Section 5705 is added to the Welfare and Institutions Code, to read:

5705. (a) The net cost of all services specified in the approved county Short-Doyle plans shall be financed on a basis of 90 percent state funds and 10 percent county funds, irrespective of where or by whom the services are provided, except for services to be financed from other public or private sources as indicated in the county Short-Doyle plan. The cost of the services shall be the actual cost as determined in accordance with standard accounting practices or a negotiated net amount or rate approved by the Director of Mental Health.

(b) Negotiated net amounts or rates may be used as the cost of

services only in accordance with the following paragraphs:

(1) Negotiated net amounts may be used as the cost of services in a contract which provides for the delivery of all or part of the total county Short-Doyle annual plan for each fiscal year. The negotiated net amount shall be approved by the State Department of Mental Health prior to commencing services for reimbursement. Providers under this paragraph shall report to the State Department of Mental Health and the local mental health program cost accounting and any other information required by the State Department of Mental Health in accordance with procedures established by the Director of Mental Health emphasizing success in program outcome versus providers' expenditures. Contracts entered into pursuant to this paragraph shall be financed within an approved Short-Doyle plan. For the purposes of this paragraph, the cost-sharing formula of such contracts shall be 85 percent state funds, 5 percent county funds, and 10 percent funding from the contracting organization which shall not include state or federal funds directly allocated to contracting organizations.

(2) Negotiated rates may be used as the cost of services in contracts by providers with counties. The negotiated rate shall be approved by the State Department of Mental Health prior to commencing services for reimbursement. Providers under this paragraph shall report to the State Department of Mental Health and the local mental health program cost accounting and any other information required by the State Department of Mental Health in accordance with procedures established by the Director of Mental Health.

This section shall become operative July 1, 1982, and shall remain in effect only until July 1, 1983, and on that date is repealed, unless a later enacted statute, which is chaptered before July 1, 1983, deletes or extends such date.

SEC. 6.5. Section 5705 of the Welfare and Institutions Code, as added by Section 63 of Chapter 282 of the Statutes of 1979, is amended to read:

5705. (a) The net cost of all services specified in the approved county Short-Doyle plans shall be financed on a basis of 90 percent state funds and 10 percent county funds, irrespective of where or by whom the services are provided, except for services to be financed from other public or private sources as indicated in the county Short-Doyle plan. The cost of the services shall be the actual cost as determined in accordance with standard accounting practices or a negotiated net amount or rate approved by the Director of Mental Health.

(b) Negotiated net amounts or rates may be used as the cost of services only in accordance with the following paragraphs:

(1) Negotiated net amounts may be used as the cost of services in a contract which provides for the delivery of 75 percent or more of the total county Short-Doyle annual plan for each fiscal year. The negotiated net amount shall be approved by the State Department

of Mental Health prior to commencing services for reimbursement. Providers under this paragraph shall report to the State Department of Mental Health and the local mental health program cost accounting and any other information required by the State Department of Mental Health in accordance with procedures established by the Director of Mental Health emphasizing success in program outcome versus providers' expenditures. Contracts entered into pursuant to this paragraph shall be financed within an approved Short-Doyle plan. For the purposes of this paragraph, the cost-sharing formula of such contracts shall be 85 percent state funds, 5 percent county funds, and 10 percent funding from the contracting organization which shall not include state or federal funds directly allocated to contracting organizations.

(2) Negotiated rates may be used as the cost of services in contracts with providers whose gross Short-Doyle contract with a county is not more than one hundred fifty thousand dollars ($150,000) per annum. The negotiated rate shall be approved by the State Department of Mental Health prior to commencing services for reimbursement. Providers under this paragraph shall report to the State Department of Mental Health and the local mental health program cost accounting and any other information required by the State Department of Mental Health in accordance with procedures established by the Director of Mental Health.

This section shall become operative on July 1, 1983.

SEC. 7. Section 10817 of the Welfare and Institutions Code is amended to read:

10817. The department shall seek advice and assistance from the State Department of Health Services and counties in the planning and implementation of the system so that efficient, effective, and equitable administration of public assistance programs can be maintained.

SEC. 8. Section 10821 of the Welfare and Institutions Code is repealed.

SEC. 9. Section 10823 is added to the Welfare and Institutions Code, to read:

10823. Nothing in this chapter shall be construed to reduce or otherwise impair the authority of the State Department of Health Services under Sections 10740 and 14100.1 as the single state agency responsible for administration of the medical assistance program. However, the State Department of Social Services shall develop and implement a single integrated and centralized delivery system for the public assistance programs as provided in Section 10815. The department, in developing this system, shall recognize and utilize to the extent feasible, the centralized Medi-Cal eligibility system now maintained by the State Department of Health Services, and shall ensure that the fully implemented system shall meet those Medi-Cal program requirements deemed necessary by the State Department of Health Services. Both departments shall coordinate their efforts to ensure the mutual benefits of an integrated delivery system

SEC. 10. Section 11406 of the Welfare and Institutions Code is amended and renumbered to read:

11213. For the purpose of developing a more efficient, effective, and equitable Aid to Families with Dependent Children-Boarding Homes and Institutions (AFDC-BHI) program, the department shall develop:

(a) A management information data base providing expenditure and caseload characteristics information, such as method of entry into AFDC-BHI, average cost of placement, type of facility used for placement, and average length of stay in placement.

(b) A quality control system for AFDC-BHI, and recommendations to the Legislature regarding resources required for implementation of such system by October 1, 1980.

(c) Recommendations to the Legislature regarding the following:

(1) A system or systems for establishing payment levels for children eligible to the AFDC-BHI program.

(2) Plans and resources required for implementation of the selected system or systems by July 1, 1981

(d) Recommendations to the Legislature regarding defining that segment of the population to be served by the AFDC-BHI program, and impact of such definition on the current AFDC-BHI population.

The department shall submit by April 1, 1980, to the appropriate policy and fiscal committees of the Legislature a report regarding results of the developmental activities specified in this section.

SEC. 11. Section 11407 of the Welfare and Institutions Code is amended and renumbered to read:

11214. (a) The department, with the advice and assistance of the counties, shall develop performance standards for the AFDC-BHI program for submission to the Joint Legislative Budget Committee by January 1, 1981 The Joint Legislative Budget Committee shall review and comment on the performance standards by February 15, 1981 After considering the committee's comment and review, the department shall adopt performance standards by regulation no later than April 15, 1981. The performance standards shall be measurable objectives for the AFDC-BHI program.

Any county which does not meet the performance standards shall be liable for up to the total amount of nonfederal expenditures for aid payments pursuant to subdivision (b) of Section 15200 as determined by the director.

(b) No county shall be reimbursed for any percentage increases in the payments to any foster home, group home, or institution which exceed the percentage cost-of-living increase provided in any fiscal year beginning on or after July 1, 1979, to persons eligible for aid under this chapter This subdivision shall remain in effect only until a program payment system is implemented by the department in accordance with subdivision (c) of Section 11213

SEC 12 Section 11450 of the Welfare and Institutions Code is amended to read:

11450 (a) For each needy family which includes one or more

needy children qualified for aid under this chapter, there shall be paid, notwithstanding minimum basic standards of adequate care established by the department under Section 11452, an amount of aid each month which when added to his income, exclusive of any amounts considered exempt as income or paid pursuant to subdivision (d) of this section or Section 11453.1, is equal to the sums specified in the following table, as adjusted for cost-of-living increases pursuant to Section 11453·

Number of eligible needy persons in the same home	*Maximum aid*
1	$166
2	273
3	338
4	402
5	459
6	516
7	566
8	616
9	666
10 or more	716

If, when and during such times as the United States government increases or decreases its contributions in assistance of needy children in this state above or below the amount paid on July 1, 1972, the amounts specified in the above table shall be increased or decreased by an amount equal to such increase or decrease by the United States government, provided that no such increase or decrease shall be subject to subsequent adjustment pursuant to Section 11453.

(b) For children receiving foster care who are qualified for aid under the provisions of this chapter, there shall be paid the sum necessary for the adequate care of each child.

(c) As used in this chapter, "foster care" means care in a foster home, group home, or institution.

(d) (1) In addition to the amounts payable under subdivision (a) of this section and Section 11453.1, a family shall be entitled to receive an allowance for recurring special needs not common to a majority of recipients. Such recurring special needs shall include but not be limited to special diets upon the recommendation of a physician, and unusual costs of transportation, laundry, housekeeping service, telephone, and utilities The recurring special needs allowance for each family per month shall not exceed that amount resulting from multiplying the sum of ten dollars ($10) by the number of recipients in the family who are eligible for assistance.

(2) A family shall also be entitled to receive an allowance for nonrecurring special needs caused by sudden and unusual

circumstances beyond the control of the needy family; provided, however, that such needs shall not be taken into consideration in determining the eligibility of the family for aid.

(3) The department shall establish rules and regulations assuring the uniform application statewide of the provisions of this subdivision.

(e) Except for the purposes of Section 15200, the amounts payable to recipients pursuant to Section 11453.1 shall not constitute part of the payment schedule set forth in subdivision (a) of this section.

The amounts payable to recipients pursuant to Section 11453.1 shall not constitute income to recipients of aid under this section.

SEC 13. Section 15200 4 of the Welfare and Institutions Code is amended to read.

15200 4. In administering the provisions of law and regulations related to the Aid to Families with Dependent Children program, the director may impose such sanctions as provided by this section to assure adequate county administration performance.

The director may hold counties financially liable for aid paid to ineligible persons and aid paid to eligible persons in excess of the amount to which they are entitled as represented by a dollar error rate There shall be established annually in the budget a dollar error rate standard which shall be the basis for computing a county's liability under this section for the two subsequent quality control review periods for which error rates are generated, commencing with the budget for the 1980–81 fiscal year. For the two quality control periods commencing with the 1979–80 fiscal year, the director shall submit to the Joint Legislative Budget Committee no later than January 30, 1980, the dollar error rate standard to be in effect during those two periods For those counties in excess of the dollar error rate standard, liability shall not exceed the product of the error rate in excess of the standard multiplied by the total expenditures for aid paid under the program.

Nothing herein shall limit county liability for exceptions taken against claims for costs incurred prior to July 1, 1978, which are determined to be improper.

SEC 14 Section 16700 of the Welfare and Institutions Code is amended to read

16700. (a) On or before August 30 of each year, beginning with 1980, the governing body of each county shall adopt a county health services plan and budget, and shall submit the plan and budget to the State Director of Health Services in the form and in accordance with the procedures specified by the director

(b) For the 1979–80 fiscal year, each county shall submit a plan and budget within 90 days of the effective date of this part For the 1979–80 fiscal year, the amount specified in subdivision (a) of Section 16702 shall be allocated to each county within 30 days of the effective date of this part The amount specified in subdivision (b) of Section 16702 shall be allocated in three equal installments according to the provisions of subdivision (b) of Section 16704

SEC. 15. Section 16701 of the Welfare and Institutions Code is amended to read:

16701. (a) "County health services" means public health services, outpatient health services, and inpatient health services provided directly by the county or financed or purchased by the county through grants, contracts or agreements but shall not include services provided pursuant to Division 5 (commencing with Section 5000) of the Welfare and Institutions Code or Division 10.5 (commencing with Section 11750) of the Health and Safety Code and shall not include those services provided by an existing independent health district formed pursuant to Chapter 6 (commencing with Section 880) of Part 2 of Division 1 of the Health and Safety Code, as enacted by Chapter 60 of the Statutes of 1939.

(b) "Net county costs for health services" means expenditures for county health services, less revenues received for county health services, plus federal revenue sharing funds budgeted or expended for health services.

(c) "City health services" means public health services, outpatient health services, and inpatient health services provided directly by the city or financed or purchased by the city through grants, contracts, or agreements, but shall not include services provided pursuant to Division 5 (commencing with Section 5000) of the Welfare and Institutions Code or Division 10.5 (commencing with Section 11750) of the Health and Safety Code.

(d) "Net city costs for health services" means expenditures for city health services, less revenues received for city health services, plus federal revenue sharing funds budgeted or expended for health services.

SEC. 16. Section 16702 of the Welfare and Institutions Code is amended to read:

16702. The net county costs of health services specified in each county budget shall be financed in each county with assistance from the County Health Services Fund in accordance with the following:

(a) An annual grant of three dollars ($3) per capita based upon population estimates of the Department of Finance as of January 1 of the previous fiscal year; and

(b) Fifty percent of the amount derived by subtracting paragraph (2) from paragraph (1) below:

(1) The actual net costs for the county for the 1977–78 fiscal year, as reported to the State Director of Health Services pursuant to subdivision (f) of Section 20 of Chapter 292 of the Statutes of 1978, increased by 16 percent for the 1979–80 fiscal year;

(2) The amount calculated for the county in subdivision (a).

(c) The amount of assistance from the County Health Services Fund for the County of Alameda shall include an amount equal to 50 percent of the net city costs for health services of the City of Berkeley as reported to the State Director of Health Services pursuant to subdivision (f) of Section 20 of Chapter 292 of the Statutes of 1978, increased by 16 percent for the 1979–80 fiscal year.

(d) Commencing July 1, 1980, and each July 1 thereafter, the amounts specified in subdivisions (a), (b), and (c) shall be adjusted to reflect any increases or decreases in the cost of living. The average of the separate indices of the cost of living for Los Angeles and San Francisco as published by the United States Bureau of Labor Statistics shall be used as the basis for determining the changes in the cost of living. The State Department of Health Services shall compare the average index for the December preceding the July in which the cost-of-living adjustment is effective with the average index for the month of December of the previous year. The percentage increase or decrease in the average index shall then be multiplied by the amounts specified in subdivisions (a), (b), and (c) as previously adjusted pursuant to this subdivision.

SEC. 17. Section 16703 of the Welfare and Institutions Code is amended to read:

16703. The sum of the amounts for all the counties set forth in Section 16702 is appropriated annually from the General Fund for deposit in the County Health Services Fund which is hereby created. The expenditure of funds from the County Health Services Fund shall be made by the State Department of Health Services without regard to fiscal year and shall be available for expenditure for two fiscal years subsequent to the fiscal year in which the original appropriation was made.

SEC. 18 Section 16704 of the Welfare and Institutions Code is amended to read.

16704. Funds from the County Health Services Fund shall be allocated to the governing body of each county annually in accordance with the following procedures:

(a) The allocation of the amount determined in subdivision (a) of Section 16702 shall be made to each governing body upon submission of the plan and budget as required by Section 16700. Such funds shall be expended for county health services.

(b) (1) The allocation of the amount up to the maximum determined in subdivision (b) of Section 16702 shall be made upon application by the governing body of each county and upon signing of an agreement between the governing body and the State Director of Health Services. In such agreement, the county shall agree to expend funds in an aggregate amount at least equal to the total amount designated in the plan and budget submitted pursuant to Section 16700 and shall agree to net county costs for county health services of county funds in the same amount as the funds requested under this paragraph.

(2) The allocation to the County of Alameda shall be made only when the agreement between the County of Alameda and the City of Berkeley specified in subdivision (c) of this section is received by the State Department of Health Services.

(c) The allocation of the amount calculated in subdivision (c) of Section 16702 shall be made to the County of Alameda upon the signing of an agreement between the County of Alameda and the

City of Berkeley whereby (1) 50 percent of the allocation shall be provided to Berkeley for the purposes of supporting the city's health services, and (2) Berkeley agrees to maintain its level of net city costs for health services at the 1978–79 fiscal year level, as adjusted by an 8 percent increase for the 1979–80 fiscal year and as adjusted annually thereafter by the cost-of-living index specified in subdivision (d) of Section 16702. The remainder of the allocation under this subdivision shall become available to the County of Alameda under the same conditions as specified in subdivisions (b) and (d) of this section.

This subdivision shall have no further force and effect if the City of Berkeley transfers to the County of Alameda the enforcement authority of applicable public health statutes and regulations. This subdivision shall remain operative only until July 1, 1981, and shall not remain in effect after such date unless a later enacted statute, which is chaptered before July 1, 1981, deletes or extends such date.

(d) The agreement shall provide for reports of expenditures and information and shall constitute a contractual obligation. The State Director of Health Services shall not have the authority to disapprove the county health services plan or to require the additional expenditure of county funds for health services beyond that required by this section and Section 16707.

(e) The county shall act in general accordance with the plan and budget submitted pursuant to Section 16700.

SEC. 19. Section 16710 of the Welfare and Institutions Code is amended to read:

16710. In those counties where the governing body of a city has not transferred to the county enforcement authority of applicable public health statutes and regulations or where public health services are provided by a city pursuant to a contract with a county, such county shall, in the plan, budget, and agreement, provide for continuation and funding of such services.

SEC 20. Section 16713 of the Welfare and Institutions Code is amended to read:

16713 For the purposes of carrying out the provisions of this part and subdivision (a) of Section 96 of the Revenue and Taxation Code, each county auditor shall determine an amount equal to that derived by the following steps:

(a) Three dollars ($3) per capita based on county population estimates of the Department of Finance for July 1, 1978; and

(b) Fifty percent of the amount derived by subtracting paragraph (2) from paragraph (1) below:

(1) Net county costs for the 1977–78 fiscal year as reported pursuant to subdivision (f) of Section 20 of Chapter 292 of the Statutes of 1978, increased by 8 percent.

(2) The amount computed in subdivision (a).

SEC. 21. Section 16714 is added to the Welfare and Institutions Code, to read

16714. The amount calculated by the county auditor for the County of Alameda pursuant to Section 16713 shall include an

amount equal to 50 percent of the net city costs for health services for the City of Berkeley for the 1977–78 fiscal year as reported pursuant to subdivision (f) of Section 20 of Chapter 292 of the Statutes of 1978, increased by 8 percent

SEC. 22. Section 18905 of the Welfare and Institutions Code is amended to read:

18905 In the event that the United States Department of Agriculture makes a final determination to reduce federal funding of the Food Stamp program due to issuance errors or improper or inadequate county administration of the program, the county or counties responsible for such reduction shall be liable for the amount thereof in accordance with standards adopted by the Director of Social Services.

SEC. 23. Section 18906 5 of the Welfare and Institutions Code is amended to read

18906 5. The state shall pay 50 percent of the nonfederal costs of administering the Food Stamp program, subject to the provisions of Section 18906. The counties shall pay the remaining 50 percent share of the nonfederal costs.

SEC 24. Item 263 of Chapter 259 of the Statutes of 1979 is amended to read·

263—For transfer to the Health Care Deposit Fund to provide for the state's share of Medical Assistance Program expenditures for county administration 97,966,200

Schedule:

(a) State share 97,966,200

(b) Federal funds per Section 8.7 (44,735,321)

provided, that the amount authorized to be expended by this item shall fully cover the state's share of payments for county administration for the 1979–80 fiscal year; provided further, that notwithstanding any other provision of law, funds transferred from this item to the Health Care Deposit Fund by the State Controller shall not exceed the state's share, determined pursuant to a plan approved by the Director of Finance, of bills for services and administration approved for payment as certified by the Director of Health Services

Provided further, that after June 30, 1980, a transfer to the Health Care Deposit Fund from this item shall be permitted to meet the total General Fund obligation.

Provided further, that upon the request of the Director of Health Services, and upon the approval of the Director of Finance, funds may be advanced to the Health Care Deposit Fund only pursuant to the provisions of Section 16351 of the Government Code.

Provided further, that notwithstanding any other provision of law, the Department of Health Services may give public notice to proposing or amending any rule or regulation which could result in increased cost to the Medical Assistance Program only after approval by the Department of Finance as to the availability of funds; provided further, that any rule or regulation adopted by the Director of Health Services during the 1979–80 fiscal year which adds to the cost of the Medical Assistance Program shall only be effective from and after the date upon which it is approved as to availability of funds by the Department of Finance.

Provided further, that during the 1979–80 fiscal year, the Department of Health Services shall continue the implementation of a plan whereby costs for county administration will be effectivley controlled within the amount appropriated by this item.

Provided further, that notwithstanding any provisions of the Welfare and Institutions Code to the contrary, the amount of state funds available to counties for the administration of the Medical Assistance Program shall be limited to the amount appropriated in this item, administered in accordance with the County Administrative Cost Control Plan by the Department of Health Services for fiscal year 1979–80

Provided further that recoveries of advances made to counties in prior years pursuant to Section 14153 of the Welfare and Institutions Code are hereby reappropriated to the Health Care Deposit Fund for reimbursement of those counties where allowable costs exceeded the amounts advanced; provided further, that recoveries in excess of the amounts required to fully reimburse allowable costs shall be transferred to the General Fund.

Provided further, that the department shall institute a county administrative cost control plan for the 1979–80 fiscal year which identifies counties with low worker productivity. The department's plan shall utilize the most recent data available and shall identify the ratio of eligibility workers, clerical and administrative staff per unit of workload and excessive nonsalary overhead expenditures per unit of workload. Counties with low worker productivity or excessive overhead

expenditures as defined by the department shall receive reduced allocations in order to induce counties to improve worker productivity and/or reduce excessive overhead costs. The department's cost control plan shall recognize distinctions between large, medium and small counties and may include other such categories as the department deems appropriate. The department may provide additional funds to counties with reduced allocations if an augmentation is requested and if the county submits an acceptable plan for improving its productivity per worker and reducing excessive overhead.

Provided further, that in the event of a surplus of funds in this item, the department shall not allocate such funds to any county to defray county cost overruns which result from county failure to meet the minimum productivity expectations approved by the department.

Provided further, that the department shall prepare budget justification proposals to justify special county projects which will add to the total cost of county administration in the 1980–81 fiscal year.

SEC. 25. Item 288 of Chapter 259 of the Statutes of 1979 is amended to read:

288—For the state's share of the nonfederal administrative costs of administering (a) the payment of aid grants as specified in Section 15204.2 of the Welfare and Institutions Code, (b) Special Adult Programs, (c) food stamps, as provided by Chapter 10 (commencing with Section 18900) of Part 6 of Division 9 of the Welfare and Institutions Code, (d) emergency payments, (e) nonmedical out-of-home care, and (f) staff development, Department of Social Services			88,890,600
Schedule:			
(a) AFDC administration		66,505,500	
(1) Total program	244,726,300		
(2) Federal funds	178,220,800		
(b) Administration of Special Adult Programs		1,055,000	
(c) Food stamp administration		20,149,600	
(1) Total program	61,872,100		
(2) Federal funds	41,722,500		

(d) Emergency payments administration 445,500
(e) Nonmedical out-of-home care administration 735,000
(f) Staff development 5,028,800
(g) Federal funds 5,028,800

provided, that the department may act in the place of any county and assume direct responsibility for the administration of eligibility and grant determination Upon recommendation of the Director of Social Services, the Department of Finance may authorize the transfer of funds to Item 282 for this purpose

Provided further, that during the 1979–80 fiscal year, the Department of Social Services shall continue the implementation of a plan whereby costs for county administration will be effectively controlled within the total amount appropriated by this item.

Provided further, that notwithstanding any provisions of the Welfare and Institutions Code to the contrary, the total amount of state funds available to the counties for administration of the programs specified in this item shall be limited to the amount appropriated by this item.

Provided further, that during the 1979–80 fiscal year, the department in administering the plan to control county administrative costs, shall not allocate funds to cover county cost overruns which result from county failure to meet cost control plan requirements.

Provided further, that the state funds appropriated in this item for the AFDC and Food Stamp programs shall be administered during the 1979–80 fiscal year, in accordance with the county administrative cost control plan, as approved by the Department of Social Services during the 1979 –80 fiscal year

Provided, that notwithstanding any other provision of law, the Department of Social Services may withhold state financial support of a county's automated welfare operations if the county does not provide a fiscal accounting of such operations in the form and manner as may be requested by the department, provided further, that the Department of Social Services may enter into an agreement with a county wherein state financial support for the development or modification of county-automated welfare operations is condi-

tioned upon the realization of savings projected by the county.

SEC. 26. Section 98 of Chapter 282 of the Statutes of 1979 is amended to read:

Sec. 98. There is hereby appropriated from the General Fund to the Department of Social Services, for the purposes of implementing Chapter 4 1 (commencing with Section 10815) of Part 2 of Division 9 of the Welfare and Institutions Code and Sections 11213, 15200.4, and 18905 of the Welfare and Institutions Code, the sum of one million three hundred fifty-six thousand two hundred twenty-one dollars ($1,356,221) without regard to fiscal year. The department may establish positions to carry out the provisions of Chapter 4.1 and Sections 11213, 15200.4, and 18905. It is the intent of the Legislature that all necessary positions be established as soon as possible to ensure that the requirements of Sections 10818, 11213, 15200.4, and 18905 can be met.

SEC. 27. Section 99 of Chapter 282 of the Statutes of 1979 is amended to read:

Sec 99. There is hereby appropriated from the General Fund to the Department of Health Services, for the purposes of implementing Part 4.5 (commencing with Section 16700) of Division 9 of the Welfare and Institutions Code, the sum of eight hundred twenty thousand dollars ($820,000) for the 1979–80 fiscal year. The department may establish positions to carry out the provisions of Part 4.5. It is the intent of the Legislature that all necessary positions be established as soon as possible to ensure that the requirements of Part 4.5 can be met.

SEC. 28 Section 100 of Chapter 282 of the Statutes of 1979 is amended to read·

Sec. 100. The sum of five hundred nineteen million dollars ($519,-000,000) is hereby appropriated from the General Fund to the State Department of Social Services for the 1979–1980 fiscal year for purposes of carrying out the changes in law made pursuant to this act in Sections 11451.5, 12400, 15200, 15200.4, 15204.2, and 18906.5 of the Welfare and Institutions Code and Section 29.6 of Chapter 977 of the Statutes of 1976.

Upon certification by the State Department of Social Services of unexpended funds in Item 290 of the Budget Act of 1979 (Chapter 259, Statutes of 1979), the State Controller, upon the request of the Department of Finance, shall transfer the unexpended funds to and in augmentation of the appropriation otherwise made by this section.

SEC. 29. In addition to the amount made available pursuant to paragraph (1) of subdivision (a) of Section 97 of Chapter 282 of the Statutes of 1979, there is hereby appropriated to the State Controller the sum of five hundred eighty-five thousand dollars ($585,000) for transfer by the State Controller during the 1979–80 fiscal year to Section A of the State School Fund for the purposes of Sections 42237 and 42237 5 of the Education Code

SEC 30. This act is an urgency statute necessary for the immedi-

ate 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 apply the provisions of this act to the 1979–80 fiscal year at the earliest possible time, it is necessary for this act to go into effect immediately.

SEC 31. Section 3 of this bill, which adds Section 4011.1 to the Penal Code, shall take effect only if Senate Bill 148 is chaptered, and shall become operative on the same date that Senate Bill 148 becomes operative.

CHAPTER 1134

An act to add and repeal Article 4 5 (commencing with Section 360) to Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, relating to health, and making an appropriation therefor.

[Approved by Governor September 28, 1979 Filed with Secretary of State September 29, 1979.]

I am reducing the appropriation contained in Section 2 of Senate Bill No. 111 from $3,833,700 to $2,100,000 by reducing Schedule (2) from $184,000 to $140,000 and Schedule (3) from $3,589,700 to $1,900,000

This reduction will still allow for the initiation of a dental disease prevention program in grades K-3 It will also build on the efforts of the California Dental Service over the next few years in reducing dental disease in children

Edmund G Brown Jr , Governor

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

SECTION 1. Article 4.5 (commencing with Section 360) is added to Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, to read

Article 4 5 Dental Disease Prevention Programs for Children

360 The Legislature finds that 95 percent of all children in California have dental disease in the form of dental caries and periodontal disease. Dental disease in childhood can and does result in significant lifetime disability, dental pain, missing teeth, periodontal disease, and the need for dentures. Poor nutrition in childhood is a major contributing factor in lifetime dental disability. The cost of treating the results of dental disease is on the increase and may exceed five hundred million dollars ($500,000,000) per year in California, of which one hundred twenty-five million dollars ($125,000,000) would be paid by the State of California.

The Legislature also finds that dental disease in children and the resultant abnormalities in adults can be prevented by education and treatment programs for children It is the intent of the Legislature in enacting this article to establish for children in kindergarten

through sixth grade preventive dental programs which shall be financed and have standards established at the state level and which shall be operated at the local level.

361. Each local health department may offer a community dental disease prevention program for all school children in kindergarten through sixth grade. The program shall include, but not be limited to, the following:

(a) Educational programs, focused on development of personal practices by pupils, that promote dental health. Emphasis shall include, but not be limited to, causes and prevention of dental diseases, nutrition and dental health, and the need for regular dental examination with appropriate repair of existing defects.

(b) Preventive services including, but not limited to, plaque control and supervised application of topical prophylactic agents for caries prevention, in accordance with the provisions of Chapter 11 (commencing with Section 3500) of Division 4. Services shall not include dental restoration, orthodontics, or extraction of teeth. Any acts performed, or services provided, under this article constituting the practice of dentistry shall be performed or provided by, or be subject to the supervision of, a licensed dentist in accordance with the provisions of Chapter 4 (commencing with Section 1600) of Division 2 of the Business and Professions Code.

362. An advisory board, including representatives from education, dental professions, and parent groups shall be designated by the local health department to advise on dental health programs. The use of existing advisory bodies is encouraged. The board shall hold public meetings at least twice a year after appropriate notification in order that interested parties may provide input regarding the dental health needs of the community.

363. The minimal standards of the community dental disease prevention program shall be determined by the state department in accordance with the purposes of this article, and shall be published by the state department on or before March 1, 1980

364. The local health officer of each participating local health department or his designee, in cooperation with the appropriate education personnel and the local advisory board, shall submit a proposal for the program to the state department by July 1, 1980. The proposal shall include the methods by which the program will be implemented in each jurisdiction and program results reported. However, this function shall be the responsibility of the state department for all counties which contract with the state for health services under Section 1157 Such contract counties, at the option of the board of supervisors, may provide services pursuant to this article in the same manner as other county programs, provided such option is exercised six months prior to the beginning of each fiscal year, except the first fiscal year.

364 1. The state department shall review the program proposals and approve programs which meet criteria established pursuant to Section 363 The state department shall, through contractual

arrangements, reimburse local health departments with approved programs at an amount of three dollars ($3) per participating child per year for expenses incurred for administration and services, as described in Section 361

364 2 The local health officer may utilize or contract with, or both utilize and contract with, other local public and private non-profit agencies, as well as school districts and county superintendents of schools, in conducting the program. The Legislature recognizes that these agencies, districts, and schools are currently engaged in a limited number of dental disease prevention projects and it is the intent of the Legislature that this participation be continued

365 The Department of Education shall assist the state department in developing in-service training programs in dental health and dental disease prevention for kindergarten through sixth grade teachers The technical content of the training programs shall meet dental standards set by the state department in conjunction with the California Conference of Local Health Officers

366 It shall be the responsibility of the governing board of each school district participating in the program and the governing authority of each private school participating in the program to cooperate with the local health officer administering the community dental disease prevention program in carrying out the program in any school under their jurisdiction

Such governing board or authority shall provide for the school administration to keep participation records for each child and to furnish approved dental health education materials and supplies for plaque control and other required dental disease prevention methods

Nothing in this article shall require participation by a school district or private school in a program established pursuant to this article

367 During the first year of the dental health program, children enrolled in kindergarten through third grade shall be eligible to participate in the program. Each year thereafter a grade per year shall be added until kindergarten through sixth grade are included.

368 (a) On or before July 1, 1981, the local health officer of each participating county or city shall give satisfactory evidence to the state department that each child in kindergarten through third grade, except in schools not offering the program, has participated in the program according to the approved plan unless the child's parent or guardian has given written notice to the governing body of the school district or private school that the child may not participate in the program Such notice may disapprove the child's participation in all or any portion of the program.

(b) On or before July 1, 1981, and annually thereafter, the local health officer of each participating county or city shall submit to the state department a report on the programs established pursuant to this article Such report shall contain data specified by the state

department and shall include, but not be limited to, the number of participating children, the number of children examined, the number of children requiring dental care, the number of children treated, and the number of children requiring further treatment.

(c) On or before January 1, 1982, and annually thereafter, the state department shall submit to the Legislature a report on all statewide activities pursuant to the programs provided in this article, including, but not limited to, summaries of the report information provided pursuant to subdivision (b) of this section.

371. It is the intent of the Legislature that the program established by this article shall, in fiscal years subsequent to the fiscal year in which this section is enacted, be funded according to customary budget procedures.

371.5. It is the further intent of the Legislature that the program established by this article shall be placed in effect in the areas of greatest identified need as determined by the state department, in cooperation with the Department of Education.

372. The Legislative Analyst shall conduct an evaluation of the programs provided by this article during the fourth program year, including, but not limited to, the cost effectiveness and the impact on state expenditures for medical and dental care, and submit a report of the evaluation to the Legislature on or before January 1, 1985.

373. This article shall remain in effect until December 31, 1986, and on such date is repealed, unless a later enacted statute, which is chaptered before such date, deletes or extends such date.

SEC 2. The sum of three million eight hundred thirty-three thousand seven hundred dollars ($3,833,700) is hereby appropriated, without regard to fiscal years, from the General Fund to the Director of Finance for allocation in accordance with the following schedule:

Schedule

(1) To the Department of Education for assisting the State Department of Health Services in the development of in-service training programs for teachers with respect to community dental disease prevention programs pursuant to Article 4.5 (commencing with Section 360) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code $60,000

(2) To the State Department of Health Services for administration of Article 4.5 (commencing with Section 360) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code. $184,000

(3) To the State Department of Health Services for allocation and disbursement to local agencies to reimburse such agencies for costs incurred by them pursuant to Article 4.5 (commencing with Section 360) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code. $3,589,700

CHAPTER 1135

An act relating to correctional facilities, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1979 Filed with Secretary of State September 29, 1979]

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

SECTION 1 The sum of eleven million eight hundred seventy-four thousand three hundred dollars ($11,874,300) is hereby appropriated from the General Fund, for the purposes of this act, and shall be available for expenditure through June 30, 1982, to be allocated as follows

(a) To the Department of Corrections:

(1) Two million two hundred fifty thousand dollars ($2,250,000) for construction projects necessary to implement the plan of the Department of Corrections relating to overcrowding to accommodate projected population increases until new prisons are available

(2) One million four hundred seventy-four thousand three hundred dollars ($1,474,300) for repair and reconstruction at the California Correctional Center at Susanville because of damage sustained in an inmate riot; provided, that the expenditure of such funds shall be subject to prior approval of the State Public Works Board.

(3) One million dollars ($1,000,000) for the purpose of providing curbs, sidewalks, gutters, and storm drains at the California Institution for Men at Chino, San Bernardino County

(4) Four million two hundred fifty thousand dollars ($4,250,000) for the acquisition of sites in accordance with the provisions of Part 11 (commencing with Section 15850) of Division 3 of Title 2 of the Government Code. Prior to any purchase of a site or sites the department shall report such proposed acquisition to the Legislature.

(5) Two million five hundred thousand dollars ($2,500,000) for the purpose of design development based on the architectural schematics currently being prepared.

(b) Four hundred thousand dollars ($400,000) from the General Fund to the Joint Rules Committee to create the Citizen's Advisory Committee on Alternatives to supervise three separate studies, conducted under contract with the Joint Rules Committee, and report their recommendations to the Legislature no later than 120 days after the letting of the contract The committee, to be appointed by the Joint Rules Committee, shall consist of 15 members who shall have a broad background in community organizations and services, such as reentry programs for ex-offenders, vocational training, job

placement, mental health, law enforcement, corrections, and rehabilitation programs One study shall evaluate alternative methods of housing convicted felons This report shall determine the number of beds available in existing Department of Corrections' facilities; shall identify available facilities which could be used to house inmates, shall evaluate the expansion of the camp program, shall review the use of community correctional facilities, including an evaluation of the programs available at such facilities, and shall present a comprehensive picture of alternative methods of housing inmates committed to the Department of Corrections. The second study shall analyze alternatives to incarcerating convicted felons This study shall review existing programs and include, but not be limited to, victim restitution, and community service options. The appropriateness of the various alternatives shall be evaluated in light of the present prison population and the custody status necessary to ensure public safety. The third study shall evaluate the merits of the current determinate sentencing system as compared to the experience under the indeterminate sentence law. Additionally, this study shall evaluate and make recommendations on the alternative of using a sentencing commission.

(c) No new prisons shall be constructed in Chino

(d) Each new prison shall not exceed 450 inmates in capacity More than one prison may be built on a single site, but each shall maintain individual identity under separate management Those new prisons whose primary purpose is the confinement of males, shall be located south of the Tehachapi Mountains. A new prison for women shall be located north of the Tehachapi Mountains. All new prisons shall be located near metropolitan areas.

(e) The new prisons shall provide work opportunities for all inmates to the greatest extent feasible. Such employment shall be designed to develop good work habits, provide for skills, offer monetary compensation, and assist in preparing the inmate for return to the community. The Correctional Industries Commission shall consider ways of expanding work opportunities for prisoners to prepare for the new prisons and shall report its findings to the Legislature by March 1, 1980

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 expeditious remodeling of prisons and study of alternatives has a direct effect upon the protection of the citizens of this state To this end, it is necessary that this bill take effect immediately

CHAPTER 1136

An act to amend Sections 4016.5 and 4700 of the Penal Code, and to amend Section 1776 of the Welfare and Institutions Code, relating to prisoners, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately

[Approved by Governor September 28, 1979 Filed with Secretary of State September 29, 1979]

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

SECTION 1. Section 4016.5 of the Penal Code is amended to read:

4016.5. When an alleged parole violator is detained in a county jail pursuant to an order of the Community Release Board under the authority granted by Section 3060 of the Penal Code, or pursuant to an order of the Governor under the authority granted by Section 3062, or pursuant to a valid exercise of a state parole officer's peace officer powers as specified in Section 830.5 of the Penal Code when such detention relates to violation of the conditions of parole and not a new criminal charge, the county shall be reimbursed for the costs of such detention by the Department of Corrections. Such reimbursement shall be expended for maintenance, upkeep, and improvement of jail conditions, facilities, and services. Before the county is reimbursed by the department, the total amount of all charges against that county authorized by law for services rendered by the department shall be first deducted from the gross amount of reimbursement authorized by this section. Such net reimbursement shall be calculated and paid monthly by the department. The department shall withhold all or part of such net reimbursement to a county whose jail facility or facilities do not conform to minimum standards for local detention facilities as authorized by Section 6030 of the Penal Code.

"Costs of such detention," as used in this section, shall include the same cost factors as are utilized by the Department of Corrections in determining the cost of prisoner care in state correctional facilities.

SEC. 1.5. Section 4016.5 of the Penal Code is amended to read:

4016.5. When an alleged parole violator is detained in a county jail pursuant to an order of the Community Release Board under the authority granted by Section 3060 of the Penal Code, or pursuant to an order of the Governor under the authority granted by Section 3062, or pursuant to a valid exercise of a state parole officer's peace officer powers as specified in Section 830.5 of the Penal Code when such detention relates to violation of the conditions of parole and not a new criminal charge, the county shall be reimbursed for the costs of such detention by the Department of Corrections. Such reimbursement shall be expended for maintenance, upkeep, and

improvement of jail conditions, facilities, and services. Before the county is reimbursed by the department, the total amount of all charges against that county authorized by law for services rendered by the department shall be first deducted from the gross amount of reimbursement authorized by this section. Such net reimbursement shall be calculated and paid monthly by the department The department shall withhold all or part of such net reimbursement to a county whose jail facility or facilities do not conform to minimum standards for local detention facilities as authorized by Section 6030 only if the county is failing to make reasonable efforts to correct differences, with consideration given to the resources available for such purposes

"Costs of such detention," as used in this section, shall include the same cost factors as are utilized by the Department of Corrections in determining the cost of prisoner care in state correctional facilities

SEC. 2 Section 4700 of the Penal Code is amended to read

4700 Whenever a trial is had of any person under any of the provisions of Section 4530 of this code, whenever a hearing is had on the return of a writ of habeas corpus prosecuted by or on behalf of any prisoner in the state prison, whenever a prisoner in the state prison is tried for any crime committed therein, or whenever a prisoner transferred to a county correctional facility pursuant to Section 2910 or to a community correctional center pursuant to Section 6253 is prosecuted for a crime committed in such institution or for escape, and whenever a trial or hearing is had on the question of the insanity of any such prisoner, the county clerk of a county or the city finance officer of a city incurring any costs in connection with such matter must make out a statement of all the costs incurred by the county or city for the investigation, and the preparation of the trial, and actual trial of such case, or of the hearing on the return of such writ, and all guarding and keeping of such prisoner, while away from the prison, the transportation of the prisoner to and from the prison (when such transportation was performed by the county or city), the costs of appeal, and of the execution of the sentence of such prisoner, properly certified to by a judge of the superior court of such county. The statement must be sent to the Department of Corrections for its approval, and after such approval said department must cause the amount of such costs to be paid out of the money appropriated for the support of the Department of Corrections to the county treasurer of the county or the city finance officer of the city incurring such costs

The cost of detention in a county or city correctional facility shall include the same cost factors as are utilized by the Department of Corrections in determining the cost of prisoner care in state correctional facilities

SEC 3 Section 1776 of the Welfare and Institutions Code is amended to read

1776 Whenever an alleged parole violator is detained in a county

detention facility pursuant to a valid exercise of the powers of the Youth Authority as specified in Sections 1753, 1755, and 1767.3 and when such detention is initiated by the Youth Authority and is related solely to a violation of the conditions of parole and is not related to a new criminal charge, the county shall be reimbursed for the costs of such detention by the Department of the Youth Authority Such reimbursement shall be expended for maintenance, upkeep, and improvement of juvenile hall and jail conditions, facilities, and services. Before the county is reimbursed by the department, the total amount of all charges against that county authorized by law for services rendered by the department shall be first deducted from the gross amount of the reimbursement authorized by this section. Such net reimbursement shall be calculated and paid monthly by the department. The department shall withhold all or part of such net reimbursement to a county whose juvenile hall or jail facility or facilities do not conform to minimum standards for local detention facilities as authorized by Section 6030 of the Penal Code or Section 509.5 of this code.

"Costs of such detention," as used in this section, shall include the same cost factors as are utilized by the Department of Corrections in determining the cost of prisoner care in state correctional facilities.

SEC. 4 The sum of five hundred thousand dollars ($500,000) is hereby appropriated from the General Fund for the purposes of this act and shall be available for expenditure through June 30, 1980, to be allocated as follows:

(a) To the Department of Corrections, four hundred thousand dollars ($400,000).

(b) To the Department of the Youth Authority, one hundred thousand dollars ($100,000).

SEC. 5. It is the intent of the Legislature, if this bill and Assembly Bill 336 are both chaptered and become effective on or before January 1, 1980, both bills amend Section 4016.5 of the Penal Code, and this bill is chaptered after Assembly Bill 336, that Section 4016.5 of the Penal Code, as amended by Section 1 of Assembly Bill 336 be further amended on the operative date of this act in the form set forth in Section 1.5 of this act to incorporate the changes in Section 4016.5 proposed by this bill. Therefore, Section 1.5 of this act shall become operative only if this bill and Assembly Bill 336 are both chaptered and become effective on or before January 1, 1980, both bills amend Section 4016.5, and this bill is chaptered after Assembly Bill 336, in which case Section 1 5 of this act shall become operative on the operative date of this act and Section 1 of this act shall not become operative.

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:

Reimbursement of the costs of incarceration is essential in order

to assure the availability of county jail facilities. To this end, it is necessary that this act take effect immediately

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CHAPTER 1137

An act making an appropriation to pay the claims of the Secretary of the State Board of Control, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1979 Filed with Secretary of State September 29, 1979]

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

SECTION 1 The sum of eight million forty-six thousand seventy-seven dollars and fourteen cents ($8,046,077.14) is hereby appropriated from the General Fund to the State Board of Control to pay the claims awarded pursuant to Article 3 5 (commencing with Section 2250) of Chapter 3 of Part 4 of Division 1 of the Revenue and Taxation Code during the 1979 calendar year; provided, that the amount appropriated by this section shall be reduced by seven million six hundred fifty-one thousand five hundred five dollars and twenty-two cents ($7,651,505.22) if Senate Bill 797 of the 1979–80 Regular Session is enacted and appropriates such an amount for purposes of Chapters 89 and 1398 of the Statutes of 1974.

SEC. 2. The State Board of Control shall amend the regulations pertaining to the reimbursement of claims arising as a result of the enactment of Chapter 593 of the Statutes of 1975, relative to jury duty for teachers, in order to exclude the reimbursement of indirect and administrative costs.

SEC. 3. The State Board of Control shall no longer be permitted to submit claims for reimbursement for costs incurred as a result of the enactment of Chapter 722 of the Statutes of 1973, pursuant to the provisions of Section 2253 of the Revenue and Taxation Code.

SEC. 4. The Department of Finance shall, in cooperation with local education entities, study alternatives for the reimbursement of local costs associated with collective bargaining for school employees, including the establishment of a uniform bargaining allowance in lieu of claims for actual costs. The Department of Finance shall report their findings and recommendations by January 1, 1980, to the chairmen of the fiscal committees and the education policy committees of the Legislature.

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 settle claims against the state and end hardships to claimants as quickly as possible, it is necessary for this act to take

effect immediately.

CHAPTER 1138

An act to amend Sections 7071.5, 7071.10, and 7071.11 of the Business and Professions Code, relating to contractors.

[Approved by Governor September 28, 1979 Filed with Secretary of State September 29, 1979]

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

SECTION 1. Section 7071.5 of the Business and Professions Code is amended to read:

7071 5 The contractor's bond or cash deposit required by this article shall be a bond issued by an admitted surety in favor of the State of California, in a form acceptable to the registrar and filed with the registrar by the licensee or applicant, or in lieu thereof a cash deposit posted with the registrar. Such contractor's bond or cash deposit shall be for the benefit of the following:

(a) Any homeowner contracting for home improvement upon his personal family residence damaged as a result of a violation of this chapter by the licensee.

(b) Any person damaged as a result of a willful and deliberate violation of this chapter by the licensee, or by the fraud of the licensee in the execution or performance of a construction contract.

(c) Any employee of the licensee damaged by the licensee's failure to pay wages.

(d) The trustees of any express trust fund, established pursuant to a collective-bargaining agreement and to which the licensee is obligated to make payments on account of fringe benefits, damaged as the result of the licensee's failure to pay fringe benefits for eligible employees represented by the union which is signatory to the collective-bargaining agreement. Damage to an express trust fund, as defined herein, is limited to actual loss sustained by a licensee's failure to pay the subject fringe benefits and after all other sources of recovery have been realized by the express trust fund. If such employee is not represented by a union, the damaged employee may bring an action at law on his own behalf to recover fringe benefits.

The word "eligible" as used in subdivision (d), shall mean entitlement to fringe benefits pursuant to the terms and provisions of the express trust fund.

SEC. 1.5. Section 7071.5 of the Business and Professions Code is amended to read:

7071 5. The contractor's bond or cash deposit required by this article shall be a bond issued by an admitted surety in favor of the State of California, in a form acceptable to the registrar and filed with the registrar by the licensee or applicant, or in lieu thereof a cash

deposit posted with the registrar Such contractor's bond or cash deposit shall be for the benefit of the following.

(a) Any homeowner contracting for home improvement upon his personal family residence damaged as a result of a violation of this chapter by the licensee.

(b) Any person damaged as a result of a willful and deliberate violation of this chapter by the licensee, or by the fraud of the licensee in the execution or performance of a construction contract

(c) Any employee of the licensee damaged by the licensee's failure to pay wages.

(d) The trustees of any express trust fund, established pursuant to a collective-bargaining agreement and to which the licensee is obligated to make payments on account of fringe benefits, damaged as the result of the licensee's failure to pay fringe benefits for eligible employees represented by the union which is signatory to the collective-bargaining agreement. Damage to an express trust fund, as defined herein, is limited to actual loss sustained by a licensee's failure to pay the subject fringe benefits and after all other sources of recovery have been realized by the express trust fund If such employee is not represented by a union, the damaged employee may bring an action at law on his own behalf to recover fringe benefits

The word "eligible" as used in subdivision (d), shall mean entitlement to fringe benefits pursuant to the terms and provisions of the express trust fund.

SEC. 2. Section 7071.10 of the Business and Professions Code is amended to read.

7071.10. The qualifying individual's bond or cash deposit required by this article shall be a bond issued by an admitted surety in favor of the State of California, in a form acceptable to the registrar and filed with the registrar by the qualifying individual, or in lieu thereof a cash deposit posted with the registrar. Such qualifying individual's bond or cash deposit shall be for the benefit of the following:

(a) Any homeowner contracting for home improvement upon his personal family residence damaged as a result of a violation of this chapter by the licensee

(b) Any person damaged as a result of a willful and deliberate violation of this chapter by the licensee, or by the fraud of the licensee in the execution or performance of a construction contract

(c) Any employee of the licensee damaged by the licensee's failure to pay wages

(d) The trustees of any express trust fund, established pursuant to a collective-bargaining agreement and to which the licensee is obligated to make payments on account of fringe benefits, damaged as the result of the licensee's failure to pay fringe benefits for eligible employees represented by the union which is signatory to the collective-bargaining agreement Damage to an express trust fund, as defined herein, is limited to actual loss sustained by a licensee's failure to pay the subject fringe benefits and after all other sources

of recovery have been realized by the express trust fund If such employee is not represented by a union, the damaged employee may bring an action at law on his own behalf to recover fringe benefits.

The word "eligible" as used in subdivision (d), shall mean entitlement to fringe benefits pursuant to the terms and provisions of the express trust fund.

The qualifying individual's bond shall not be required in addition to the contractor's bond when the qualifying individual is himself the proprietor under subdivision (a) or a general partner under subdivision (b) of Section 7068.

SEC. 2.5. Section 7071.10 of the Business and Professions Code is amended to read:

7071.10. The qualifying individual's bond or cash deposit required by this article shall be a bond issued by an admitted surety in favor of the State of California, in a form acceptable to the registrar and filed with the registrar by the qualifying individual, or in lieu thereof a cash deposit posted with the registrar. Such qualifying individual's bond or cash deposit shall be for the benefit of the following:

(a) Any homeowner contracting for home improvement upon his personal family residence damaged as a result of a violation of this chapter by the licensee.

(b) Any person damaged as a result of a willful and deliberate violation of this chapter by the licensee, or by the fraud of the licensee in the execution or performance of a construction contract.

(c) Any employee of the licensee damaged by the licensee's failure to pay wages.

(d) The trustees of any express trust fund, established pursuant to a collective-bargaining agreement and to which the licensee is obligated to make payments on account of fringe benefits, damaged as the result of the licensee's failure to pay fringe benefits for eligible employees represented by the union which is signatory to the collective-bargaining agreement. Damage to an express trust fund, as defined herein, is limited to actual loss sustained by a licensee's failure to pay the subject fringe benefits and after all other sources of recovery have been realized by the express trust fund. If such employee is not represented by a union, the damaged employee may bring an action at law on his own behalf to recover fringe benefits.

The word "eligible" as used in subdivision (d), shall mean entitlement to fringe benefits pursuant to the terms and provisions of the express trust fund.

The qualifying individual's bond shall not be required in addition to the contractor's bond when the qualifying individual is himself the proprietor under subdivision (a) or a general partner under subdivision (b) of Section 7068.

SEC. 3. Section 7071.11 of the Business and Professions Code is amended to read:

7071.11. Any person claiming against any bond or cash deposit required by this article may maintain an action at law against the

licensee and the surety or the cash depository. A copy of the complaint shall be served by registered or certified mail upon the registrar by the clerk of the court at the time the action is commenced and the registrar shall maintain a record, available for public inspection, of all actions so commenced. The claim of any employee of the contractor for wages and fringe benefits shall be a preferred claim against any bond or cash deposit. The aggregate liability of a surety on a claim for wages and fringe benefits brought against any bond required by this article, other than a bond required by Section 7071.8, shall not exceed the sum of three thousand dollars ($3,000). If any bond or cash deposit which may be required is insufficient to pay all claims in full, the sum of the bond or cash deposit shall be distributed to all claimants in proportion to the amount of their respective claims with priority to claims for wages and fringe benefits. Any action, other than an action to recover fringe benefits, against a bond or cash deposit filed by an active licensee shall be brought within two years after the expiration of the license period or periods for which a bond or cash deposit has been provided, or within two years of the date the license of such active licensee was inactivated by the board, whichever first occurs. A claim to recover fringe benefits shall be brought within six months after the date the fringe benefit contributions were due, and any subsequent civil action shall be filed within one year after the date of the filing of such claim.

If the surety desires to make payment without awaiting court action, the amount of any bond filed in compliance with this chapter shall be reduced to the extent of any payment or payments made by the surety in good faith thereafter. The partial payment of any claims shall not be considered satisfaction of such claims and the claimants may institute appropriate legal action for payment of any unpaid balance in any other manner provided by law, and the registrar may continue suspension or revocation of any license involved until such time as said claims and any other claims arising out of an action against such bond or cash deposit are satisfied in full.

The aggregate liability of the surety for all claims of said persons shall, in no event, exceed the penal sum of said bond.

Upon the cancellation by a licensee of any bond required by this article, the surety thereon shall notify the registrar immediately of such cancellation.

Upon failure of a licensee to maintain in full force and effect any bond or cash deposit required by this article the registrar shall issue an order suspending or revoking such license, which shall not be reinstated until a new bond or cash deposit has been filed.

When the surety makes payment on any claim against a bond required by this article, whether or not payment is made through a court action or otherwise, the surety shall, within 30 days of the payment, notify the registrar. The notice shall contain, on a form prescribed by the registrar, the name and license number of the contractor, the surety bond number, the amount of payment, the

statutory basis upon which the claim is made, and the names of the person or persons to whom payments are made.

Any judgment or admitted claim against any bond or cash deposit required by this article shall constitute grounds for disciplinary action against such licensee. Such license may not be reissued or reinstated while any judgment or admitted claim in excess of the amount of the bond or cash deposit remains unsatisfied. Further, such license may not be reissued or reinstated while any surety remains unreimbursed for loss and expense sustained on any bond issued for such licensee or for any entity of which any officer, director, member, partner, or qualifying person was an officer, director, member, partner, or qualifying person of such licensee while such licensee was subject to disciplinary action under this section. The board shall require the licensee to file a new bond in an amount as required pursuant to Section 7071.8 or to increase his cash deposit to such an amount.

Legal fees may not be charged against the bond or cash deposit by the board.

In any case in which a claim is filed against a cash deposit held by the registrar by any employee or by an employee organization on behalf of an employee, concerning wages or fringe benefits based upon the employee's employment, claims for the nonpayment thereof shall be filed with the Labor Commissioner. The Labor Commissioner shall, pursuant to the authority vested in him by Section 96.5 of the Labor Code, conduct hearings to determine whether or not such wages or fringe benefits should be made to the complainant. Upon a finding by the commissioner that such wages or fringe benefits should be paid to the complainant, he shall notify the registrar of such findings. The registrar shall not make payment from the cash deposit on the basis of findings by the commissioner for a period of 10 days following determination of the findings. If, within such period, the complainant or the contractor files written notice with the registrar and the commissioner of an intention to seek judicial review of the findings pursuant to Section 11523 of the Government Code, the registrar shall not make payment, if an action is actually filed, except as determined by the court. If, thereafter, no action is filed within 60 days following determination of findings by the commissioner, the registrar shall make payment from the cash deposit to the complainant.

SEC. 3.5. Section 7071.11 of the Business and Professions Code is amended to read:

7071.11. Any person claiming against any bond or cash deposit required by this article may maintain an action at law against the licensee and the surety or the cash depository. A copy of the complaint shall be served by registered or certified mail upon the registrar by the clerk of the court at the time the action is commenced and the registrar shall maintain a record, available for public inspection, of all actions so commenced. The claim of any employee of the contractor for wages and fringe benefits shall be a

preferred claim against any bond or cash deposit. The aggregate liability of a surety on a claim for wages and fringe benefits brought against any bond required by this article, other than a bond required by Section 7071.8, shall not exceed the sum of three thousand dollars ($3,000). If any bond or cash deposit which may be required is insufficient to pay all claims in full, the sum of the bond or cash deposit shall be distributed to all claimants in proportion to the amount of their respective claims with priority to claims for wages and fringe benefits. Any action, other than an action to recover fringe benefits, against a bond or cash deposit filed by an active licensee shall be brought within two years after the expiration of the license period or periods for which a bond or cash deposit has been provided, or within two years of the date the license of such active licensee was inactivated by the board, whichever first occurs. A claim to recover fringe benefits shall be brought within six months after the date the fringe benefit contributions were due, and any subsequent civil action shall be filed within one year after the date of the filing of such claim.

If the surety desires to make payment without awaiting court action, the amount of any bond filed in compliance with this chapter shall be reduced to the extent of any payment or payments made by the surety in good faith thereafter. The partial payment of any claims shall not be considered satisfaction of such claims and the claimants may institute appropriate legal action for payment of any unpaid balance in any other manner provided by law, and the registrar may continue suspension or revocation of any license involved until such time as said claims and any other claims arising out of an action against such bond or cash deposit are satisfied in full.

The aggregate liability of the surety for all claims of said persons shall, in no event, exceed the penal sum of said bond.

Upon the cancellation by a licensee of any bond required by this article, the surety thereon shall notify the registrar immediately of such cancellation.

Upon failure of a licensee to maintain in full force and effect any bond or cash deposit required by this article the registrar shall issue an order suspending or revoking such license, which shall not be reinstated until a new bond or cash deposit has been filed.

When the surety makes payment on any claim against a bond required by this article, whether or not payment is made through a court action or otherwise, the surety shall, within 30 days of the payment, notify the registrar. The notice shall contain, on a form prescribed by the registrar, the name and license number of the contractor, the surety bond number, the amount of payment, the statutory basis upon which the claim is made, and the names of the person or persons to whom payments are made.

Any judgment or admitted claim against any bond or cash deposit required by this article shall constitute grounds for disciplinary action against such licensee. Such license may not be reissued or reinstated while any judgment or admitted claim in excess of the

amount of the bond or cash deposit remains unsatisfied. Further, such license may not be reissued or reinstated while any surety remains unreimbursed for loss and expense sustained on any bond issued for such licensee or for any entity of which any officer, director, member, partner, or qualifying person was an officer, director, member, partner, or qualifying person of such licensee while such licensee was subject to disciplinary action under this section. The board shall require the licensee to file a new bond in an amount as required pursuant to Section 7071.8 or to increase his cash deposit to such an amount.

Legal fees may not be charged against the bond or cash deposit by the board.

In any case in which a claim is filed against a cash deposit held by the registrar by any employee or by an employee organization on behalf of an employee, concerning wages or fringe benefits based upon the employee's employment, claims for the nonpayment thereof shall be filed with the Labor Commissioner. The Labor Commissioner shall, pursuant to the authority vested in him by Section 96.5 of the Labor Code, conduct hearings to determine whether or not such wages or fringe benefits should be made to the complainant. Upon a finding by the commissioner that such wages or fringe benefits should be paid to the complainant, he shall notify the registrar of such findings. The registrar shall not make payment from the cash deposit on the basis of findings by the commissioner for a period of 10 days following determination of the findings. If, within such period, the complainant or the contractor files written notice with the registrar and the commissioner of an intention to seek judicial review of the findings pursuant to Section 11523 of the Government Code, the registrar shall not make payment, if an action is actually filed, except as determined by the court. If, thereafter, no action is filed within 60 days following determination of findings by the commissioner, the registrar shall make payment from the cash deposit to the complainant.

SEC. 4. It is the intent of the Legislature, if this bill and Assembly Bill 1363 are both chaptered and become effective January 1, 1980, both bills amend Sections 7071.5, 7071.10, and 7071.11 of the Business and Professions Code, and this bill is chaptered after Assembly Bill 1363, that the amendments to Sections 7071.5, 7071.10, and 7071.11 of the Business and Professions Code proposed by both bills be given effect and incorporated in Sections 7071.5, 7071.10, and 7071.11 of the Business and Professions Code in the form set forth in Sections 1.5, 2.5, and 3.5, respectively, of this act. Therefore, Sections 1.5, 2.5, and 3.5 of this act shall become operative only if this bill and Assembly Bill 1363 are both chaptered and become effective January 1, 1980, both amend Sections 7071.5, 7071.10, and 7071.11 of the Business and Professions Code, and this bill is chaptered after Assembly Bill 1363, in which case Sections 1, 2, and 3 of this act shall not become operative.

CHAPTER 1139

An act to add and repeal Section 20818 of the Government Code, relating to the Public Employees' Retirement Law, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1979. Filed with Secretary of State September 29, 1979]

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

SECTION 1. Section 20818 is added to the Government Code, to read:

20818. Notwithstanding any other provisions of this part, when the governing body of a contracting agency determines that because of an impending curtailment of, or change in the manner of performing service, the best interests of the agency would be served, a local member shall be eligible to receive additional service credit if the following conditions exist:

(a) The member is employed in a job classification, department, or other organizational unit designated by the governing body of the contracting agency and retires within any period designated in and subsequent to the effective date of the contract amendment provided the period is not less than 90 days nor more than 180 days.

(b) The governing body transmits to the retirement fund an amount determined by the board which is equal to the actuarial equivalent of the difference between the allowance the member receives after the receipt of service credit under this section and the amount he would have received without such service credit. The transfer to the retirement fund shall be made in a manner and time period acceptable to the employer and the board.

(c) The governing body shall certify that it is electing to exercise the provisions of this section, because of impending mandatory transfers, demotions, and layoffs that constitute at least one percent of the job classification, department or organizational unit as designated by the governing board, resulting from the curtailment of, or change in the manner of performing, its services.

(d) The governing body shall certify that it is its intention at the time that this section is made operative that if any early retirements are granted after receipt of service credit pursuant to this section, that any vacancies thus created or at least one vacancy in any position in any department or other organizational unit shall remain permanently unfilled thereby resulting in an overall reduction in the work force of such department or organizational unit.

The amount of service credit shall not be more than two years regardless of credited service and shall not exceed the number of years intervening between the date of his retirement and the date he would be required to be retired because of age.

A governing body which elects to make the payment prescribed

by subdivision (b) shall make such payment with respect to all eligible employees who retire during the specified period.

This section shall not be applicable to any member otherwise eligible if such member receives any unemployment insurance payments during the specified period.

Any member who qualifies under this section, upon subsequent reentry to the system shall forfeit the service credit acquired under this section.

This section shall not apply to any member who is not employed by the contracting agency during the period designated in subdivision (a) and who has less than five years of service credit.

This section shall not apply to any contracting agency unless and until the agency elects to be subject to the provision of this section by amendment to its contract made in the manner prescribed for approval of contracts, except an election among the employees is not required, or, in the case of contracts made after the effective date of this section, by express provision in such contract making the contracting agency subject to the provisions of this section.

Notwithstanding Section 20740, an election to become subject to this section shall not exclude an agency from the definition of "employer" for purposes of Section 20740.

This section shall remain in effect only for 3 years after its effective date, and as of such date is repealed, unless a later enacted statute, which is chaptered before such date deletes or extends such date.

SEC 2. 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 section will be applicable during the 1979–80 fiscal year, it must take effect immediately.

CHAPTER 1140

An act to amend Sections 4631, 4648, and 4776 of, and to add Section 4637 to, the Welfare and Institutions Code, relating to developmental disabilities.

[Approved by Governor September 28, 1979 Filed with Secretary of State September 29, 1979]

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

SECTION 1. Section 4631 of the Welfare and Institutions Code is amended to read:

4631. (a) In order to provide to the greatest extent practicable a larger degree of uniformity and consistency in the services, funding, and administrative practices of regional centers throughout the state, the State Department of Developmental Services shall, in

consultation with the regional centers, adopt regulations prescribing a uniform accounting system, a uniform budgeting and encumbrancing system, a systematic approach to administrative practices and procedures, and a uniform reporting system which shall include:

(1) Number and costs of diagnostic services provided by each regional center.

(2) Number and costs of services by service category purchased by each regional center.

(3) All other administrative costs of each regional center.

(b) The department's contract with a regional center shall require strict accountability and reporting of all revenues and expenditures, and strict accountability and reporting as to the effectiveness of the regional center in carrying out its program and fiscal responsibilities as established herein.

(c) The Director of Developmental Services shall, within 30 days after the end of each quarter, publish a report of the financial status of all regional centers and their operations.

SEC. 2. Section 4637 is added to the Welfare and Institutions Code, to read:

4637 The State Department of Developmental Services shall do all of the following:

(a) Obtain estimates of the cost of installing and maintaining a computerized system with input stations in each regional center which is capable of storing all necessary fiscal and caseload data for timely printouts and updates of the operational and fiscal status of each center, and shall report estimates and capabilities of such a system to the Legislature on or before June 15, 1980.

(b) Obtain estimates of the cost of contracting with the Department of Finance or the office of the State Controller for the performance of an annual audit of the fiscal operations and contractual compliance of the regional centers holding contracts with the department, and shall report to the Legislature on or before June 15, 1980, with respect to such estimates.

SEC. 3. Section 4648 of the Welfare and Institutions Code is amended to read:

4648. In order to achieve the stated objectives of any individual program plan, the regional center shall conduct activities including, but not limited to, the following:

(a) Program coordination which may include securing, through purchase or referral, services specified in the person's plan, coordination of service programs, information collection and dissemination, and measurement of progress toward objectives contained in the person's plan.

The regional center shall assign a program coordinator who will be responsible for implementing, overseeing, and monitoring each individual program plan. The program coordinator may be an employee of the regional center or may be a qualified individual or employee of an agency with whom the regional center has

contracted to provide program coordination.

At such times as the individual program plan is reviewed, but at least annually, the performance of the program coordinator shall also be reviewed by the regional center, the person with developmental disabilities, and the person's parents or legal guardian or conservator. No person shall continue to serve as a program coordinator for any individual program plan unless there is agreement by all parties that the person should continue to serve as program coordinator.

Whenever possible, the developmentally disabled person or such person's parent, legal guardian, or conservator shall be trained to become the program coordinator of the person's individual program plan, when such arrangement is in the best interest of the person with the developmental disabilities. If any person listed above is designated as the program coordinator, such person shall not deviate from the agreed-upon program plan and shall provide any information and reports as may be required by the regional center director.

(b) Purchase of needed services.

A regional center may purchase services for a client from any individual or agency the regional center determines will best accomplish all or any part of that client's program plan; provided, that regional centers shall not pay for any service, which under federal or state law is mandated to be provided by any other agency, except that a regional center may pay for related services, as defined in Public Law 94-142, which are identified in the individual program plan of a developmentally disabled person.

In making the initial choice to purchase services from an agency, facility, or individual, the regional center may use a professionally recognized, reliable, and valid instrument of accreditation. Thereafter, the regional center shall renew its contracts or purchases on the basis of a vendor's success in achieving the objectives set forth in the individual program plan.

No purchase of service contract with any agency or individual shall be continued unless the regional center and the person with developmental disabilities, or when appropriate, the person's parents or legal guardian or conservator agree that reasonable progress has been made towards the objectives for which the service provider is responsible.

A regional center may purchase required out-of-home care for developmentally disabled persons. In considering appropriate placement alternatives for developmentally disabled children, approval by the child's parent, guardian, or conservator shall be obtained before placement is made.

Each developmentally disabled person placed by the regional center in an out-of-home residential facility shall have the rights specified in this division. These rights shall be brought to the person's attention by such means as the Director of Developmental Services may designate by regulation.

(c) Advocacy for, and protection of, the civil, legal, and service

rights of developmentally disabled persons as established in this division.

Whenever the advocacy efforts of a regional center to secure or protect the legal, civil, or service rights of any of its clients prove ineffective, the regional center or the person with developmental disabilities or their parents, legal guardian, or other representative may request the area board to initiate action under the provisions defining area board advocacy functions established in this division.

(d) Community organization and program development, including liaison activities with existing service agencies, identification of services needed but unavailable, identification of ineffective services and services of poor quality, identification of programs which may not be in compliance with local, state, and federal statutes and approved regulations.

(e) In order to expand the availability of needed services of good quality, a regional center may take any of the following actions:

(1) Provide information to the area board to assist the area board in determining recommended priorities for program development for inclusion in the state plan.

(2) Request the department to allocate funds from the Developmental Disabilities Program Development Fund to initiate a new program.

(3) Notify the appropriate licensing authority or request the area board to investigate and act upon any agency's possible noncompliance with local, state, or federal laws or regulations.

(4) Provide or secure consultation, training, or technical assistance services for any agency to assist such agency in upgrading the quality of its program. Except in emergency situations, a regional center shall not provide direct treatment and therapeutic services, but shall utilize appropriate public and private community agencies and service providers to obtain such services for its clients.

SEC. 4. Section 4776 of the Welfare and Institutions Code is amended to read·

4776. On or before August 1 of each year, each regional center shall submit to the department and the state council a program budget plan for the subsequent budget year The budget plan shall include all of the following:

(a) An estimate of all developmentally disabled persons to be served by the regional center.

(b) An estimate of services to be provided by the regional center.

(c) An estimate of cost, by type of service.

(d) Estimated sources and amounts of all revenue, including funds which are not administered by regional centers.

(e) A detailed report of the resources required to implement Section 4509

CHAPTER 1141

An act to add and repeal Article 2.5 (commencing with Section 288) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, relating to health, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1979 Filed with Secretary of State September 29, 1979]

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

SECTION 1. Article 2 5 (commencing with Section 288) is added to Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, to read:

Article 2.5 Perinatal Access

288. The Legislature finds that up to 9 percent of newborn infants require intensive care in the first hours of life to prevent death or permanent mental and physical damage. While neonatal intensive care units can provide critical services, the high cost of technology prevents their development in many areas.

The Legislature further finds that experience in other states has shown a decrease in mortality and an improvement in morbidity following the development of perinatal systems to provide community education on the medical treatment of high-risk pregnancies, to provide methods by which to improve access to perinatal systems, and to facilitate transport of high-risk pregnant women and high-risk infants to centers where specialized perinatal care is available The Legislature further finds that the cost of high-risk care decreases when existing resources are properly utilized. The Legislature further finds that there is also a decrease in health costs for infants who would have suffered physical or mental impairment

288.1 It is the intent of the Legislature in enacting this article to develop, to the extent practicable, perinatal systems to improve access of high-risk pregnant women and high-risk infants to specialized perinatal services through educational and transportation programs.

288.2. The following definitions shall govern the construction of this article:

(a) "Transport", includes ground and air ambulance services operations.

(b) "Perinatal access system" means a coordinated system of personnel, equipment, and facilities, established pursuant to this article, in a region designated by the department, which provide consultation and education concerning such services to perinatal health care providers which provide support services to high-risk

pregnant women and high-risk infants, and which provide evaluation of such services, education, and consultation.

(c) "High-risk pregnant woman" means a pregnant woman considered highly likely for any reason to suffer personal mortality or morbidity to herself or to her unborn infant from her pregnancy.

(d) "High-risk infant" means a newborn considered highly likely for any reason to suffer personal mortality or long-lasting disability.

(e) "Department" means the State Department of Health Services.

(f) "Perinatal center" means a facility designated by the department as capable of providing specialized services to high-risk pregnant women and high-risk infants.

288 3. The department shall:

(a) Support the development of perinatal access systems, with particular attention to the needs to respond to emergencies in regions and populations in which there is a significant proportion of high-risk pregnant women or high-risk infants

(b) Develop requests for proposals to establish perinatal access systems on or before February 1, 1980

(c) Consult with the California Medical Association, physicians and administrators from other states who have worked with centers serving high-risk pregnant women and high-risk infants, and other interested groups, in order to develop standards and criteria for designation and evaluation of perinatal centers.

(d) Designate approved perinatal centers as operators of perinatal access systems on or before June 1, 1980, with funding to begin July 1, 1980

(e) Provide funding, supervision, and monitoring to the operators of such perinatal access systems

(f) Establish regulations for the operation of perinatal access systems.

(g) Develop requests for proposals to collect and analyze data on perinatal access systems and perinatal transport needs, and designate approved applicants as operators of such data collection and analysis systems on or before June 1, 1980, with funding to begin July 1, 1980. Such systems shall provide, as a minimum, the data necessary for the department to prepare the reports required by Section 288 6, and shall be compatible with other data collection and analysis systems operated by or for the department.

(h) Provide additional funds to the infant medical dispatch centers existing on the effective date of this section to include services for maternal transport in the same manner as currently provided for infants with funding to begin July 1, 1980.

288 4 (a) In carrying out the provisions of this article, the department shall consult with the Office of Statewide Health Planning and Development, the State Department of Developmental Services, county health officers, health systems agencies, health providers expected to participate in perinatal access systems, and community groups

(b) In carrying out the provisions of this article, the department shall coordinate the perinatal access systems with all other perinatal health programs conducted by or for the department, the Office of Statewide Health Planning and Development, the State Department of Developmental Services, and all other state agencies, to ensure full regional coordination.

288.5. (a) It is the intent of the Legislature that the perinatal access systems become self-supporting as soon as possible and in any case no later than a date which is three years after the initiation of funding to each center.

(b) To carry out the intent stated in subdivision (a), the department shall:

(1) Establish criteria for eligibility for services provided by perinatal access systems.

(2) Establish regulations requiring that each recipient of perinatal transport services provided by perinatal access systems be asked as to her ability to pay, including her entitlement to third-party reimbursement for such services, and that such person be billed in each case in accordance with such ability to pay, including billing of any such third-party reimbursement entitlements.

(3) Provide assistance to the operators of such perinatal access systems in seeking federal, local, or private funds to carry out the provisions of this article.

288.6. The State Director of Health Services shall set priorities and establish standards for transport and related support services funded under this article, so that the aggregate cost for each fiscal year of the operation does not exceed the amount appropriated for the purposes of this article.

288.7. The department shall submit a report of its findings relating to the perinatal access systems to the Legislature and to the Secretary of the Health and Welfare Agency on or before January 1, 1981, and annually thereafter. The reports submitted on January 1, 1982, and thereafter shall, at a minimum, describe the numbers, costs, and types of transport, consultation, and education programs provided by the perinatal access systems, their impact on perinatal mortality and morbidity in each region serviced by a perinatal access system and in California as a whole, the duration of neonatal intensive care stay, the costs of neonatal intensive care stays, and compliance with standards.

288.8. This article shall remain in effect only until January 1, 1985, and on such date is repealed unless a later enacted statute, which is chaptered on or before January 1, 1985, deletes or extends such date.

SEC. 2. The sum of nine hundred twenty-one thousand dollars ($921,000) is hereby appropriated from the General Fund to the State Department of Health Services for expenditure during the 1979–80 and 1980–81 fiscal years for the provisions of this act.

It is the intent of the Legislature that future funding to carry out the provisions of this act be provided through the normal budgetary process.

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 for the perinatal access systems to provide services essential to the public health, it is necessary that this act take immediate effect.

CHAPTER 1142

An act to amend Section 13131.3 of the Health and Safety Code, to amend Section 1440 of the Probate Code, and to amend Sections 4418.5, 4648, 4825, 7284, 7288, 7325, and 7513 of, and to add Sections 4780.5, 7513.1, and 7513.2 to, the Welfare and Institutions Code, and to add Article 2 (commencing with Section 2831) to Chapter 9 of Part 2 of Division 1 of the Public Utilities Code, relating to developmental services

[Approved by Governor September 28, 1979 Filed with Secretary of State September 29, 1979]

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

SECTION 1. Section 13131.3 of the Health and Safety Code is amended to read:

13131.3. "Profoundly or severely developmentally disabled persons" means any retarded or disabled person who is unable, or likely to be unable, to physically or mentally respond to an oral instruction relating to fire danger and unassisted take appropriate action relating to such danger The determination as to such incapacity shall be made by the Director of Social Services, or his or her designated representative, in consultation with the Director of Developmental Services, or his or her designated representative.

SEC 2. Section 1440 of the Probate Code is amended to read:

1440. (a) When it appears necessary or convenient, the superior court of the county in which a minor resides or is temporarily domiciled, or in which a nonresident minor has estate, may appoint a guardian for his or her person and estate, or person or estate. The appointment may be made upon the petition of a relative or other person on behalf of the minor, or on the petition of the minor, if 14 years of age.

(b) The court may issue letters of guardianship over the person or estate, or both, of more than one minor upon the same application, in its discretion. When there is an application for more than one minor, the court may permit a joint or separate bond in such multiple application.

(c) If the petitioner for guardianship, other than for the estate exclusively, is a nonrelative not named in a will as guardian, the

petitioner shall serve a copy of the petition upon the State Department of Social Services and proof of such service shall be shown to the court at the time of the hearing on the petition. In addition, a petition for guardianship, other than for the estate exclusively, by a nonrelative not named in a will as guardian shall contain (1) an allegation that, upon request by an agency referred to in Section 1440.1 for information relating to the investigation referred to therein, the petitioner will promptly submit the information requested; (2) a disclosure of any petition for adoption of the minor who is the subject of the guardianship petition by the petitioner for guardianship regardless of when filed; and (3) an allegation as to whether or not the petitioner's home is licensed as a foster family home.

If the petitioner for guardianship files a petition for adoption of the minor of whom he or she is seeking guardianship after the guardianship petition is filed, he or she shall amend the guardianship petition to disclose such fact.

SEC. 2.5. Article 2 (commencing with Section 2831) is added to Chapter 9 of Part 2 of Division 1 of the Public Utilities Code, to read:

Article 2. Customer and Subscriber Services

2831 The commission shall design and implement a program whereby each telephone corporation shall provide a telecommunications device capable of servicing the needs of the deaf or severly hearing impaired, together with a single party line, at no charge additional to the basic exchange rate, to any subscriber who is certified as deaf or severly hearing impaired by a licensed physician, audiologist, or a qualified state agency. The commission shall phase-in this program, on a geographical basis, over a four-year period ending on January 1, 1984. The commission shall establish a rate recovery mechanism to allow telephone corporations to recover costs as they are incurred under this section.

SEC. 3. Section 4418.5 of the Welfare and Institutions Code is amended to read.

4418 5. The department may provide protective social services for the care of developmentally disabled patients released from state hospitals of the department or to prevent the unnecessary admission of developmentally disabled persons to hospitals at public expense or to facilitate the release of developmentally disabled patients for whom such hospital care is no longer the appropriate treatment; provided that such services may be rendered only if provision for such services is made in the California Developmental Disabilities State Plan.

The department, to the extent funds are appropriated and available, shall pay for the cost of providing for care in a private home for developmentally disabled persons described in, and subject to the request and plan conditions of, the immediately preceding

paragraph. The monthly rate for such private home care shall be set by the department at an amount which will provide the best possible care at minimum cost and also insure:

(1) That the person will receive proper treatment and may be expected to show progress in achieving the maximum adjustment toward returning to community life; and

(2) That sufficient homes can be recruited to achieve the stated objectives of this section

It is the legislative intent that the department may make the fullest possible use of available resources in serving developmentally disabled persons.

The department may provide services pursuant to this section directly or through contract with public or private entities.

Notwithstanding any other provision of law, any contract or grant entered into with a public or private nonprofit corporation for the provision of services to developmentally disabled persons may provide for periodic advance payments for services to be performed under such contract. No advanced payment made pursuant to this section shall exceed 25 percent of the total annual contract amount

The department may provide protective social services, including the cost of care in a private home pursuant to this section or in a suitable facility as specified in Section 7354, for judicially committed developmentally disabled patients released from a state hospital on leave of absence or parole, and payments therefor shall be made from funds available to the department for that purpose or for the support of patients in state hospitals.

SEC. 4 Section 4648 of the Welfare and Institutions Code is amended to read

4648 In order to achieve the stated objectives of any individual program plan, the regional center shall conduct activities including, but not limited to, the following:

(a) Program coordination which may include securing, through purchase or referral, services specified in the person's plan, coordination of service programs, information collection and dissemination, and measurement of progress toward objectives contained in the person's plan.

The regional center shall assign a program coordinator who will be responsible for implementing, overseeing, and monitoring each individual program plan. The program coordinator may be an employee of the regional center or may be a qualified individual or employee of an agency with whom the regional center has contracted to provide program coordination.

At such times as the individual program plan is reviewed, but at least annually, the performance of the program coordinator shall also be reviewed by the regional center, the person with developmental disabilities, and the person's parents or legal guardian or conservator No person shall continue to serve as a program coordinator for any individual program plan unless there is agreement by all parties that the person should continue to serve as program coordinator.

Nothing shall prevent a person with developmental disabilities or such person's parent, legal guardian, or conservator, from being the program coordinator of the person's individual program plan, if the regional center director agrees that such an arrangement is feasible and in the best interest of the person with the developmental disabilities. If any person listed above is designated as the program coordinator, such person shall not deviate from the agreed-upon program plan and shall provide any information and reports as may be required by the regional center director.

(b) Purchase of needed services.

A regional center may purchase services for a client from any individual or agency the regional center determines will best accomplish all or any part of that client's program plan.

In making the initial choice to purchase services from an agency, facility, or individual, the regional center may use a professionally recognized, reliable, and valid instrument of accreditation. Thereafter, the regional center shall renew its contracts or purchases on the basis of a vendor's success in achieving the objectives set forth in the individual program plan.

No purchase of service contract with any agency or individual shall be continued unless the regional center and the person with developmental disabilities, or when appropriate, the person's parents or legal guardian or conservator agree that reasonable progress has been made towards the objectives for which the service provider is responsible.

Regional center funds shall not be used to supplant the budget of any agency which has a legal responsibility to serve all members of the general public and is receiving public funds for providing such services.

A regional center may, directly or through an agency acting on behalf of the center, provide placement and follow-along services to developmentally disabled persons in licensed community care or health care facilities. The regional center may also purchase required out-of-home care for such developmentally disabled persons. In considering appropriate placement alternatives for developmentally disabled children, approval by the child's parent, guardian, or conservator shall be obtained before placement is made.

Each developmentally disabled person placed by the regional center in an out-of-home residential facility shall have the rights specified in this division. These rights shall be brought to the person's attention by such means as the Director of Developmental Services may designate by regulation.

(c) Advocacy for, and protection of, the civil, legal, and service rights of developmentally disabled persons as established in this division.

Whenever the advocacy efforts of a regional center to secure or protect the legal, civil, or service rights of any of its clients prove ineffective, the regional center or the person with developmental disabilities or their parents, legal guardian, or other representative

may request the area board to initiate action under the provisions defining area board advocacy functions established in this division.

(d) Community organization and program development including liaison activities with existing service agencies, identification of services needed but unavailable, identification of ineffective services and services of poor quality, identification of programs which may not be in compliance with local, state, and federal statutes and approved regulations.

In order to expand the availability of needed services of good quality, a regional center may take any of the following actions:

(1) Provide information to the area board to assist the area board in determining recommended priorities for program development for inclusion in the state plan.

(2) Request the department to allocate funds from the Developmental Disabilities Program Development Fund to initiate a new program.

(3) Notify the appropriate licensing authority or request the area board to investigate and act upon any agency's possible noncompliance with local, state, or federal laws or regulations.

(4) Provide or secure consultation, training, or technical assistance services for any agency to assist such agency in upgrading the quality of its program. Except in emergency situations, a regional center shall not provide direct treatment and therapeutic services, but shall utilize appropriate public and private community agencies and service providers to obtain such services for its clients.

SEC. 4 5. Section 4780.5 is added to the Welfare and Institutions Code, to read

4780.5. The State Department of Developmental Services is responsible for the processing, audit, and payment of funds made available to regional centers under this division. The department shall establish procedures for hearing objections to audit findings and exceptions by regional centers.

SEC. 4.6. Section 4825 of the Welfare and Institutions Code is amended to read:

4825. The provisions of this division shall not be construed to terminate any appointment of the State Department of Mental Health as guardian of the estate of a developmentally disabled person prior to July 1, 1971.

It is the intent of this section that the Director of Developmental Services be appointed as guardian or conservator of a developmentally disabled person as provided pursuant to the provisions of Article 7.5 (commencing with Section 416) Chapter 2 of Part 1 of Division 1 of the Health and Safety Code.

Notwithstanding the provisions of Section 6000, the admission of an adult developmentally disabled person to a state hospital or private institution shall be upon the application of the person's parent or guardian or conservator in accordance with the provisions of Sections 4653 and 4803 Any person so admitted to a state hospital may leave the state hospital at any time, if such parent, guardian, or

conservator gives notice of his or her desire for the departure of the developmentally disabled person to any member of the hospital staff and completes normal hospitalization departure procedures.

Notwithstanding the provisions of Section 4655, any adult developmentally disabled person who is competent to do so may apply for and receive any services provided by a regional center.

SEC 5. Section 7284 of the Welfare and Institutions Code is amended to read:

7284 If any incompetent person, who has no guardian and who has been admitted or committed to the State Department of Mental Health for placement in any state hospital for the mentally disordered or the developmentally disabled, is the owner of any property, the State Department of Mental Health, acting through its designated officer, may apply to a court of competent jurisdiction for its appointment as guardian of the estate of such incompetent person.

For the purposes of this section, the State Department of Mental Health is hereby made a corporation and may act as executor, administrator, guardian of estates, assignee, receiver, depositary or trustee, under appointment of any court or by authority of any law of this state, and may transact business in such capacity in like manner as an individual, and for this purpose may sue and be sued in any of the courts of this state.

If a person admitted or committed to the State Department of Mental Health dies, leaving any estate, and having no relatives at the time residing within this state, the State Department of Mental Health may apply for letters of administration of his or her estate, and, in the discretion of the court, letters of administration may be issued to the department. When the State Department of Mental Health is appointed as guardian or administrator, the department shall be appointed as guardian or administrator without bond. The officer designated by the department shall be required to give a surety bond in such amount as may be deemed necessary from time to time by the director, but in no event shall the initial bond be less than ten thousand dollars ($10,000), which bond shall be for the joint benefit of the several estates and the State of California. The State Department of Mental Health shall receive such reasonable fees for its services as such guardian or administrator as the court allows. The fees paid to the State Department of Mental Health for its services as guardian or administrator of the various estates may be used as a trust account from which may be drawn expenses for filing fees, bond premiums, court costs, and other expenses required in the administration of the various estates. Whenever the balance remaining in such trust fund account shall exceed a sum deemed necessary by the department for the payment of such expenses, such excess shall be paid quarterly by the department into the State Treasury to the credit of the General Fund

SEC 6 Section 7288 of the Welfare and Institutions Code is amended to read

7288. Whenever it appears that a person who has been admitted to a state institution and remains under the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services does not have a guardian and owns personal property which requires safekeeping for the benefit of the patient, the State Department of Mental Health or the State Department of Developmental Services may remove or cause to be removed such personal property from wherever located to a place of safekeeping.

Whenever it appears that such patient does not own property of a value which would warrant guardianship proceedings, the expenses of such removal and safekeeping shall be paid from funds appropriated for the support of the institution in which the patient is receiving care and treatment; provided, however, that if the sum on deposit to the credit of such patient in the patients' personal deposit fund exceeds the sum of three hundred dollars ($300), the excess may be applied to the payment of such expenses of removal and safekeeping.

When it is determined by the superintendent, at any time after the removal for safekeeping of such personal property, that the patient is incurable or is likely to remain in a state institution indefinitely, then any of those articles of personal property which cannot be used by the patient at the institution may be sold at public auction and the proceeds therefrom shall first be applied in reimbursement of the expenses so incurred, and the balance shall be deposited to the patient's credit in the patients' personal deposit fund. All moneys so received as reimbursement shall be deposited in the State Treasury in augmentation of the appropriation from which the expenses were paid.

SEC. 7 Section 7325 of the Welfare and Institutions Code is amended to read:

7325. When any patient committed by a court to a state hospital or other institution on or before June 30, 1969, or when any patient who is judicially committed on or after July 1, 1969, or when any patient who is involuntarily detained pursuant to Part 1 (commencing with Section 5000) of Division 5 escapes from any state hospital, any hospital or facility operated by or under the Veterans' Administration of the United States government, or any facility designated by a county pursuant to such Part 1, or any facility into which the patient has been placed by his or her conservator appointed pursuant to Chapter 3 (commencing with Section 5350), Part 1, Division 5, of this code, or when a judicially committed patient's return from leave of absence has been authorized or ordered by the State Department of Mental Health, or the State Department of Developmental Services, or the facility of the Veterans' Administration, any peace officer, upon written request of the state hospital, veterans' facility, or the facility designated by a county, or the patient's conservator appointed pursuant to Chapter 3 (commencing with Section 5350), Part 1, Division 5, of this code, shall without the necessity of a warrant or court order, or any officer

or employee of the State Department of Mental Health, or of the State Department of Developmental Services, designated to perform such duties may, apprehend, take into custody and deliver him or her to the state hospital or to a facility of the Veterans' Administration, or the facility designated by a county, or to any person or place authorized by the State Department of Mental Health, or by the State Department of Developmental Services, or by the Veterans' Administration, or the local director of the county mental health program of the county in which is located the facility designated by the county, or the patient's conservator appointed pursuant to Chapter 3 (commencing with Section 5350), Part 1, Division 5, of this code, as the case may be, to receive him or her. Every officer or employee of the State Department of Mental Health, or of the State Department of Developmental Services, designated to apprehend or return such patients shall have the powers and privileges of peace officers so far as necessary to enforce the provisions of this section.

As used in his section, "any peace officer" means the persons specified in Section 830.1 of the Penal Code

The written notification of the escape required by this section shall include the name and physical description of the patient, his or her home address, the degree of dangerousness of the patient and any additional information which is necessary to apprehend and return the patient Any officer or employee of a state hospital, hospital or facility operated by or under the Veterans' Administration, or any facility designated by a county pursuant to Part 1 (commencing with Section 5000) of Division 5 shall provide any peace officer with any information concerning any patient who escapes from such hospital or facility in order to assist in the apprehension and return of the patient.

The person in charge of such hospital or facility, or his or her designee, may provide telephonic notification of the escape to the law enforcement agency of the county or city in which the hospital or facility is located. If such notification is given, the time and date of notification, the person notified, and the person making the notification shall be noted in the written notification required by this section.

SEC. 8. Section 7513 of the Welfare and Institutions Code is amended to read·

7513. Each developmentally disabled person and his or her estate shall pay the State Department of Developmental Services for the cost of such person's care and treatment as defined in Section 4431 while in a state hospital and while on leave of absence at state expense, less the sums payable therefor by the county. The provisions of Sections 7513 1 and 7513.2 shall govern the assessment, cancellation, collection, and remission of charges for such care and treatment.

This section shall not be construed to impose any liability on the parents of developmentally disabled persons.

SEC. 9. Section 7513.1 is added to the Welfare and Institutions Code, to read:

7513.1 The charge for the care and treatment of all developmentally disabled persons at state hospitals for the developmentally disabled for whom there is liability to pay therefor shall be determined pursuant to Section 4431. The Director of Developmental Services may reduce, cancel, or remit the amount to be paid by the person, estate, or the relative, as the case may be, liable for the care and treatment of any developmentally disabled person who is a patient at a state hospital for the developmentally disabled, on satisfactory proof that the person, estate, or relative, as the case may be, is unable to pay the cost of such care and treatment or that the amount is uncollectible. In any case where there has been a payment under this section, and such payment or any part thereof is refunded because of the death, leave of absence, or discharge of any patient of such hospital, such amount shall be paid by the hospital or the State Department of Developmental Services to the person who made the payment upon demand, and in the statement to the Controller the amounts refunded shall be itemized and the aggregate deducted from the amount to be paid into the State Treasury, as provided by law. If any person dies at any time while his or her estate is liable for his or her care and treatment at a state hospital, the claim for the amount due may be presented to the executor or administrator of his or her estate, and paid as a preferred claim, with the same rank in order of preference, as claims for expenses of last illness.

SEC. 10. Section 7513.2 is added to the Welfare and Institutions Code, to read:

7513.2. The State Department of Developmental Services shall collect all the costs and charges mentioned in Section 7513 and may take such action as is necessary to effect their collection within or without the state The Director of Developmental Services may, however, at his or her discretion, refuse to accept payment of charges for the care and treatment in a state hospital of any developmentally disabled person who is eligible for deportation by the federal immigration authorities.

CHAPTER 1143

An act to amend Sections 90040 and 90048 of, to amend and repeal Sections 56036, 56341, 56341.1, 56341.2, 56341.3, 56341.4, 56507, 56605, 56719, and 56806 of, to add and repeal Section 56341.5 of, and to add and repeal Article 10 (commencing with Section 56180) of Chapter 1 of Part 30 of, and to repeal Section 58514 of, the Education Code, relating to education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1979 Filed with Secretary of State September 29, 1979]

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

SECTION 1 Section 56036 of the Education Code is amended to read

56036. (a) Both a parent and a pupil, and a public education agency or responsible local agency are guaranteed and may initiate procedural due process protections in any decision regarding, and resulting from, the pupil's identification as an individual with exceptional needs, the pupil's assessment and the implementation of the individualized education program, and the denial, placement, transfer, or termination of the pupil in a special education or related services program Such protections shall include, but are not limited to

(1) Written notice to the parent of his or her rights, in language understandable to the general public and in the native language or other mode of communication of the parent

(2) The right of the parent to initiate an assessment of his or her child within a specified period of time.

(3) The requirement that written parental consent must be obtained before any assessment of the pupil is conducted.

(4) The right of the parent to participate in the development of the individualized education program, to be informed of the availability under state law of free appropriate special education programs, both public and private, and to have the opportunity to visit and compare the available alternative programs.

(5) The requirement that written parental consent must be obtained before the pupil is placed in any special education program

(6) Procedural due process by a fair and impartial administrative hearing either at the local level or, in lieu thereof, at the state level as prescribed by Article 10 (commencing with Section 56180) of Chapter 1

(b) Regulations providing such due process protections shall be adopted by the State Board of Education.

(c) This section shall remain in effect only until July 1, 1982, and as of such date is repealed, unless a later enacted statute, which is chaptered before July 1, 1982, deletes or extends such date

SEC 2 Article 10 (commencing with Section 56180) is added to Chapter 1 of Part 30 of the Education Code, to read·

Article 10 Administrative Hearings and Due Process

56180 (a) As used in this article, "public education agency" means a local education agency including a county, district, or any other public agency providing special education and related services.

(b) Both a parent and a pupil, and a public education agency are guaranteed and may initiate procedural due process protections in

any decision regarding, and resulting from, the pupil's identification as an individual with exceptional needs; the pupil's assessment and implementation of the individualized education program; and the denial, placement, transfer, or termination of the pupil in a special education or related services program. Such protections shall include, but are not limited to the informal review, pursuant to Section 56181, the right to examine pupil records pursuant to Section 56182, and the right to a fair and impartial administrative hearing, either at the local level before a fair hearing panel, pursuant to Section 56183, with a subsequent review thereof available pursuant to Section 56184, or at the state level, before a person knowledgeable in administrative hearings, under contract with the Department of Education, pursuant to Section 56185.

(c) The public education agency shall take steps to insure that each informal review and hearing conducted is commenced and completed as quickly as possible, consistent with fair consideration of the issues involved, but not later than 45 days after the public education agency has received the parent's written request for a hearing at the local level, before a fair hearing panel, or the parent has received the agency's written notice to initiate such hearing, as the case may be, and that a copy of the decision is mailed to each party as quickly as possible and within the same 45-day period. However, the 45-day period may be extended if either party requests an extension and if the chairperson of the fair hearing panel grants such an extension. The hearing shall be conducted at a time and place which is reasonably convenient to the parent and pupil involved.

56181. (a) Upon receipt by the superintendent of the public education agency of a written request of the parent for a hearing at the local level, before a fair hearing panel, or upon receipt by the parent of the written notice of the public education agency to initiate such hearing, the superintendent of the public education agency or his or her designee or designees shall within 10 days of receipt by the public education agency or parent of such request or notice, as the case may be, comply with the following:

(1) Meet with the parent to review informally the parent's or public education agency's concern. The parent shall have the right to examine any documents contained in the pupil's file maintained by the public education agency and may be accompanied by a representative or representatives chosen by the parent.

(2) Based upon this informal review, the superintendent of the public education agency or his or her designeee or designees may authorize modification of the individualized education program and related services to the satisfaction of the party requesting the hearing.

(b) If the informal review prescribed by subdivision (a) fails to resolve the concern to the satisfaction of the party requesting the hearing, then the requesting party may elect to do either of the following:

(1) Request in writing, if the requesting party is a parent, that the public education agency proceed with a hearing, at the local level, before a fair hearing panel pursuant to Section 56183, subject to review pursuant to Section 56184.

Give notice in writing, if the requesting party is a public education agency, that the agency will proceed with a hearing at the local level, before a fair hearing panel pursuant to Section 56183, subject to review pursuant to Section 56184.

(2) Request in writing a hearing, at the state level, before an individual knowledgeable in administrative hearings, pursuant to Section 56185.

(c) (1) If a hearing before a fair hearing panel is requested, the public education agency shall implement the procedures to convene a fair hearing panel pursuant to Section 56183.

(2) If a hearing before an individual knowledgeable in administrative hearings, pursuant to Section 56185, is requested, the public education agency shall within three days following receipt of the parent's written request for such hearing transmit the request to the Superintendent of Public Instruction.

56182 The parent shall have the right and an opportunity to examine all school records of the individual with exceptional needs within five days after such request is made by the parent, either orally or in writing. A public education agency may charge no more than the actual cost of reproducing such records; but if this cost effectively prevents the parent from exercising the right to receive such copy, it shall be reproduced at no cost.

56183 The hearing before the fair hearing panel prescribed by this section shall be at the local level. The fair hearing panel shall be composed of three persons knowledgeable of the needs of the individual with exceptional needs to serve as an impartial body in its deliberations so as to protect the rights of the parties involved. The fair hearing panel shall be formed within five days after the public education agency's receipt of the parent's written request to proceed with a hearing, at the local level, or the parent's receipt of the agency's notice to proceed with such hearing, as the case may be, pursuant to paragraph (1) of subdivision (b) of Section 56181.

(a) Each member shall be impartial, unbiased, and not an employee or agent of the public education agency responsible for the hearing and shall not be an employee or agent of a private nonsectarian school being considered for the pupil's placement. Members of the fair hearing panel shall be selected as follows. one selected by the public education agency, one selected by the parent, and the third member selected by mutual agreement of the two members so selected If the two members already chosen are unable to select the third person within the specified five-day period the public education agency shall notify the county superintendent of schools who shall immediately select the third member. If the county superintendent of schools is a party to the hearing, and there is a disagreement of the selection of the third member, the county

superintendent of schools shall request the third member to be selected by another school district. Each member of the hearing panel shall have expertise relating to the handicap of the pupil, and of the appropriate education of such pupil The chairperson of the fair hearing panel shall be selected by the members of the fair hearing panel.

(b) The public education agency may reimburse each member of the fair hearing panel a reasonable per diem and transportation costs for participation in the fair hearing panel, as normally authorized by the public education agency for its employees Any other incidental costs related to the fair hearing procedure shall be borne by the public education agency which is a party to the hearing

(c) If the fair hearing panel requests an independent educational assessment as part of the hearing, the cost of the assessment shall be at public expense.

56184. (a) Either party who disagrees with the determination of the fair hearing panel may file a petition, in writing, within 30 days following receipt of decision, to request a review of the decision of the fair hearing panel before the Superintendent of Public Instruction. The superintendent or his or her designee or designees shall notify the parties that a petition has been filed

(b) The review shall be conducted in accordance with regulations adopted by the State Board of Education and shall be conducted by the superintendent or his or her designees. Such designee or designees shall be an individual or individuals knowledgeable in administrative hearings, under contract with the Department of Education.

(c) (1) The parties shall have the right to submit written argument.

(2) The superintendent or his or her designee or designees may permit oral argument or the presentation of additional evidence upon the application of either party, in accordance with regulations adopted by the State Board of Education.

(d) Within 30 days after the petition for review has been filed, the superintendent or his or her designee or designees shall render a written, reasoned decision, which shall be the final administrative determination. Within 30 days following the filing of such petition, a copy of the written decision shall be transmitted to the parent and the public education agency to inform them of the effective date of that determination and to notify them of the right to appeal to a court of competent jurisdiction.

56185. (a) The hearing prescribed by this section shall be·

(1) At the state level.

(2) Conducted by an individual knowledgeable in administrative hearings, under contract with the Department of Education

(b) Such hearing shall provide all the rights provided by the hearing, at the local level, before the fair hearing panel prescribed by Section 56183, and the regulations promulgated pursuant thereto

(c) Such hearing shall be conducted and a decision mailed to each

party within 30 days following receipt by the Superintendent of Public Instruction of the request for the hearing. However, the 30-day period may be extended if either party requests an extension and if the superintendent or his or her designee grants such an extension.

(d) Such hearing shall be the final administrative determination The election of such hearing shall preclude the hearing at the local level, pursuant to Section 56183, and the subsequent review of such hearing, pursuant to Section 56184. Nothing in this section shall preclude a party from exercising the right to appeal the decision to a court of competent jurisdiction.

(e) This article shall remain in effect only until July 1, 1982, and as of such date is repealed, unless a later enacted statute, which is chaptered before July 1, 1982, deletes or extends such date.

SEC. 3. Section 56341 of the Education Code is amended to read:

56341. (a) The due process procedures prescribed by Sections 56341 to 56341.5, inclusive, shall extend to the parent, the pupil, and the responsible local agency in any decision regarding, and resulting from, the pupil's identification as an individual with exceptional needs; the pupil's assessment and the implementation of the individualized education program; and the denial, placement, transfer, or termination of the pupil in a special education and related services program. These procedures shall include the informal review, pursuant to Section 56341.1, the right to examine pupil records pursuant to Section 56341.2, and the right to a fair and impartial administrative hearing, either at the local level, before a fair hearing panel, pursuant to Section 56341.3, with a subsequent review thereof, pursuant to Section 56341.4, or at the state level, before a person knowledgeable in administrative hearings, under contract with the Department of Education, pursuant to Section 56341.5.

(b) The responsible local agency shall take steps to insure that each informal review and hearing conducted is commenced and completed as quickly as possible, consistent with fair consideration of the issues involved, but not later than 45 days after the responsible local agency has received the parent's written request for a hearing at the local level, before a fair hearing panel, or the parent has received the agency's written notice to initiate such hearing, as the case may be, and that a copy of the decision is mailed to each party as quickly as possible and within the same 45-day period. However, the 45-day period may be extended if either party requests an extension and if the chairperson of the fair hearing panel grants such an extension. The hearing shall be conducted at a time and place which is reasonably convenient to the parent and pupil involved.

This section shall remain in effect only until July 1, 1982, and as of such date is repealed, unless a later enacted statute, which is chaptered before July 1, 1982, deletes or extends such date.

SEC. 4. Section 56341.1 of the Education Code is amended to read.

56341.1 (a) Upon receipt by the director of the responsible local agency of a written request of the parent for a hearing at the local level, before a fair hearing panel, or upon receipt by the parent of the written notice of the responsible local agency to initiate such hearing, the director of the responsible local agency or his or her designee or designees shall within 10 days of receipt by the responsible local agency or parent of such request or notice, as the case may be, comply with the following:

(1) Meet with the parent to informally review the parent's or the responsible local agency's concern The parent shall have the right, pursuant to Section 56341.2, to examine any documents contained in the pupil's file maintained by the responsible local agency and may be accompanied by a representative or representatives chosen by the parent

(2) Based upon this informal review, the director of the responsible local agency or his or her designee or designees may authorize modification of the individualized education program and related services to the satisfaction of the party requesting the hearing.

(b) If the informal review prescribed by subdivision (a) fails to resolve the concern to the satisfaction of the party requesting the hearing, then the requesting party may elect to do either of the following:

(1) Request in writing, if the requesting party is a parent, that the responsible agency proceed with a hearing, at the local level, before a fair hearing panel pursuant to Section 56341.3, subject to review pursuant to Section 56341 4.

Give notice in writing, if the requesting party is a responsible local agency, that the agency will proceed with a hearing at the local level, before a fair hearing panel pursuant to Section 56341.3, subject to review pursuant to Section 56341.4.

(2) Request in writing a hearing, at the state level, before an individual knowledgeable in administrative hearings, pursuant to Section 56341 5.

(c) (1) If a hearing before a fair hearing panel is requested, the responsible local agency shall implement the procedures to convene a fair hearing panel pursuant to Section 56341 3

(2) If a hearing before an individual knowledgeable in administrative hearings, pursuant to Section 56341.5, is requested, the responsible local agency shall, within three days following receipt of the written request for such hearing, transmit the request to the Superintendent of Public Instruction.

(d) This section shall remain in effect only until July 1, 1982, and as of such date is repealed, unless a later enacted statute, which is chaptered before July 1, 1982, deletes or extends such date.

SEC. 5 Section 56341 2 of the Education Code is amended to read

56341 2 (a) The parent shall have the right and an opportunity to examine all school records of the individual with exceptional needs

within five days after such request is made by the parent, either orally or in writing. A responsible local agency may charge no more than the actual cost of reproducing such records; but if this cost effectively prevents the parent from exercising the right to receive such copy, it shall be reproduced at no cost.

(b) This section shall remain in effect only until July 1, 1982, and as of such date is repealed, unless a later enacted statute, which is chaptered before July 1, 1982, deletes or extends such date.

SEC. 6. Section 56341.3 of the Education Code is amended to read:

56341.3. The hearing before the fair hearing panel prescribed by this section shall be at the local level. The fair hearing panel shall be composed of three persons knowledgeable of the needs of the individual with exceptional needs to serve as an impartial body in its deliberations so as to protect the rights of the parties involved. The fair hearing panel shall be formed within five days after the responsible local agency's receipt of the parent's written request to proceed with a hearing at the local level or the parent's receipt of the agency's written notice to proceed with such hearing, as the case may be, pursuant to paragraph (1) of subdivision (b) of Section 56341.1.

(a) Each member shall be impartial, unbiased, and not an employee or agent of the responsible local agency responsible for the hearing and shall not be an employee or agent of a private nonsectarian school being considered for the pupil's placement. Members of the fair hearing panel shall be selected as follows: one selected by the responsible local agency, one selected by the parent, and the third member selected by mutual agreement of the two members so selected. If the two members already chosen are unable to select the third person within the specified five-day period the responsible local agency shall notify the county superintendent who shall immediately select the third member. If the county superintendent is a party to the hearing, and there is a disagreement of the selection of the third member, the county superintendent shall request the third member to be selected by another school district. Each member of the hearing panel shall have expertise relating to the handicap of the pupil and the appropriate education of such pupil. The chairperson of the fair hearing panel shall be selected by the members of the fair hearing panel.

(b) The responsible local agency may reimburse each member of the fair hearing panel a reasonable per diem and transportation costs for participation in the fair hearing panel, as normally authorized by the responsible local agency for its employees. Any other incidental costs related to the fair hearing procedure shall be borne by the responsible local agency which is a party to the hearing.

(c) If the fair hearing panel requests an independent educational assessment as part of the hearing, the cost of the assessment shall be at public expense.

(d) This section shall remain in effect only until July 1, 1982, and

as of such date is repealed, unless a later enacted statute, which is chaptered before July 1, 1981, deletes or extends such date.

SEC. 7. Section 56341.4 of the Education Code is amended to read:

56341.4. (a) Either party who disagrees with the determination of the fair hearing panel may file a petition, in writing, within 30 days following receipt of the decision, to request a review of the decision of the fair hearing panel before the Superintendent of Public Instruction. The superintendent or his or her designee or designees shall notify the parties that a petition has been filed.

(b) The review shall be conducted in accordance with regulations adopted by the State Board of Education and shall be conducted by the superintendent or his or her designees. Such designee or designees shall be an individual or individuals knowledgeable in administrative hearings, under contract with the Department of Education.

(c) (1) The parties shall have the right to submit written argument.

(2) The superintendent or his or her designee or designees may permit oral argument or the presentation of additional evidence upon the application of either party, in accordance with regulations adopted by the State Board of Education.

(d) Within 30 days after the petition for review has been filed, the superintendent or his or her designee or designees shall render a written, reasoned decision, which shall be the final administrative determination. Within 30 days following the filing of such petition, a copy of the written decision shall be transmitted to the parent and the responsible local agency to inform them of the effective date of that determination and to notify them of their right to appeal to a court of competent jurisdiction.

(e) This section shall remain in effect only until July 1, 1982, and as of such date is repealed, unless a later enacted statute, which is chaptered before July 1, 1982, deletes or extends such date.

SEC. 8. Section 56341.5 is added to the Education Code, to read:

56341.5. (a) The hearings prescribed by this section shall be:

(1) At the state level.

(2) Conducted by an individual knowledgeable in administrative hearings, under contract with the Department of Education.

(b) Such hearing shall provide all the rights provided by the hearing, at the local level, before the fair hearing panel prescribed by Section 56341.3, and the regulations promulgated pursuant thereto.

(c) Such hearing shall be conducted and a decision mailed to each party within 30 days following receipt by the Superintendent of Public Instruction of the request for the hearing. However, the 30-day period may be extended if either party requests an extension and if the superintendent or his or her designee grants such an extension.

(d) Such hearing shall be the final administrative determination.

The election of such hearing shall preclude the hearing, at the local level, pursuant to Section 56341.3, and the subsequent review of such hearing, pursuant to Section 56341.4. Nothing in this section shall preclude a party from exercising the right to appeal the decision to a court of competent jurisdiction.

This section shall remain in effect only until July 1, 1982, and as of such date is repealed unless a later enacted statute, which is chaptered before July 1, 1982, deletes or extends such date.

SEC. 9. Section 56507 of the Education Code is amended to read:

56507. (a) Both a parent and a pupil are guaranteed and may initiate procedural due process protections in any decision regarding, and resulting from, the pupil's identification as an individual with exceptional needs; the pupil's assessment and the implementation of the individualized education program; and the denial, placement, transfer, or termination of the pupil in a special education or related services program. The procedural due process protection of a fair and impartial administrative hearing prescribed by paragraph (6) of this subdivision shall be extended to the public education agency Such protections shall include, but are not limited to:

(1) Written notice to the parent of his or her rights, in language understandable to the general public and in the primary language or other mode of communication of the parent.

(2) The right of the parent to initiate an assessment of his or her child within a specified period of time.

(3) The requirement that written parental consent must be obtained before any assessment of the pupil is conducted.

(4) The right of the parent to participate in the development of the individualized education program and to be informed of the availability under state law of free appropriate special education programs, both public and private.

(5) The requirement that written parental consent must be obtained before the pupil is placed in any special education program.

(6) Procedural due process by a fair and impartial administrative hearing either at the local level or, in lieu thereof, at the state level, as prescribed by Article 10 (commencing with Section 56180) of Chapter 1 of this part.

(b) Regulations providing such due process protections shall be adopted by the State Board of Education.

(c) This section shall remain in effect only until July 1, 1982, and as of such date is repealed, unless a later enacted statute, which is chaptered before July 1, 1982, deletes or extends such date.

SEC 10. Section 56605 of the Education Code is amended to read:

56605. (a) Both a parent and a pupil are guaranteed and may initiate procedural due process protections in any decision regarding, and resulting from, the pupil's identification as an individual with exceptional needs; the pupil's assessment and the implementation of the individualized education program; and the

denial, placement, transfer, or termination of the pupil in a special education or related services program. The procedural due process protection of a fair and impartial administrative hearing prescribed by paragraph (6) of this subdivision shall be extended to the public education agency. Such protections shall include, but are not limited to.

(1) Written notice to the parent of his or her rights, in language understandable to the public and in the primary language or other mode of communication of the parent

(2) The right of the parent to initiate an assessment of his or her child within a specified period of time

(3) The requirement that written parental consent must be obtained before any assessment of the pupil is conducted

(4) The right of the parent to participate in the development of the individualized education program and to be informed of the availability under state law of free appropriate special education programs, both public and private.

(5) The requirement that written parental consent must be obtained before the pupil is placed in any special education program

(6) Procedural due process by a fair and impartial administrative hearing either at the local level or, in lieu thereof, at the state level, as prescribed by Article 10 (commencing with Section 56180) of Chapter 1 of this part.

(b) Regulations providing such due process protections shall be adopted by the State Board of Education

(c) This section shall remain in effect only until July 1, 1982, and as of such date is repealed, unless a later enacted statute, which is chaptered before July 1, 1982, deletes or extends such date

SEC. 11 Section 56719 of the Education Code is amended to read·

56719. (a) Both a parent and a pupil are guaranteed and may initiate procedural due process protections in any decision regarding, and resulting from, the pupil's identification as an individual with exceptional needs, the pupil's assessment and the implementation of the individualized education program; and the denial, placement, transfer, or termination of the pupil in a special education or related services program. The procedural due process protection of a fair and impartial administrative hearing prescribed by paragraph (6) of this subdivision shall be extended to the public education agency Such protections shall include, but are not limited to:

(1) Written notice to the parent of his or her rights, in language understandable to the general public and in the primary language or other mode of communication of the parent.

(2) The right of the parent to initiate an assessment of his or her child within a specified period of time

(3) The requirement that written parental consent must be obtained before any assessment of the pupil is conducted

(4) The right of the parent to participate in the development of the individualized education program and to be informed of the

availability under state law of free appropriate special education programs, both public and private

(5) The requirement that written parental consent must be obtained before the pupil is placed in any special education program.

(6) Procedural due process by a fair and impartial administrative hearing, either at the local level or, in lieu thereof, at the state level, as prescribed by Article 10 (commencing with Section 56180) of Chapter 1 of this part.

(b) Regulations providing such due process protections shall be adopted by the State Board of Education.

(c) This section shall remain in effect only until July 1, 1982, and as of such date is repealed, unless a later enacted statute, which is chaptered before July 1, 1982, deletes or extends such date.

SEC. 12. Section 56806 of the Education Code is amended to read:

56806. (a) Both a parent and a pupil are guaranteed and may initiate procedural due process protections in any decision regarding, and resulting from, the pupil's identification as an individual with exceptional needs; the pupil's assessment and the implementation of the individualized education program; or the denial, placement, transfer, or termination of the pupils in a special education or related services program. The procedural due process protection of a fair and impartial administrative hearing prescribed by paragraph (6) of this subdivision shall be extended to the public education agency. Such protections shall include, but are not limited to.

(1) Written notice to the parent of his or her rights, in language understandable to the general public and in the primary language or other mode of communication of the parent.

(2) The right of the parent to initiate an assessment of his or her child within a specified period of time.

(3) The requirement that written parental consent be obtained before any assessment of the pupil is conducted.

(4) The right of the parent to participate in the development of the individualized education program and to be informed of the availability under state law of free appropriate special education programs, both public and private.

(5) The requirement that written parental consent must be obtained before the pupil is placed in any special education program.

(6) Procedural due process by a fair and impartial administrative hearing either at the local level or, in lieu thereof, at the state level, as prescribed by Article 10 (commencing with Section 56180) of Chapter 1 of this part.

(b) Regulations providing such due process protections shall be adopted by the State Board of Education.

This section shall remain in effect only until July 1, 1982, and as of such date is repealed, unless a later enacted statute, which is chaptered before July 1, 1982, deletes or extends such date.

SEC. 13. Section 58514 of the Education Code is repealed.

SEC 14. Section 90040 of the Education Code is amended to read:

90040. Bonds shall bear interest at a rate of not to exceed 8 percent per annum, payable annually or semiannually or in part annually and in part semiannually.

SEC. 15. Section 90048 of the Education Code is amended to read:

90048. Bonds and notes may be sold at either public or private sale. The board, with the approval of the State Board of Control, may fix terms and conditions for the sale or other disposition of any authorized issue of bonds or notes. The State Treasurer, when authorized by resolution of the board approved by the State Board of Control, may sell bonds and notes at less than their par or face value, but no bond or note may be sold at a price below the par or face value thereof which would result in a sale price yielding to the purchaser an average of more than 8 percent per annum, payable semiannually, according to standard tables of bond values.

SEC. 16. The building at the Fallsvale Elementary School, within the Redlands Unified School District, does not meet Field Act standards. The governing board of the Redlands Unified School District is prepared to bid on a new building to house the increased pupil enrollment and to eliminate the need to use the present building. The proposed site is more than 5,600 feet above sea level. Proposed construction is subject to probable delays, caused by winter rain and snow.

SEC. 17. The governing board of the Redlands Unified School District is hereby authorized to use the building at the Fallsvale Elementary School until June 30, 1980, or until construction of the new facility is completed, whichever is earlier. During such period of use, the building shall not be subject to any of the provisions of Article 3 (commencing with Section 39140) or Article 6 (commencing with Section 39210) of Chapter 2 of Part 23 of the Education Code.

SEC. 18. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because the duties, obligations, or responsibilities imposed on local agencies or school districts by this act are such that related costs are incurred as part of their normal operating procedures. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 19. 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: (a) make available an alternative to expensive and time consuming fair hearing procedures; (b) assure the continued authorization for alternative school programs; (c) make clarifying changes in the law relating to bonds to be issued by the California State University and Colleges; and (d) permit the Redlands Unified School District to provide necessary educational services without

interruption; at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 1144

An act relating to mental health, and making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1979 Filed with Secretary of State September 29, 1979]

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

SECTION 1. The Legislature hereby finds and declares that the State of California has adopted a policy of providing prompt and rehabilitative treatment to persons who are gravely disabled or a danger to themselves or others as a result of a mental disorder or chronic alcoholism. Such treatment includes, but is not limited to, prompt evaluation and appropriate care and treatment in the least restrictive environment for persons who are involuntarily committed to evaluation and treatment facilities under the Lanterman-Petris-Short Act. The Legislature further finds, however, that the implementation of this policy has been greatly hindered by the lack of specific directions, guidelines, and adequate reimbursement from the state to the local mental health facilities. As a result, standards do not presently exist to assure accessible, consistent, high quality levels of care for such persons.

Therefore, in order to establish appropriate and humane standards of care and treatment for persons who are involuntarily held in evaluation and treatment facilities under the Lanterman-Petris-Short Act, the Legislature hereby finds and declares that it is necessary to require the Department of Mental Health to contract with appropriate independent experts to conduct a study of the treatment of persons involuntarily placed in, or committed to, evaluation and treatment facilities for 72 hours or the first 14 days of intensive treatment.

SEC. 2. The State Department of Mental Health shall contract with appropriate independent experts, as determined by the department, for a study which shall include, but not be limited to, the following:

(a) The quality, effectiveness, and types of treatment modalities provided to persons described in Section 1 of this act, including, but not limited to, all of the following:

(1) A study of the promptness of evaluation.

(2) The quality and methods of care and treatment provided.

(3) Use of placement in the least restrictive environment.

(4) The quality, effectiveness, and types of aftercare , and

individualized treatment plans, including the time at which aftercare and individualized treatment plans are developed, by whom the plans are developed, the process used for periodic review of the plans, the extent to which the plans are implemented, and the process by which the outpatient treatment staff and the patient are made aware of the plans.

(5) Patient-staff ratio.

(6) Staff qualifications.

(b) All the existing legal requirements pertaining to the care and treatment for persons described in Section 1 of this act, adequacy of such care and treatment, and recommendations for additional state standards to assure accessible, consistent, high quality levels of care for such persons, including an assessment of the costs for implementing such standards.

(c) Public hearings throughout the state.

SEC. 3. The request for proposal prepared by the department shall be available to potential applicants no later than 45 days following the effective date of this act. The department shall report the results of the study, and the recommendations therein, to the Legislature on or before September 1, 1980.

SEC. 4. There is hereby reappropriated on January 1, 1980, an amount not to exceed three hundred thousand dollars ($300,000), for the purpose of establishing a community mental health facility within Tuolumne County, from savings identified in local mental health service allocation from within Item 275 of the Budget Act of 1979.

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 determine the extent of the standards which should be established by the State Department of Mental Health for the care and treatment of certain persons involuntarily placed in or committed to evaluation and treatment facilities under the Lanterman-Petris-Short Act, as soon as possible, and to fund vital mental health facilities within the County of Tuolumne, it is necessary that this act take effect immediately.

CHAPTER 1145

An act to add and repeal Chapter 4 5 (commencing with Section 50950) to Part 1 of Division 1 of Title 5 of the Government Code, relating to volunteer firefighters, and making an appropriation therefor.

[Approved by Governor September 28, 1979 Filed with Secretary of State September 29, 1979]

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

SECTION 1. Chapter 4.5 (commencing with Section 50950) is added to Part 1 of Division 1 of Title 5 of the Government Code, to read:

CHAPTER 4.5. VOLUNTEER FIREFIGHTERS LENGTH OF SERVICE AWARD ACT

Article 1. General Provisions

50950. It is the purpose of this chapter to provide cities, counties, cities and counties, or districts, that have fire departments with volunteer firefighting members, the opportunity to offer such members an award for life as an incentive. Nothing contained herein shall be deemed to supersede the provisions of existing state law and the charters, ordinances, and rules of local public agencies which establish and regulate the activities of such fire departments. This chapter is intended, instead, to strengthen such departments through the creation of an incentive for the volunteer to respond to emergency calls, attend approved formal study courses, attend official department training drills and meetings, and serve at the local fire station in a standby or sleep-in capacity. It is the further intention of this chapter to provide a means whereby local communities may bestow fitting reward and recognition for long and faithful volunteer service. It is not the intention of this chapter to provide any credit under this system for service rendered prior to the effective date of this chapter.

50951. This chapter establishes the Volunteer Firefighters Length of Service Award System and may be cited as the Volunteer Firefighters Length of Service Award Act.

Notwithstanding any other provision of law, enrollment for an award shall not be construed as a retirement, the receipt of an award shall not be construed as the receipt of a retirement allowance or benefit, and service credited under the Volunteer Firefighters Length of Service Award System shall not be construed as service credited to a retirement system for purposes of duplicating service credit or benefits in other public retirement systems.

50952. For the purposes of this chapter, unless the context otherwise requires, the definitions set forth below shall mean the following:

(a) "Actuarial interest rate" means the interest rate fixed by the board for purposes of actuarial valuation of the assets and liabilities of the award system.

(b) "Annual interest rate" means the interest rate fixed by the board for purposes of crediting interest.

(c) "Award" means monthly payments for life derived from contributions by a department.

(d) "Award system" means the Volunteer Firefighters Length of Service Award System established by this chapter.

(e) "Board" means the Board of Administration of the Public Employees' Retirement System.

(f) "Certified current service credit" means credit certified pursuant to Section 50959 for services rendered after the contract operative date.

(g) "Compensation" means remuneration paid in cash and does not include coverage under Division 4 (commencing with Section 3201) of the Labor Code or reimbursement or payments for meals, transportation, lodging, and incidental expenses incurred in the line of duty during active fire suppression or the purchase of necessary safety equipment and clothing.

(h) "Contract operative date" means the July 1 next following the date on which the contract becomes effective.

(i) "Department" means a regularly organized fire department of a city, county, city and county, or district, having official recognition of the government of the city, county, city and county, or district in which such department is located.

(j) "Fund" means the Volunteer Firefighters Length of Service Award System Fund created by this chapter

(k) "Member" means a volunteer of a department, the governing body of which has contracted with the Public Employees' Retirement System under this chapter, and who has been certified by a qualifications review commission as having qualified for at least one year of current service credit. Membership, once established, continues indefinitely unless membership is terminated pursuant to Section 50957.

(*l*) "Service credit" means the aggregate of certified current service credit.

(m) "Service year" means the period beginning July 1 and ending June 30 of the following year

(n) "Volunteer" means a person who is an uncompensated volunteer firefighter in a regularly organized fire department.

Article 2. Administration, Award Fund, and Membership

50953. The award system shall be administered by the board. All provisions of the Public Employees' Retirement Law, Part 3 (commencing with Section 20000) of Division 5 of Title 2, governing the board's rights, powers, duties, obligations, and procedures in administration of that system and investment of the Public Employees' Retirement Fund which are not inconsistent with this chapter shall apply with equal force and effect to the award system and the investment of the fund created under this chapter.

In addition to such powers and duties, the board shall determine if participation in the system is adequate to insure that sufficient

funds will be available for the payment of awards on an actuarial reserve basis before any awards are paid. If the board determines that participation in the system is inadequate to assure the financial success of the system, it shall terminate the system prior to payment of the first award. In case of termination, evaluation fees shall be considered to have been fully earned and are nonrefundable.

50954. (a) The board shall, from time to time, determine and fix the annual interest rate and actuarial interest rate.

(b) The board shall keep in convenient form such data as is necessary for the actuarial valuation of this system. The board shall, at least quadrennially, cause to be made an actuarial investigation into the mortality and service experience of members and persons receiving awards and an actuarial valuation of the assets and liabilities of the award system and shall transmit the information to the Legislature.

50955 (a) On the basis of such investigation and valuation, the board shall adopt such mortality, service, and other tables as it deems necessary, and shall make such changes in the contributions required from contracting departments as it considers appropriate in order to assure the actuarial soundness of this award system.

(b) The board shall credit all contributions of departments in the fund with interest at the annual interest rate compounded at each June 30.

(c) Data filed by any member or department with the board is confidential, and no individual record shall be divulged by any official or employee having access to it to any person other than the member to whom the information relates or his authorized representative, or the department by which he is employed. Such information shall be used by the board for the sole purpose of carrying into effect the provisions of this chapter.

(d) Each volunteer member and department shall file with the board such information and evidence as may be required by the board in administration of this system.

50956 (a) The Volunteer Firefighters Length of Service Award Fund is hereby created and established in the State Treasury. All moneys received by the award system pursuant to this chapter shall be deposited in the fund. The moneys in the fund are continuously appropriated to the board, without regard to fiscal years, for payment of the costs of administration of this chapter and for the payment of awards pursuant to this chapter.

(b) The State Treasurer shall be custodian of the fund, subject to the exclusive control of the board as to administration and investment of the fund. All payments from the fund shall be made upon warrants drawn by the Controller upon demands made by the board.

Article 3. Contributions, Service, Point System, and Qualifications Review Commission

50957. A volunteer may accumulate points in a contracting department pursuant to Section 50959, but only members may accumulate service credit in the award system. A volunteer becomes a member upon completion of one year of current service as certified by a qualifications review commission. Membership shall terminate on the day prior to the effective date of an award pursuant to Section 50962.

50958. (a) The award system shall be funded by contributions paid by contracting departments and income from the fund. The award system is a noncontributory system, and no contributions shall be required from its members.

(b) As determined by actuarial valuation reported to the contracting department by the award system, each contracting department shall make contributions annually, not later than October 1 of each year, sufficient to meet the prescribed amount with respect to its volunteers, in accordance with the conditions provided in its contract under the award system.

Contributions of all contracting departments shall be applied by the board during each fiscal year to meet the obligations of all departments collectively, as follows: first, in an amount equal to the liabilities accruing on account of awards payable on account of current service; and second, the balance of such contributions on any other liability incurred under this chapter.

50959. Only those volunteers who have earned a minimum of 100 points during a service year shall be credited with current service for such year. At least 20, but not more than 70, of such 100 minimum points shall be earned for responses to emergency calls. A member is not required to qualify in consecutive years. Accumulation of points toward creditation of current service credit shall be computed according to the following:

(a) Training drills: The drills shall be conducted in accordance with criteria adopted by the State Board of Fire Services. Each drill attended earns four points. Drills must be a minimum of two hours in length. Minimum yearly points for drill attendance—40, or such greater number as may be established by the State Board of Fire Services. Maximum yearly points for drill attendance—60.

(b) Department emergency responses: Points are computed on the basis of the percentage of emergency responses to total yearly calls of the contracting department, or to the total yearly calls to date of termination of membership as follows:

(1) 10 to 29 percent response receives 20 points.

(2) 30 to 49 percent response receives 35 points.

(3) 50 to 69 percent response receives 55 points.

(4) 70 to 100 percent response receives 70 points.

The State Board of Fire Services shall designate the minimum number of yearly points which shall be required to be earned for

department emergency responses.

(c) Formal approved training courses, as approved by the State Board of Fire Services, with passing grade:

(1) Courses under 20 hours duration receive 10 points.

(2) Courses of 20-45 hours duration receive 20 points.

(3) Courses over 45 hours duration receive 35 points.

(4) Maximum yearly points for training courses—35.

The State Board of Fire Services shall designate the minimum number of yearly points which shall be required to be earned for formal approved training courses.

(d) Attendance at meetings: Each member may earn one point for attendance at official department meetings. Maximum yearly points for meetings—12.

(e) Station standby: Those departments that have volunteers that sleep in or stand by at the station periodically, may allocate points on the following basis: two points for each 12 hours of station standby. These points may be credited in addition to emergency response or training drill points earned during said standby time. Maximum yearly points for station standby—40.

50959.5. The State Board of Fire Services may audit and review the department records necessary to implement the requirements of Section 50959.

50960. It shall be the responsibility of each contracting department to maintain a detailed and accurate record for each volunteer member. Such records shall be maintained on forms that clearly reflect the volunteer activity of individual volunteers which is qualified for earning points as specified in Section 50959. Reports to the board shall be on forms approved by the board.

50961 (a) The governing body of each contracting department shall establish a qualifications review commission which shall include the fire chief, one member of the governing body appointed by the governing body, and one volunteer elected by the volunteers employed by the contracting department.

(b) The qualifications review commission shall review the list of department members each year, and prior to October 1 of each year shall certify to the board those volunteers who have qualified by earning 100 points during the preceding service year.

(c) In no event shall any member be credited with more than 20 years of service.

50962. Upon a member's application to the board, an award shall be granted to accrue prospectively only if the member has attained age 60 and is credited with a minimum of 10 years of service. An award shall be effective and shall begin to accrue no earlier than the first of the month next following the month in which (a) the member reaches age 60, or (b) the application is received by the board in its Sacramento office, whichever is the later.

50963. No service shall be credited in the award system after age 60 unless such service credit is necessary to qualify for membership In the event that the recipient of an award performs volunteer fire

fighting service after age 60, his award shall be terminated during the period of such service. An award shall not begin to accrue thereafter unless and until an appropriate application therefor has been received by the board in its Sacramento office, and an award will begin to accrue and become payable thereafter effective the first day of the month following such application.

Article 4 Award

50964. An award is payable in equal monthly installments in arrears. Notwithstanding any other provision of this chapter, no award or portion thereof shall accrue or become payable for the month in which the member dies.

50965. The award shall consist of one hundred dollars ($100) per month for life reduced proportionately for service less than 20 years.

Article 5. Contract Provisions

50966. Any department may participate in and make all of its volunteers members of the award system by a contract entered into between its governing body and the board pursuant to this chapter, except that a department may not enter into such a contract within five years of termination of a previous contract for participation under this chapter.

50967 When the governing body of a department desires to consider participation in the award system, it shall ask the board for a quotation of the approximate contribution to the award system which would be required of the department for such participation

50968. An employee organization, recognized under the provisions of appropriate authority, may request the governing body of the department to ask the board for a quotation of the approximate contribution to the award system which would be required of the department for such participation, and if the employee organization is willing to pay for the cost of such quotation, the department shall make the request. The board shall furnish copies of its quotation to both the department and the employee organization

50969. On request of the board, the department shall furnish such data concerning its volunteers as the board requires to make the necessary valuations and investigations into the experience among such volunteers

50970. The approximate contribution quoted by the board and the actual contribution to be made if a contract results shall be determined by actuarial valuations of the future service liability under the award system, on account of the volunteers involved in the computation, in the same manner as the contribution required of the state on account of its employees was originally determined, except that, in consideration of the number of volunteers of the department or other circumstances, a different manner of determining such

contribution may be adopted by the board, upon recommendation of the actuary.

50971. Notwithstanding Section 50970, the approximate contribution quoted by the board and the actual contributions for a contracting department shall be the employer rate fixed by the board.

50972. The approximate and actual contributions shall be similar to premiums under insurance policies. The approximate contribution quoted by the board to the department is subject to the contingency that the actual contribution certified by the board after the approval of a contract may differ from the approximate contribution because of any of the following:

(a) Time elapsed between the quotation and operative date of the contract.

(b) Any changes in the facts or assumptions upon which the quotation was based.

50973. Approval of the contract shall be by an ordinance adopted by the affirmative vote of a majority of the electorate of the area served by the department voting thereon. The electorate shall be informed of the projected costs of the program and its method of financing.

If a governing body of a department is permitted by law to act by resolution, any action required by this article to be taken by ordinance may also be taken by adoption of a resolution.

50974. Errors in any contract may be corrected through amendments approved by the adoption of suitable resolutions by the contracting parties. All contract amendments shall be made in the same manner as prescribed for the approval of the initial contract.

50975. The contract may be terminated by an ordinance adopted by the affirmative vote of a majority of the electorate of the area served by the department voting thereon. All liability of the department with respect to its volunteer members of the award system shall cease. All moneys deposited in the fund shall be held for the continued payment of previously granted awards and the costs of administration.

Article 6. Funding

50977. Notwithstanding Section 50962, no award shall be payable, or begin to accrue, until the board establishes, by appropriate resolution, that the fund contains sufficient net assets to make such payments on an actuarial reserve basis.

50978. The sum of two hundred thousand dollars ($200,000) is hereby appropriated from the General Fund to the Board of Administration of the Public Employees' Retirement System, to be loaned by the board to the Volunteer Firefighters Length of Service Award System, at an annual interest rate equal to that currently earned by the Pooled Money Investment Fund on the date of such loan, to defray the start-up costs and the costs of administration of the

award system

The obligation of repayment of such moneys to the General Fund shall be treated as a liability for purposes of the accounting required in Section 50977. Repayment of such loan by the Volunteer Firefighters Length of Service Award System shall be made at times and in amounts deemed appropriate by the board

SEC 2. Section 1 of this act shall remain in effect only until January 1, 1985, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1985, deletes or extends such date.

CHAPTER 1146

An act to amend Section 1141.11 of the Code of Civil Procedure, and to amend Sections 73772, 73773, and 76043 of, and to add Section 69741.7 to, the Government Code, relating to courts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1979 Filed with Secretary of State September 29, 1979]

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

SECTION 1. Section 1141.11 of the Code of Civil Procedure, as amended by Chapter 46 of the Statutes of 1979, is amended to read:

1141.11 (a) In each superior court with 10 or more judges, all at-issue civil actions pending on or filed after the operative date of this chapter shall be submitted to arbitration, by the presiding judge or the judge designated, under this chapter if the amount in controversy in the opinion of the court will not exceed fifteen thousand dollars ($15,000) for each plaintiff, which decision shall not be appealable.

(b) In each superior court with less than 10 judges, the court may provide by local rule, when it determines that it is in the best interests of justice, that all at-issue civil actions pending on or filed after the operative date of this chapter, shall be submitted to arbitration by the presiding judge or the judge designated under this chapter if the amount in controversy in the opinion of the court will not exceed fifteen thousand dollars ($15,000) for each plaintiff, which decision shall not be appealable. In the Superior Court of Sonoma County all at-issue civil actions pending between October 1, 1979, and October 1, 1981, shall be submitted to arbitration by the presiding judge or the judge designated under this chapter if the amount in controversy in the opinion of the court will not exceed fifteen thousand dollars ($15,000) for each plaintiff, which decision shall not be appealable.

(c) In each municipal court district, the municipal court district may provide by local rule, when it is determined to be in the best

interests of justice, that all at-issue civil actions pending on or filed after the operative date of this chapter in such judicial district, shall be submitted to arbitration by the presiding judge or the judge designated under this chapter. The provisions of this section shall not apply to any action maintained pursuant to Section 1781 of the Civil Code or Section 116.2 or 1161 of this code.

(d) The provisions of this chapter shall not apply to those actions filed in a superior or municipal court which has been selected pursuant to Section 1823.1 and is participating in a pilot project pursuant to Title 1 (commencing with Section 1823) of Part 3.5. Any action filed in such court after the conclusion of the pilot project shall be subject to the provisions of this chapter.

SEC. 2. Section 1141.11 of the Code of Civil Procedure, as amended by Chapter 46 of the Statutes of 1979, is amended to read:

1141.11. (a) In each superior court with 10 or more judges, all at-issue civil actions pending on or filed after the operative date of this chapter shall be submitted to arbitration, by the presiding judge or the judge designated, under this chapter if the amount in controversy in the opinion of the court will not exceed fifteen thousand dollars ($15,000) for each plaintiff, which decision shall not be appealable.

(b) In each superior court with less than 10 judges, the court may provide by local rule, when it determines that it is in the best interests of justice, that all at-issue civil actions pending on or filed after the operative date of this chapter, shall be submitted to arbitration by the presiding judge or the judge designated under this chapter if the amount in controversy in the opinion of the court will not exceed fifteen thousand dollars ($15,000) for each plaintiff, which decision shall not be appealable. In the Superior Court of Sonoma County all at-issue civil actions pending between October 1, 1979, and October 1, 1981, shall be submitted to arbitration by the presiding judge or the judge designated under this chapter if the amount in controversy in the opinion of the court will not exceed fifteen thousand dollars ($15,000) for each plaintiff, which decision shall not be appealable.

(c) In each municipal court district, the municipal court district may provide by local rule, when it is determined to be in the best interests of justice, that all at-issue civil actions pending on or filed after the operative date of this chapter in such judicial district, shall be submitted to arbitration by the presiding judge or the judge designated under this chapter. The provisions of this section shall not apply to any action maintained pursuant to Section 1781 of the Civil Code or Section 116.2 or 1161 of this code.

(d) The provisions of this chapter shall not apply to those actions filed in a superior or municipal court which has been selected pursuant to Section 1823.1 and is participating in a pilot project pursuant to Title 1 (commencing with Section 1823) of Part 3.5; provided, however, that any superior or municipal court may provide by local rule that the provisions of this chapter shall apply

to actions pending on or filed after July 1, 1979. Any action filed in such court after the conclusion of the pilot project shall be subject to the provisions of this chapter.

SEC 3 Section 69741.7 is added to the Government Code, to read:

69741.7. At any time when one or more judges are assisting a one-judge superior court pursuant to judicial assignment under Section 6 of Article VI of the Constitution, and when there is a justice court in the county which is not in use for other court purposes, such superior court may conduct session at such justice court.

SEC. 4 Section 73772 of the Government Code is amended to read:

73772. There shall be one clerk, who shall be the administrative officer of the court and who shall receive an annual salary recommended by the municipal court and approved by the board of supervisors.

Any change in the salaries in effect immediately prior to January 1, 1980, shall be on an interim basis and shall expire on January 1 of the second calendar year after the calendar year in which the change occurs, unless ratified by the Legislature.

SEC. 5. Section 73773 of the Government Code is amended to read·

73773. (a) The clerk, with the approval of the judges of said court, may appoint one chief deputy clerk, 15 deputy clerks grade IV, 16 deputy clerks grade III, 12 deputy clerks grade II, 10 deputy clerks grade I, and seven intermediate typists and such other employees as the board of supervisors approve upon the recommendation of the municipal court, each of whom shall receive a salary recommended by the municipal court and approved by the board of supervisors. Any appointee shall be compensated at the first step and advance to each higher step upon completion of each year of service. Upon the recommendation of the municipal court and approval of the board of supervisors, such employees may be employed at or may be granted a special step increase to any step within the salary range on the basis of experience or qualifications.

(b) Any change in the salaries in effect immediately prior to January 1, 1980, shall be on an interim basis and shall expire on January 1 of the second calendar year after the calendar year in which the change occurs, unless ratified by the Legislature

SEC. 6. Section 76043 of the Government Code is amended to read:

76043. In a county of the 43rd class, for attending as trial juror or for attending as grand juror any duly called session of the grand jury or any meeting of committees appointed by the foreman of the grand jury, each juror shall be paid six dollars ($6) per day for each day's attendance and mileage at the rate of twenty cents ($0.20) per mile one way

SEC 7. Section 6 of this bill is declarative of the law existing prior to its adoption and is enacted in order to clarify legislative intent that grand jurors in counties of the 43rd class heretofore have been

entitled to receive fees and mileage for attending meetings of grand jury committees

SEC. 8. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because this act is in accordance with the request of a local governmental entity or entities which desired legislative authority to carry out the program specified in this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 9 Sections 1 and 2 of this act are necessary since special facts and circumstances applicable to superior court in Sonoma County, and not generally applicable, make the accomplishment of this purpose impossible by any general law. Special legislation is therefore necessary applicable to such courts only The special facts are as follows:

Sonoma County has the third highest rate of superior court cases, both civil and criminal, awaiting trial per judicial position of any county in the state and has the fourth highest median intervals in months from at-issue memorandum to trial of any county in the state. Accordingly, to overcome this backlog it is necessary to expand the Sonoma County Judicial Arbitration Program to the greatest extent possible

SEC 10. Sections 4, 5, 6, and 7 of this act shall become operative on January 1, 1980

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:

This bill must take effect before the end of the year in order to insure the efficient and effective operation of the courts

SEC 12 It is the intent of the Legislature, if this bill and Assembly Bill 1631 are both chaptered and become effective on or before January 1, 1980, both bills amend Section 1141 11 of the Code of Civil Procedure, and this bill is chaptered after Assembly Bill 1631, that Section 1141 11 of the Code of Civil Procedure, as amended by Section 1 of Assemby Bill 1631, 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 1141.11 proposed by both bills. Therefore, if this bill and Assembly Bill 1631 are both chaptered and become effective on or before January 1, 1980, and Assembly Bill 1631 is chaptered before this bill and amends Section 1141 11, 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 1147

An act relating to food and agriculture, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1979 Filed with Secretary of State September 29, 1979]

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

SECTION 1. The Legislature finds that 1,2-dibromo-3-chlorpropane (DBCP) use has been suspended in this state by the Department of Food and Agriculture since August 1977. The original suspension was for the purpose of determining if the material which had been shown to cause infertility in manufacturing plant employees presented similar problems to agricultural fieldworkers. Subsequently, worker-safety tests indicated a potential problem with residues on farm products from treated trees, vines, and plants which necessitated additional studies and testing to ascertain what impact, if any, is actually present. The department has conducted additional tests regarding the worker health and safety and residue questions.

The Legislature also finds that the Central Valley Regional Water Quality Control Board began and the department completed, in cooperation with the State Department of Health Services, tests for DBCP contamination of well water in areas where DBCP had previously been used. DBCP testing was found to be positive in 25 percent of the 139 wells tested. The federal Environmental Protection Agency has sampled wells in other states and found DBCP present in some of the sampled water.

The Legislature further finds that the recent discovery of well water contamination raises many unanswered health and safety questions, such as:

(a) How surface soil applications of DBCP infiltrated into the groundwater table at depths which were greater than 100 feet in some cases.

(b) What levels of DBCP in well water would be if the use of the material was resumed.

(c) What the public health implications are of exposure to water contaminated with DBCP at the levels detected in the well water tests.

(d) How DBCP entered municipal water supplies that had no overlying application of DBCP.

(e) Whether the contamination of well water can be reduced, mitigated, or prevented by a particular application technique or other means.

(f) What is the extent of DBCP contamination on a statewide basis.

(g) Whether or not a tolerance level for DBCP can be established which will adequately protect the public health.

The Legislature finds and declares that the state's annual ten billion dollar ($10,000,000,000) agricultural production, particularly in citrus, grapes, almonds, walnuts, stone fruit, and tomatoes, is seriously threatened by various kinds of nematodes that currently can only be controlled by periodic application of DBCP The Legislature further finds that the state economy will also be adversely affected by the effects of nematode infestations. Therefore, in conjunction with the research on DBCP, there is an urgent need to increase research efforts toward finding alternative means of nematode control. It is important that such research explore all possible methods of nematode control including, but not limited to, chemical, biological, and cultural control, and genetic (plant breeding) research.

The Legislature, therefore, finds and declares that the Department of Food and Agriculture, in cooperation with other appropriate governmental agencies, should initiate studies and projects necessary to answer these questions and to find suitable nematode control methods. The Department of Food and Agriculture and the State Department of Health Services have joint responsibility for completing the portion of the study referred to in subdivision (a) of Section 2. The Department of Food and Agriculture should have primary responsibility for all other studies and may contract with the University of California or others in order to expeditiously resolve these issues

SEC 2 The sum of one million dollars ($1,000,000) is hereby appropriated from the General Fund to the Department of Food and Agriculture for expenditure as follows.

(a) The sum of five hundred thousand dollars ($500,000) to be used during the 1979–80 fiscal year to initiate projects and research as follows.

(i) To determine the levels of DBCP contamination which would present a risk to public health, including worker safety, and to assess the health risk associated with any existing levels of contamination.

(ii) To determine whether there is contamination of California surface and underground water from the chemical DBCP, and to determine the extent and geographical distribution of any such contamination.

(iii) To determine how any such contamination occurred, under what circumstances contamination risk is evident (e.g soil types, specific methods of application), and how it can be controlled to a safe level.

(iv) To determine the extent to which agricultural application of DBCP can be effectuated without water contamination, or what mitigation measures would reduce any risk to the public health.

(v) To identify and develop reasonable alternative methods of protection against nematodes. Funds for such purpose shall be expended only if at least 50 percent in matching funds are made

available for each research project from other than General Fund moneys, provided that the Department of Food and Agriculture encourages the University of California to utilize portions of its appropriations for integrated pest management research.

All expenditures of General Fund moneys pursuant to subdivision (a) shall be contingent upon the Department of Food and Agriculture actively seeking alternative funding sources, such as the Environmental Protection Agency and the United States Department of Agriculture.

(b) The sum of five hundred thousand dollars ($500,000) for expenditure during the 1979–80 fiscal year for purposes of eradicating the plant pest Hydrilla (Hydrilla verticillata) in the area of the All-American Canal near Calexico and in the water system of the Imperial Irrigation District in Imperial County. The state General Fund appropriation shall not exceed one-third of the total costs of the program. The department shall seek federal and local funding for the balance of the eradication program costs. The department shall include in its budget request, funds for the program during the 1980–81, 1981–82, and 1982–83 fiscal years.

SEC. 3. The Department of Food and Agriculture and the State Department of Health Services shall jointly report to the Legislature no later than March 15, 1980, concerning the costs, results, and recommendations relating to the investigation into the levels of DBCP contamination which would present a public health risk, and the health risk associated with existing levels of DBCP contamination, as required by subdivision (a) of Section 2 of this act.

The Department of Food and Agriculture shall report to the Legislature no later than March 15, 1980, concerning all of the following:

(a) The amount spent or encumbered, and the amount projected to be spent or encumbered, by June 30, 1980, from the funds appropriated by this act, on each of the categories of research enumerated in Section 2 of this act.

(b) The results or progress of studies and research conducted under subdivisions (b), (c), (d), and (e) of Section 2 of this act.

(c) The amounts of matching funds, and the source of such matching funds, obtained pursuant to subdivision (e) of Section 2 of this act.

(d) Recommendations relating to the studies and research performed pursuant to subdivisions (b), (c), (d), and (e) of Section 2 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:

In order that the safety of DBCP use be determined as soon as possible, so that nematode damage may be combatted, it is necessary that this act take effect immediately

In addition, the Legislature recognizes that Hydrilla (Hydrilla

verticillata) is a serious pest which threatens the agricultural industry and the destruction of the waterways of the state. In order that funds be available as soon as possible to prevent such destruction, it is necessary that this act go into immediate effect.

CHAPTER 1148

An act to add an article heading immediately preceding Section 6024 of, and to add Article 2 (commencing with Section 6035) to, and Article 3 (commencing with Section 6040) to, Chapter 5 of Title 7 of Part 3 of, the Penal Code, and to amend the heading of Article 3 (commencing with Section 42050) of Chapter 1 of Division 18 of, and to amend Sections 42050 and 42052 of, the Vehicle Code, relating to corrections and probation officers, and making an appropriation therefor.

[Approved by Governor September 28, 1979 Filed with Secretary of State September 29, 1979]

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

SECTION 1. An article heading is added immediately preceding Section 6024 of the Penal Code, to read:

Article 1. General Provisions

SEC. 2. Article 2 (commencing with Section 6035) is added to Chapter 5 of Title 7 of Part 3 of the Penal Code, to read:

Article 2 Standards and Training of Local Corrections and Probation Officers

6035 (a) For the purpose of raising the level of competence of local corrections and probation officers, the board shall adopt, and may from time to time amend, rules establishing minimum standards for the recruitment and training for such officers employed by any county or city and county. All such rules shall be adopted and amended pursuant to Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) Any county or city and county receiving state aid pursuant to Article 3 (commencing with Section 6040) shall adhere to the standards for recruitment and training established by the board.

(c) Minimum training standards may include, but are not limited to, basic, entry, continuation, supervisory, management, and specialized assignments.

(d) Training standards shall apply to all local corrections and probation officers receiving funds under Article 3 (commencing with Section 6040) Exemptions from this requirement for personnel

hired prior to July 1, 1980, shall be determined by the board. For the purpose of such exemptions, the board may develop written or oral equivalency examinations, a certification process which recognizes standards equivalency through a combination of professional experience and training, or a combination of examination and certification.

6036. For purposes of implementing this article, the board shall have the following powers:

(a) Approve or certify, or both, training and education courses at institutions approved by the board.

(b) Make such inquiries as may be necessary to determine whether every county and city and county receiving state aid pursuant to this chapter is adhering to the standards for recruitment and training established pursuant to this chapter.

(c) Develop and operate a professional certificate program which provides recognition of achievement for local corrections and probation officers whose agencies participate in the program.

(d) Adopt such regulations as are necessary to carry out the purposes of this chapter.

(e) Perform such other activities and studies as would carry out the intent of this article.

6037 In exercising its functions, the board shall endeavor to minimize costs of administration so that a maximum of funds will be expended for the purpose of providing training and other services to eligible corrections and probation departments.

SEC. 3. Article 3 (commencing with Section 6040) is added to Chapter 5 of Title 7 of Part 3 of the Penal Code, to read:

Article 3. Corrections Training Fund

6040. There is hereby created in the State Treasury a Corrections Training Fund, which is hereby appropriated, without regard to fiscal years, exclusively for the costs of administration, the development of appropriate standards, and grants to local government pursuant to this article.

6041. Any county or city and county which desires to receive state aid pursuant to this article shall make application to the board for such aid The initial application shall be accompanied by a certified copy of an ordinance adopted by the governing body providing that, while receiving any state aid pursuant to this article, the county, or city and county, will adhere to the standards for recruitment and training established by the board. The application shall contain such information as the board may request.

6042 The board shall annually allocate and the State Treasurer shall periodically pay from the Corrections Training Fund, at intervals specified by the board, to each county or city and county which has applied and qualified for aid pursuant to this article an amount determined by the board pursuant to standards set forth in its regulations In no event shall any allocation be made to any county

or city and county which is not adhering to the recruitment and training standards established by the board as applicable to such county, or city and county.

6043. Peace officer personnel eligible for training subvention pursuant to Chapter 1 (commencing with Section 13500) of Title 4 of Part 4 shall not be eligible to receive funds under this article.

SEC. 4. The heading of Article 3 (commencing with Section 42050) of Chapter 1 of Division 18 of the Vehicle Code is amended to read·

Article 3 Driver Training, Corrections Training, and Peace Officers' Training Penalty Assessments

SEC 5. Section 42050 of the Vehicle Code is amended to read:

42050. To reimburse the General Fund for amounts appropriated therefrom for the laboratory phases of driver education pursuant to Section 17305 of the Education Code, and to augment the Corrections Training Fund and the Peace Officers' Training Fund to the extent designated in Section 42052, there shall be levied a penalty assessment on all offenses involving a violation of a section of this code or any local ordinance adopted pursuant to this code, except offenses relating to parking or registration or offenses by pedestrians or bicyclists, or where an order is made to pay a sum to the general fund of a county pursuant to subdivision (3) (c) of Section 564 of the Welfare and Institutions Code, in the following amounts:

(a) Where a fine is imposed	$5 for each $20 of fine, or fraction thereof.
(b) If sentence is suspended	$5 if jail only, otherwise based on the amount of the fine levied, as in subdivision (a).
(c) If bail is forfeited	$5 for each $20 of bail, or fraction thereof.
(d) Where multiple offenses are involved	The penalty assessment shall be based on the total fine or bail for all offenses, or $5 for each jail sentence.

When a fine is suspended, in whole or in part, the penalty assessment shall be reduced in proportion to the suspension

SEC 6 Section 42052 of the Vehicle Code is amended to read:

42052 After a determination by the court of the amount due under Section 42050, the clerk of the court shall collect the same and transmit it to the county treasury It shall then be transmitted to the State Treasury in the same manner as fines collected for the state by a county Upon order of the State Controller, the money shall be

deposited in the State Treasury as follows:

(a) Sixty percent of each such penalty assessment shall be deposited in the Driver Training Penalty Assessment Fund, which fund is continued in existence, to be used exclusively to reimburse the General Fund as provided in Section 42050.

(b) Twenty-five percent of each such penalty assessment shall be deposited in the Peace Officers' Training Fund.

(c) Fifteen percent of each such penalty assessment shall be deposited in the Corrections Training Fund established pursuant to Section 6040 of the Penal Code.

SEC. 7. The heading of Article 3 (commencing with Section 42050) of Chapter 1 of Division 18 of the Vehicle Code, as amended by Section 4 of Senate Bill 924 of the 1979–80 Regular Session of the Legislature, is amended to read:

Article 3. Driver Training Penalty Assessments

SEC. 8. Section 42050 of the Vehicle Code, as amended by Section 5 of Senate Bill 924 of the 1979–80 Regular Session of the Legislature, is amended to read:

42050. To reimburse the General Fund for amounts appropriated therefrom for the laboratory phases of driver education pursuant to Section 17305 of the Education Code, and to augment the Peace Officers' Training Fund to the extent designated in Section 42052, there shall be levied a penalty assessment on all offenses involving a violation of a section of this code or any local ordinance adopted pursuant to this code, except offenses relating to parking or registration or offenses by pedestrians or bicyclists, or where an order is made to pay a sum to the general fund of a county pursuant to subdivision (3) (c) of Section 564 of the Welfare and Institutions Code, in the following amounts:

(a) Where a fine is imposed	$5 for each $20 of fine, or fraction thereof.
(b) If sentence is suspended	$5 if jail only, otherwise based on the amount of the fine levied, as in subdivision (a).
(c) If bail is forfeited	$5 for each $20 of bail, or fraction thereof.
(d) Where multiple offenses are involved	The penalty assessment shall be based on the total fine or bail for all offenses, or $5 for each jail sentence.

When a fine is suspended, in whole or in part, the penalty assessment shall be reduced in proportion to the suspension.

SEC. 9. Section 42052 of the Vehicle Code, as amended by Section 6 of Senate Bill 924 of the 1979–80 Regular Session of the Legislature is amended to read·

42052. After a determination by the court of the amount due under Section 42050, the clerk of the court shall collect the same and transmit it to the county treasury It shall then be transmitted to the State Treasury in the same manner as fines collected for the state by a county. Upon order of the State Controller, the money shall be deposited in the State Treasury as follows:

(a) Seventy-five percent of each such penalty assessment shall be deposited in the Driver Training Penalty Assessment Fund, which fund is continued in existence, to be used exclusively to reimburse the General Fund as provided in Section 42050.

(b) Twenty-five percent of each such penalty assessment shall be deposited in the Peace Officers' Training Fund.

SEC 10 Sections 1 to 6, inclusive, of this act shall become operative July 1, 1980. Sections 7 to 9, inclusive, of this act shall become operative July 1, 1982.

CHAPTER 1149

An act to amend Section 48909 of, and to add Section 48910 to, the Education Code, relating to school violence and vandalism.

[Approved by Governor September 28, 1979 Filed with Secretary of State September 29, 1979]

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

SECTION 1. The Legislature finds and declares that there is a proliferation of violence on school grounds and school employees should be trained and prepared to handle incidents of violence and potentially violent situations. The Legislature finds and declares that the best training and preparation can be obtained from in-service teacher training in methods of self-defense and defusion of stress in a potentially violent situation The Legislature further finds and declares that such in-service teacher training should be conducted with the cooperation of local police agencies.

SEC 2 Section 48909 of the Education Code is amended to read:

48909. (a) Notwithstanding Section 1714 1 of the Civil Code, the parent or guardian of any minor whose willful misconduct results in injury or death to any pupil or any person employed by or performing volunteer services for a school district or private school or who willfully cuts, defaces, or otherwise injures in any way any property, real or personal, belonging to a school district or private school, or personal property of any school employee shall be liable for all such damages so caused by the minor The liability of the parent or guardian shall not exceed five thousand dollars ($5,000).

The parent or guardian shall also be liable for the amount of any reward not exceeding five thousand dollars ($5,000) paid pursuant to Section 53069.5 of the Government Code. The parent or guardian of a minor shall be liable to a school district or private school for all property belonging to the school district or private school loaned to the minor and not returned upon demand of an employee of the district or private school authorized to make the demand.

(b) Any school district or private school whose real or personal property has been willfully cut, defaced, or otherwise injured may, after affording the pupil his or her due process rights, withhold the grades, diploma, and transcripts of the pupil responsible for the damage until the pupil or the pupil's parent or guardian has paid for the damages thereto, as provided in subdivision (a). When the minor and parent are unable to pay for the damages, the school district or private school shall provide a program of voluntary work for the minor in lieu of the payment of monetary damages. Upon completion of such voluntary work the grades, diploma, and transcripts of the pupil shall be released.

The governing board of each school district or governing body of each private school shall establish rules and regulations governing procedures for the implementation of this subdivision. Such procedures shall conform to, but are not necessarily limited to, those procedures established in this code for the expulsion of pupils.

SEC. 3. Section 48910 is added to the Education Code, to read:

48910. An employee of a school district whose person or property is injured or damaged by the willful misconduct of a pupil who attends school in such district, when the employee or his or her property is (1) located on property owned by the district, (2) being transported to or from an activity sponsored by the district or a school within the district, (3) present at an activity sponsored by such district or school, or (4) otherwise injured or damaged in retaliation for acts lawfully undertaken by the employee in execution of the employee's duties, may request the school district to pursue legal action against the pupil who caused the injury or damage, or the pupil's parent or guardian pursuant to Section 48909.

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

CHAPTER 1150

An act to amend Sections 41814 and 84772 of, and to add Sections 41815 and 84773 to, the Education Code, to amend Sections 16113 and 16115 of, to repeal Section 29100.5 of, and to add Article 2.5 (commencing with Section 68030) to Chapter 1 of Title 7 8 of, the Government Code, and to add Sections 26482 and 26483 to, to amend Sections 219, 23151, 23181, 23182, 23183, 23184, 23186, and 42300 of, and to repeal Sections 991, 2193.3, 2193.5, 6354, 6359.5, 6383, and 6395 of, and to repeal Part 21 (commencing with Section 42000) of Division 2 of, the Revenue and Taxation Code, and to amend Sections 4 and 5 of Chapter 3 of the Statutes of 1979, relating to taxation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1979 Filed with Secretary of State September 29, 1979]

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 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 3. 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. 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.

(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. 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 31 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 1980–81 fiscal year, and each fiscal year thereafter, the amount the state shall reimburse local governmental agencies for revenue loss by reason of the exemption for business inventories provided for in Section 219 of the Revenue and Taxation Code, and for livestock as provided for in Section 5523 of such code, shall be computed as follows

(1) For the 1980–81 fiscal year, the reimbursement for each local governmental agency shall equal twice the amount of money that would have been allocated for the 1979–80 fiscal year to the agency if the inventory and livestock exemption reimbursement had been predicated on the agency's share of the proceeds from a countywide property tax rate of four dollars ($4) per one hundred dollars ($100) of assessed valuation including the amount such agency would have received if such amount had not been subtracted pursuant to the provisions of Section 16117, with the resulting total sum to be increased by a percentage equal to the State Reimbursement for Inventory Tax Factor.

(2) For 1981–82 fiscal year and each fiscal year thereafter, the reimbursement for each local governmental agency shall be equal to the reimbursement computed for the prior fiscal year pursuant to paragraph (1) of this subdivision, increased by a percentage equal to the State Reimbursement for Inventory Tax Factor

(d) With respect to the 1980–81 fiscal year and each fiscal year thereafter, 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 the amount computed pursuant to subdivision (c).

Proceeds received from the Controller pursuant to such claims shall be apportioned by the auditor to local governmental agencies within 10 days of receipt of such funds.

(e) For purposes of this section, "State Reimbursement for Inventory Tax Factor" means·

(1) For cities, counties, and special districts· the percentage

change in cost of living (as determined pursuant to Section 2212 of the Revenue and Taxation Code) plus the percentage change in the population of the city, county, or special district (as determined pursuant to Section 2227 or 2228 of the Revenue and Taxation Code).

(2) For school districts and community college districts: the percentage change in the cost of living (as determined pursuant to Section 2212 of the Revenue and Taxation Code) plus the percentage change in the ADA of the school district or community college district.

SEC. 5.5. Section 16115 of the Government Code is amended to read:

16115. (a) Out of the amount appropriated by Section 16100, the Controller shall pay on or before September 15th of each year to each county auditor the amount claimed under subdivision (a) of Section 16113.

(b) Out of the amount appropriated by Section 16100, the Controller shall pay on or before December 30th of each year to the county auditor one-half of the amount claimed under subdivision (b) of Section 16113 and shall pay the other one-half so claimed on or before April 30th.

(c) Out of the amount appropriated by Section 16100, the Controller shall pay on or before November 15th of each year to each county auditor the amount claimed under subdivision (d) of Section 16113

(d) Prior to paying any claim pursuant to subdivisions (a) and (b), the Controller shall reduce the amount of the counties' share by an amount equal to the amount of excess transfer as determined pursuant to paragraph (3) of subdivision (b) of Section 16172.

(e) "Excess transfer" means that the amount of money subtracted pursuant to paragraphs (2) and (3) of subdivision (b) of Section 16172 which is larger than the amount in paragraph (1) of such subdivision.

(f) The amount subtracted pursuant to subdivision (d) shall serve to reduce the county amount only and not any amount for any school district, community college district, county superintendent of schools, or other local agency, other than the county.

SEC. 6. Section 29100.5 of the Government Code is repealed.

SEC. 6.5. Article 2.5 (commencing with Section 68030) is added to Chapter 1 of Title 7.8 of the Government Code, to read:

Article 2.5. Fiscal Provisions

68030. An amount equal to 6 percent of the 1979–80 reimbursement for business inventories under the provisions of Sections 219, 5523, and 5546 of the Revenue and Taxation Code, as estimated in the 1979–80 Governor's Budget, shall be transferred from the General Fund to the State Litter Control, Recycling, and Resource Recovery Fund for appropriation in the 1979–80 fiscal year. For the 1980–81, 1981–82, and 1982–83 fiscal years, an amount equal

to 3 percent of the estimated reimbursement for business inventories under the provisions of Sections 219, 5523, and 5546 of the Revenue and Taxation Code, as shown in the Governor's Budget for the upcoming fiscal year, excluding any reductions which occur due to the operations of Sections 100 2, 100.3, and 100 5 of the Revenue and Taxation Code shall be transferred from the General Fund to the State Litter Control, Recycling, and Resource Recovery Fund

68031. The money in the fund shall, upon order of the State Controller, be drawn therefrom as follows:

(a) To pay any refund or make any remittance of a Litter Control, Recycling, and Resource Recovery Assessment authorized by law, including Section 4 of Chapter 3 of the Statutes of 1979.

(b) To pay the State Board of Equalization for the cost of administration of Part 21 (commencing with Section 42000) of Division 2 of the Revenue and Taxation Code, including any costs incurred in carrying out subdivision (a)

(c) The balance to be expended by the State Solid Waste Management Board, as provided in this title; provided, however, that such money shall not be expended for purposes of Article 8 (commencing with Section 32370) of Chapter 3 of Part 19 of the Education Code, and as provided in Section 68042 of this code, without appropriation therefor by the Legislature; and provided further, that such money shall not be expended for purposes of Section 66786.4, and as provided in Section 68046.9, without appropriation therefor by the Legislature.

68032. This article shall remain in effect only until July 1, 1983, and as of such date is repealed, unless a later enacted statute, which is chaptered before July 1, 1983, deletes or extends such date.

SEC. 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 cash 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 1979–1980 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 1980–81 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 Section 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. 7.3. Section 991 of the Revenue and Taxation Code is repealed.

SEC. 7.5. Section 2193.3 of the Revenue and Taxation Code is repealed.

SEC. 7.7. Section 2193.5 of the Revenue and Taxation Code is repealed.

SEC. 8. Section 6354 of the Revenue and Taxation Code is repealed.

SEC. 9. Section 6359.5 of the Revenue and Taxation Code is repealed.

SEC. 10. Section 6383 of the Revenue and Taxation Code is repealed.

SEC. 11. Section 6395 of the Revenue and Taxation Code is repealed.

SEC. 12. 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 or 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 1980, the rate of tax shall be 9.6 percent.

(d) For calendar or fiscal years ending in 1981 the rate shall be determined as follows:

If the net cash collections under the Bank and Corporation Tax Law for 1979–80, as determined by the Controller, are

Less than $2,950,000,000, the tax rate shall be 9.6 percent.

If $2,950,000,000 or greater, but less than $3,025,000,000, the tax rate shall be 9.50 percent.

If $3,025,000,000 or greater, but less than $3,100,000,000, the tax rate shall be 9.45 percent.

If $3,100,000,000 or greater, the tax rate shall be 9.40 percent

(e) For calendar or fiscal years ending in 1982 the rate shall be determined as follows:

If the net cash collections under the Bank and Corporation Tax Law for 1979–80 and 1980–81, as determined by the Controller, are·

Less than $6,000,000,000, the tax rate shall be 9 6 percent

If $6,000,000,000 or greater, but less than $6,075,000,000, the tax rate shall be 9.50 percent

If $6,075,000,000 or greater, but less than $6,150,000,000, the tax rate shall be 9.45 percent.

If $6,150,000,000 or greater, but less than $6,225,000,000, the tax rate shall be 9.40 percent

If $6,225,000,000 or greater, the tax rate shall be 9.35 percent.

(f) For calendar or fiscal years ending in 1983 and thereafter the rate shall be determined as follows

If the net cash collections under the Bank and Corporation Tax Law for 1979–80, 1980–81, and 1981–82, as determined by the Controller, are·

Less than $9,450,000,000, the tax rate shall be 9.6 percent

If $9,450,000,000 or greater, but less than $9,525,000,000, the tax rate shall be 9.50 percent.

If $9,525,000,000 or greater, but less than $9,600,000,000, the tax rate shall be 9.45 percent

If $9,600,000,000 or greater, but less than $9,675,000,000, the tax rate shall be 9.40 percent.

If $9,675,000,000 or greater, but less than $9,750,000,000, the tax rate shall be 9.35 percent.

If $9,750,000,000 or greater, the tax rate shall be 9.30 percent

(g) 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. 13 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 ending in 1980, every bank shall pay to the state a minimum tax of two hundred dollars ($200) or the measured tax imposed on its income, whichever is greater.

SEC. 14. 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 1979–80 Legislature with respect to sales and use taxes apply to income years beginning on and after January 1, 1980, and the remaining changes apply to income years beginning on and after January 1, 1981.

SEC. 14.5. Section 23183 of the Revenue and Taxation Code is amended to read:

23183. (a) An annual tax is hereby imposed upon every financial corporation doing business within the limits of this state and taxable under the provisions of Section 27 of Article XIII of the Constitution of this state, for the privilege of exercising its corporate franchises within 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

(b) For purposes of this article, the term "financial corporation" does not include any corporation, including a wholly owned subsidiary of a bank or bank holding company, if the principal business activity of such entity consists of leasing tangible personal property.

SEC. 15. 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. This paragraph does not apply to amounts incurred and paid beginning on and after January 1, 1980.

(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 not be 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 1980 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 1981 income year, and any unused offset shall be applied in like manner against its franchise tax for the next six 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, whichever is greater.

SEC. 16 Section 23186 of the Revenue and Taxation Code is amended to read:

23186. (a) Except as otherwise provided in subdivision (b) or subdivision (c), 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 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 shall be determined by ascertaining the ratio which the total amount of such personal property 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; provided, however, that if any such corporation sustains a net loss allocable to California the

personal property taxes required to be paid by such corporation to this state or its political subdivisions during the preceding calendar year or fiscal year ended during such calendar year shall be considered for the purpose of determining such ratio only to the extent which such personal property taxes exceed such net loss allocable to California.

(b) For income years ending in 1980, the rate of tax on banks and financial corporations shall be 11.6 percent For income years ending in 1981, the rate shall be the rate prescribed in subdivision (d) of Section 23151, plus 2.0 percent.

(c) For income years ending in 1982 and thereafter, 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 12 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 the rate prescribed in subdivision (e) or (f) of Section 23151, whichever is the applicable 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.

(d) Litigation is currently pending regarding the application of the ad valorem tax limitation provided in Article XIII A of the Constitution to personal property on the 1978–79 unsecured roll. After a decision in such litigation is final, the Franchise Tax Board shall redetermine the rate of tax for banks and corporations determined in 1979 (and 1980 if applicable). If the decision upholds

the application of the Article XIII A rate, the Franchise Tax Board redetermination shall, to the extent practicable, take into account resultant personal property tax reductions. Refunds resulting from such redetermined rate will be made pursuant to Section 26071. If the final court decision does not uphold the application of the Article XIII A rate to the 1978–79 unsecured roll, the Franchise Tax Board redetermination will take into account additional local tax billings resulting from such decision which are mailed within 12 months of such decision. Any additional taxes resulting from the redetermined rate will be due and payable within 30 days of mailing of a notice and demand by the Franchise Tax Board.

SEC. 16.3. Section 26482 is added to the Revenue and Taxation Code, to read:

26482. (a) 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 and thereafter shall be transferred by the Controller one-half in June and one-half in December from the General Fund to the Financial Aid to Local Agencies Fund, which is hereby created.

(b) The Department of Finance shall estimate the amounts to be deposited in such fund on or before June 1, 1980, and on or before June 1 of each year thereafter. The amounts transferred to this fund shall be adjusted annually to reflect actual collection as determined by the Franchise Tax Board.

SEC. 16.5. 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 the balance in the Financial Aid to Local Agencies Fund shall be allocated by the Controller to cities and counties in the following manner and amount:

(a) For the June allocation, one-half of the amount to be allocated to cities and counties shall be distributed based on population. The cities' allocation would be determined based on the proportion that the population of each city bears to the total population of California. The counties' allocation would be determined based on the proportion that the population residing in the unincorporated area of each county bears to the total population of California.

(b) The balance of the June allocation shall be distributed to cities and counties based on AFDC benefits paid during January, February, and March. The cities' allocation would be determined based on the proportion that the AFDC benefits paid to residents of each city bears to the total AFDC benefits paid to all residents of California. The counties' allocation would be determined based on the proportion the AFDC benefits paid to residents of the unincorporated area of each county bears to the total AFDC benefits paid to all residents of California.

(c) 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."

(d) For purposes of this section a city includes a city and county.

(e) Notwithstanding any other provision of this section, for fiscal years 1980–81 and 1981–82 only, before the allocation is made pursuant to subdivision (c), the Controller shall make an allocation on or before the last day of December in the following manner and amounts:

(1) For a redevelopment agency which is within a county having a population of 5,000,000 persons or more, and which is within a general law city having a population of not less than 30,000 persons and not more than 36,000 persons, and which has a redevelopment project area of more than 500 acres and less than 1,300 acres as of September 1, 1979. The allocation shall equal one hundred fifty thousand dollars ($150,000).

(2) For a redevelopment agency which is within a county having a population of 5,000,000 persons or more, and which is within a general law city having a population of not less than 36,000 persons and not more than 41,000 persons, and which has a redevelopment project area of more than 500 acres and less than 1,300 acres as of September 1, 1979. The allocation shall equal fifty thousand dollars ($50,000).

(3) For a redevelopment agency which is within a county having a population of 5,000,000 persons or more, and which is in a charter city having a population of not less than 70,000 persons and not more than 80,000 persons, and which has a redevelopment project area of not less than 100 acres and not more than 1,400 acres as of September 1, 1979. The allocation shall equal three hundred thousand dollars ($300,000).

SEC. 16.17. An amount of revenue equivalent of the additional revenue generated by the increases in the bank and corporation tax pursuant to this act shall be excluded from the computation of the deflator, pursuant to Section 100.5 of the Revenue and Taxation Code.

SEC. 17. (a) Part 21 (commencing with Section 42000) of Division 2 of the Revenue and Taxation Code is repealed; provided, however, that such part shall remain applicable for the purpose of making refunds, the effecting of any credits, or any other disposition of money collected.

(b) The Legislature finds that the reduction in revenues available for deposit in the State Litter Control, Recycling, and Resource Recovery Fund resulting from the enactment of this act will not significantly impair the operations of the State Solid Waste Management Board pursuant to the Litter Control, Recycling, and Resource Recovery Act of 1977 (commencing with Section 68000 of the Government Code) and will not impair any obligation to which the board is a party and that the repeal of Part 21 (commencing with Section 42000) of Division 2 of the Revenue and Taxation Code made by this act will provide for the more equitable implementation of the

Litter Control, Recycling, and Resource Recovery Act of 1977. Accordingly, the Legislature hereby finds and declares that the revisions to the fiscal provisions applicable to the State Solid Waste Management board made by this act and the refunds and remittances required to be made to taxpayers pursuant to Section 4 of Chapter 3 of the Statutes of 1979, as amended by this act, promote a legitimate state purpose.

SEC 17 76. Notwithstanding any other provision of law, the state shall reimburse local government for revenue lost pursuant to the business inventory exemption in 1978–79 for inventories on the unsecured and secured roll by using the secured roll tax rate for 1978–79. That portion of any claim for reimbursement based on a tax rate in excess of the 1978–79 secured roll tax rate shall be denied.

SEC. 17.98. Department of Finance estimates show that the cost provisions of this bill are fully funded by the additional General Fund revenues derived from the bank and corporation franchise tax rate increase and the economic stimulus of removing the remaining property tax on the approximately forty billion dollars ($40,000,000,000) in taxable business inventories.

SEC. 17.99. Section 42300 of the Revenue and Taxation Code, as amended by Chapter 338 of the Statutes of 1979, is amended to read·

42300. The assessments imposed by this part in 1978 are due and payable on or before November 30, 1979; and the assessments imposed by this part for 1979 and subsequent years are due and payable to the board annually on or before the last day of the second calendar month next succeeding each calendar year or on or before the last day of the second calendar month next succeeding the close of such period as may be prescribed by the board pursuant to Section 42304 If a taxpayer ceases to do business in this state, the assessments imposed by this part are due and payable to the board on or before the last day of the calendar month next succeeding the close of the calendar quarter in which the taxpayer ceased to do business in this state. However, if a taxpayer ceases to do business in this state at any time prior to November 30, 1979, the assessment is not due and payable until on or before the last day of the calendar month next succeeding the calendar quarter closing on or after November 30, 1979

SEC. 18 (a) The provisions of this act relating to changes in the rate of tax, as provided in the amendments to Sections 23151 and 23186 of the Revenue and Taxation Code shall be applied pursuant to the method prescribed in Section 24251 of the Revenue and Taxation Code. Bank and Corporation Tax returns required to be filed (without regard to any extensions) on or after April 15, 1980, shall use the rate prescribed by applying the method set forth in Section 24251 of the Revenue and Taxation Code Returns filed prior to such date shall use the rate in effect as of December 31, 1979, and any additional tax due as a result of a 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 on and after January 15, 1980, shall reflect the rate changes provided by this act in accord with instructions provided by the Franchise Tax Board.

SEC. 18.5. Section 4 of Chapter 3 of the Statutes of 1979 is amended to read:

Sec. 4. (a) The State Board of Equalization shall, insofar as it is practicable to do so, make refunds to all taxpayers who have paid the Litter Control, Recycling, and Resource Recovery Assessment.

(b) In lieu of making the refunds required by subdivision (a), the board shall, whenever it is feasible to do so, return the unendorsed check or money order forwarded by such taxpayer.

(c) Section 12419.5 of the Government Code does not apply to any refund or remittance made pursuant to this act

(d) This section 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. 19. Sections 1 to 4, inclusive, and Section 6 shall apply to computations made for the 1980–1981 fiscal year and fiscal years thereafter. Section 5 and Sections 7 to 11, inclusive, shall apply with respect to taxes imposed for and reimbursements claimed for the 1980–1981 fiscal year.

SEC. 19.79. Section 5 of Chapter 3 of the Statutes of 1979 is amended to read:

Sec. 5. (a) The provisions of this act shall apply to the assessment imposed on or after January 1, 1978.

(b) The Legislature finds that the reduction in revenues available for deposit in the State Litter Control, Recycling, and Resource Recovery Fund resulting from the enactment of this act will not significantly impair the operations of the State Solid Waste Management Board pursuant to the Litter Control, Recycling, and Resource Recovery Act of 1977 (commencing with Section 68000 of the Government Code) and will not impair any obligation to which the board is a party and that the amendments to Section 42103 of the Revenue and Taxation Code made by this act will provide for the more equitable implementation of the Litter Control, Recycling, and Resource Recovery Assessment. Accordingly, the Legislature hereby finds and declares that the reformulation of the assessment accomplished by such amendments and the refunds and remittances required to be made to taxpayers pursuant to this act promote a legitimate state purpose.

(c) The revised schedule of assessments and the revised due date for the payment of assessments established by, respectively, Sections 42103 and 42300 of the Revenue and Taxation Code shall apply to assessments, the liability for the payment of which accrues during the 1978 and subsequent tax years, unless a bill, which repeals or which further revises or replaces such schedule of assessments, is chaptered during 1979.

SEC. 19.80. Section 16114 of the Revenue and Taxation Code shall have no force or effect for the 1980–81 fiscal year or any fiscal year

thereafter.

SEC 20. The amendment to Revenue and Taxation Code Section 23182 contained in this act reaffirms the Legislature's longstanding purpose of insuring competitive parity between banks and financial corporations by subjecting both types of institutions to an equivalent tax burden. Equal tax treatment of banks and financial corporations promotes the continued existence of both types of institutions thereby affording a full range of financial services at competitive rates. Moreover, taxation of banks and financial corporations at the rate determined under Revenue and Taxation Code Section 23186 insures that their tax burden will be comparable to the combined state and local tax burdens of nonfinancial corporations subject to Revenue and Taxation Code Section 23151

The Legislature further finds that divergent and competing local tax measures imposed on financial corporations impair the uniform statewide regulation of banks and financial corporations. For this reason and those earlier expressed, the Legislature declares that the state, by this amendment, has preempted such local taxation of financial corporations to the same extent as the state has heretofore preempted local taxation of banks.

SEC. 20.5 A redevelopment agency may report to the State Board of Control with respect to the estimated loss of business inventory tax revenue or state subvention resulting from this act The State Board of Control shall review the data contained in such reports and shall, on or before January 31, 1980, report the following to the chairmen of the fiscal committees of the Legislature: (1) the loss of business inventory tax revenue (including state subventions) to redevelopment agencies resulting from this act; (2) the type and dollar amount of contractual obligations affected by this act; and (3) the amount of revenue which will not be available to the agency in order to meet its contractual obligations.

SEC. 20.20. The Office of Economic Planning, Policy and Research Development of the Department of Economic and Business Development shall report to the Legislature no later than December of 1980 on the amount of economic stimulus generated by the passage of this act, including specific data as to the effect on state revenues.

SEC. 21 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 enable the executive departments to implement its provisions before the commencement of the 1980–81 assessment year.

SEC. 22. In view of pending litigation concerning the application of sales tax to banks, it is not intended by enactment of this act that any inference be drawn from it in such litigation

CHAPTER 1151

An act to add Sections 1801.6, 1801.7, and 1803.9 to, and to add Article 12.4 (commencing with Section 1812.20) to Chapter 1 of Title 2 of Part 4 of Division 3 of, the Civil Code, relating to retail installment sales.

[Approved by Governor September 28, 1979 Filed with Secretary of State September 29, 1979]

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

SECTION 1. Section 1801.6 is added to the Civil Code, to read:

1801.6. (a) The provisions of this chapter shall not apply to any transaction in the form of a loan made by a supervised financial organization to a buyer of goods or services where all or a portion of the loan proceeds are used to purchase such goods or services, whether or not the seller of such goods or services arranges the loan or participates in the preparation of the loan documents, unless the supervised financial organization and the seller:

(1) Are related by common ownership and control and the relationship was a material factor in the loan transaction; or

(2) Share in the profits and losses of either or both the sale and the loan.

(b) For purposes of this section:

(1) The term "supervised financial organization" means a person organized, chartered, or holding a license or authorization certificate to make loans pursuant to the laws of this state or the United States who is subject to supervision by an official or agency of this state or the United States.

(2) Receipt of a loan commission, brokerage or referral fee by a seller from a supervised financial organization shall not constitute a sharing of profits of the supervised financial organization, provided that such loan commission, brokerage or referral fee is reasonable under the circumstances existing at the time the loan is consummated, if such loan commission, brokerage fee or referral fee is not refundable, or is wholly or partly refundable only if the loan is voluntarily paid in full prior to its scheduled maturity.

(3) Payment of money by a seller to a supervised financial organization pursuant to an actual or alleged contractual or statutory obligation to indemnify a supervised financial organization for losses incurred as a result of the assertion by a buyer of claims or defenses with respect to goods or services purchased with loan proceeds shall not constitute participation in or sharing of loan losses by the seller.

SEC. 2. Section 1801.7 is added to the Civil Code, to read:

1801.7. The provisions of this chapter shall not apply to any premium finance agreement entered into by an industrial loan company pursuant to Chapter 8 (commencing with Section 18560) of Division 7 of the Financial Code.

SEC. 3. Section 1803.9 is added to the Civil Code, to read:

1803.9. If it is explicitly understood between the seller and the buyer that all or any part of the cash price will be paid from the proceeds of a loan to be obtained by the buyer from a third party, the contract of sale or purchase order may be rescinded at the election of the buyer, and all considerations thereupon shall be returned by the respective parties without further demand, if the buyer is unable to obtain such third-party financing upon reasonable terms after having made a reasonable effort to obtain it, and buyer notifies the seller of the rescission within three business days.

SEC. 4. Article 12.4 (commencing with Section 1812.20) is added to Chapter 1 of Title 2 of Part 4 of Division 3 of the Civil Code, to read:

Article 12.4 Financing Retail Purchases

1812.20. Notwithstanding Section 1801.6, no person shall require a purchaser of goods or services to obtain financing from any particular source. Any person who violates this section shall be subject to the penalty provided in Section 1812.6.

SEC. 5. This act is intended to clarify and restate existing law regarding the characterization of loans and credit sales in light of the uncertainty created by King v. Central Bank, 18 Cal 3d 840, and is not intended to abrogate such law as evidenced by Verbeck v Clymer, 202 Cal. 557, Milana v. Credit Discount Co., 27 Cal. 2d 335, and Boerner v. Colwell Co., 21 Cal. 3d 37. Nothing in this act is intended to abrogate the decision in Morgan v. Reasor Corp., 69 Cal. 2d 881, to the extent such decision has not been modified by Chapter 554 of the Statutes of 1969 or other subsequent legislative amendments to the Unruh Act.

SEC. 6. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, there shall be no appropriation made by this act pursuant to these sections 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 agencies and school districts which, in the aggregate, do not result in significant identifiable cost changes. Paragraph (2) of subdivision (c) of Section 2253.2 of that code precludes the State Board of Control from considering claims for costs incurred by the creation of a new crime or infraction or by changes in the penalty for a crime or infraction, but the Department of Finance shall make the report required by Section 2246 of that code on costs mandated by this act.

CHAPTER 1152

An act to add Section 26 to the Business and Professions Code, to amend Sections 39140, 39152, 39190, 39191, 81130, and 81142 of, and to add Section 93 to, the Education Code, to amend Section 14 of the Food and Agricultural Code, to amend Sections 4450, 4451, 4452, 11343, 11346 1, 11346.2, and 11349.1 of, and to add Sections 11152.5, 11446, and 12856 to, the Government Code, to amend Sections 208, 432.4, 1275, 1276, 5474.29, 12081, 13025, 13104, 13108, 13113, 13116, 13142.6, 13143, 13143.6, 13143.7, 13144.1, 13145, 13146, 13201, 13211, 13212, 13213, 13214, 13215, 13216, 15000, 15020, 15021, 17001, 17020, 17023, 17031, 17034, 17036, 17037, 17040, 17050, 17052, 17055, 17060, 17912, 17920, 17920.7, 17920.9, 17921, 17921.1, 17921.3, 17922, 17922.1, 17922.6, 17922 7, 17923, 17924, 17925, 17927, 17930, 17950, 17951, 17952, 17958, 17958.5, 17958.7, 17958.8, 17958.9, 17960, 17961, 17964, 17965, 17966, 17967, 17970, 17971, 17980, 17995, 18201, 18253, 18254, 18300, 18301, 18305, 18306, 18400, 18401, 18403, 18404, 18505, 18552, 18554, 18610, 18612, 18613, 18614, 18620, 18630, 18640, 18670, 18690, 18691, 18700, 18800, 18801, 18811, 18820, 18822, 18823, 18824, 18830, 18830 1, 18831, 18832, 18840, 18841, 18842, 18850, 18851, 18897.2, 18897.3, 18897 4, 18897.5, 18897.6, 18897.7, 18951, 18954, 18958, 18959, 18959.5, 19124, 19150, 19971, 19980, 19984, 19985, 19990, 19991, 19992, 19995, 19997, 24102, 24103, 24104, 24108, 24156, 24210, 25142, 25150, 25151, 25152, 25200, 25811, 25820, 28694, 28694.5, 28802.5, 28863, 50558, and 50559 of, to amend and renumber Sections 17961.5 and 19940.5 of, to add Sections 25, 17042, 18203, 18811.5, 19967.2, and 50152.5 to, to repeal Part 2.5 (commencing with Section 18900) of, and to add Part 2 5 (commencing with Section 18901) to, and to repeal Chapter 11 (commencing with Section 19870) of Part 3 of, Division 13 of, the Health and Safety Code, to amend Sections 55, 142, 142.3, 142.5, and 7326 of, and to add Section 142 6 to, the Labor Code, to amend Sections 4291, 5003, 5055, 6321, 6322, and 30333 of, and to add Sections 514, 611, 712, 3112, 4120, 5003.2, 6111, 25216.4, 25402.2, 25488.5, 25493.5, 25605 5, 25609.5, 25920 5, 25925.5, and 30333.2 to, the Public Resources Code, and to repeal Section 5 of Assembly Bill No. 1111 of the 1979–80 Regular Session, relating to building standards.

[Approved by Governor September 28, 1979 Filed with Secretary of State September 29, 1979.]

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

SECTION 1. Section 26 is added to the Business and Professions Code, to read.

26. Wherever, pursuant to this code, any state department, officer, board, agency, committee, or commission is authorized to adopt rules and regulations, such rules and regulations which are building standards, as defined in Section 18909 of the Health and Safety Code, shall be adopted pursuant to the provisions of Part 2.5

(commencing with Section 18901) of Division 13 of the Health and Safety Code unless the provisions of Sections 18930, 18933, 18938, 18940, 18943, 18944, and 18945 of the Health and Safety Code are expressly excepted in the provision of this code under which the authority to adopt the specific building standard is delegated. Any building standard adopted in violation of this section shall have no force or effect. Any building standard adopted prior to January 1, 1980, pursuant to this code and not expressly excepted by statute from such provisions of the State Building Standards Law shall remain in effect only until January 1, 1985, or until adopted, amended, or superseded by provisions published in the State Building Standards Code, whichever occurs sooner.

SEC. 2. Section 93 is added to the Education Code, to read:

93. Wherever, pursuant to this code, any state department, officer, board, agency, committee, or commission is authorized to adopt rules and regulations, such rules and regulations which are building standards, as defined in Section 18909 of the Health and Safety Code, shall be adopted pursuant to the provisions of Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code unless the provisions of Sections 18930, 18933, 18938, 18940, 18943, 18944, and 18945 of the Health and Safety Code are expressly excepted in the provision of this code under which the authority to adopt the specific building standard is delegated. Any building standard adopted in violation of this section shall have no force or effect. Any building standard adopted prior to January 1, 1980, pursuant to this code and not expressly excepted by statute from such provisions of the State Building Standards Law shall remain in effect only until January 1, 1985, or until adopted, amended, or superseded by provisions published in the State Building Standards Code, whichever occurs sooner.

SEC. 3. Section 39140 of the Education Code is amended to read:

39140. The Department of General Services under the police power of the state shall supervise the design and construction of any school building or, if the estimated cost exceeds twenty thousand dollars ($20,000), the reconstruction or alteration of or addition to any school building, to ensure that plans and specifications comply with the rules and regulations adopted pursuant to this article and building standards published in the State Building Standards Code, and to ensure that the work of construction has been performed in accordance with the approved plans and specifications, for the protection of life and property Nothing in this section shall be construed to allow a school district to perform work with its own forces in excess of the limitations set forth in Sections 39640 and 39649.

SEC. 4. Section 39152 of the Education Code is amended to read:

39152. Except as provided in Section 18930 of the Health and Safety Code, the Department of General Services may from time to time make such rules and regulations as it deems necessary, proper, or suitable to carry out the provisions of this article.

The Department of General Services shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 of the Health and Safety Code for the purposes described in this article.

SEC. 5. Section 39190 of the Education Code is amended to read:

39190 It is the intent of this article to provide an alternative procedure to Article 3 (commencing with Section 39140) for the construction and installation of factory-built school buildings not over 1,000 square feet in area designed or intended for use as school buildings. As used in this article, a "factory-built building" means any building designed or intended for use as a school building which is either wholly manufactured or is in substantial part manufactured at an offsite location in accordance with building standards adopted and approved pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 of the Health and Safety Code and other regulations adopted by the Department of General Services, to be assembled or erected on a school site. Any such building purchased or leased by a school district shall be deemed to be the construction or alteration of a school building as those terms are used in Article 2 (commencing with Section 39110) and Article 3 (commencing with Section 39140) of this chapter, and all of the provisions of each of those articles, not inconsistent with the provisions of this article, shall apply with respect to factory-built buildings designed or intended for use as school buildings

SEC 6 Section 39191 of the Education Code is amended to read.

39191 Except as provided in Section 18930 of the Health and Safety Code, the Department of General Services shall adopt regulations for the safety of design and construction of factory-built buildings for use as school buildings, and shall prescribe procedures for the plans, specifications, methods of construction, and estimates of cost of a factory-built school building to be submitted to the department for approval as provided in Section 39192. Except as provided in Section 18930 of the Health and Safety Code, such regulations shall comply with but not be limited by the provisions of Article 2 (commencing with Section 39110) and Article 3 (commencing with Section 39140) of this chapter.

The Department of General Services shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 of the Health and Safety Code for the purposes described in this section.

SEC 7 Section 81130 of the Education Code is amended to read

81130. The Department of General Services under the police power of the state shall supervise the design and construction of any school building or, if the estimated cost exceeds twenty thousand dollars ($20,000), the reconstruction or alteration of or addition to any school building, to ensure that plans and specifications comply with the rules and regulations adopted pursuant to this article and building standards published in the State Building Standards Code, and to ensure that the work of construction has been performed in

accordance with the approved plans and specifications, for the protection of life and property. Nothing in this section shall be construed to allow a community college district to perform work with its own forces in excess of the limitations set forth in Sections 81640 and 81649.

SEC. 8. Section 81142 of the Education Code is amended to read:

81142. Except as provided in Section 18930 of the Health and Safety Code, the Department of General Services may from time to time make such rules and regulations as it deems necessary, proper, or suitable to carry out the provisions of this article.

The Department of General Services shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 of the Health and Safety Code for the purposes described in this article.

SEC. 9. Section 14 of the Food and Agricultural Code is amended to read:

14 Wherever, pursuant to this code, any state department, officer, board, agency, committee, or commission is authorized to adopt rules and regulations, such regulations shall be adopted in accordance with Chapter 4.5 (commencing with Section 11371), Part 1, Division 3, Title 2 of the Government Code, to the extent that that chapter is not specifically in conflict with the express terms of the provisions of this code which authorize the adoption of such regulations. Such rules and regulations which are building standards, as defined in Section 18909 of the Health and Safety Code, shall be adopted and approved pursuant to the provisions of Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 of the Health and Safety Code unless the provisions of Sections 18930, 18933, 18938, 18940, 18943, 18944, and 18945 of the Health and Safety Code are expressly excepted in the provision of this code under which the authority to adopt the specific building standard is delegated. Any building standard adopted in violation of this section shall have no force or effect. Any building standard adopted prior to January 1, 1980, pursuant to this code and not expressly excepted by statute from such provisions of the State Building Standards Law shall remain in effect only until January 1, 1985, or until adopted, amended, or superseded by provisions published in the State Building Standards Code, whichever occurs sooner.

The authority to adopt any rule, regulation, or rule and regulation which is vested in any state department, officer, board, agency, committee, or commission pursuant to this code includes the authority to amend or repeal such rule, regulation, or rule and regulation.

SEC. 10. Section 4450 of the Government Code is amended to read:

4450. It is the purpose of this chapter to insure that all buildings, structures, sidewalks, curbs, and related facilities, constructed in this state by the use of state, county, or municipal funds, or the funds of any political subdivision of the state shall be accessible to and usable

by the physically handicapped. The State Architect shall adopt and submit proposed building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 of the Health and Safety Code and shall adopt other regulations for making buildings, structures, sidewalks, curbs, and related facilities accessible to and usable by the physically handicapped. The regulations and building standards relating to access for the physically handicapped shall be consistent with the standards for buildings and structures which are contained in pertinent provisions of the latest edition of the Uniform Building Code, as adopted by the International Conference of Building Officials, and such regulations and building standards shall contain such additional requirements relating to buildings, structures, sidewalks, curbs, and other related facilities as the State Architect determines are necessary to assure access and usability for the physically handicapped. In developing and revising such additional requirements, the State Architect shall consult with the State Department of Rehabilitation, the League of California Cities, the County Supervisors Association of California, and at least one private organization representing and comprised of physically handicapped persons.

SEC. 11 Section 4451 of the Government Code is amended to read

4451. (a) Except as otherwise provided in this section, this chapter shall be limited in its application to all buildings and facilities stated in Section 4450 intended for use by the public, which have any reasonable availability to, or usage by, physically handicapped persons, including all facilities used for education and instruction including the University of California, the California State University and Colleges, and the various community college districts, which are constructed in whole or in part by the use of state, county, or municipal funds, or the funds of any political subdivision of the state.

(b) Buildings, structures, and facilities, occupied 50 percent or more, which are leased, rented, contracted, sublet or hired for periods in excess of two years by any municipal, county, or state division of government, or special district shall be made accessible to and usable by the physically handicapped Exceptions to this paragraph may be made upon application to, and approval by, the Department of Rehabilitation.

(c) Except as otherwise provided by law, buildings, structures, sidewalks, curbs, and related facilities subject to the provisions of this chapter or Part 5.5 (commencing with Section 19955) of Division 13 of the Health and Safety Code shall conform to the building standards published in the State Building Standards Code relating to access for the physically handicapped and the other regulations adopted pursuant to Section 4450 which are in effect on the date a building permit is issued therefor. With respect to such buildings, structures, sidewalks, curbs, and related facilities for which a building permit is not required, building standards published in the State Building Standards Code relating to access for the physically

handicapped and other regulations adopted pursuant to Section 4450 which are in effect at the time construction is commenced shall be applicable.

(d) Until building standards are published in the State Building Standards Code and other regulations are adopted by the State Architect pursuant to Section 4450, buildings, structures, sidewalks, curbs, and related facilities subject to the provisions of this chapter or Part 5.5 (commencing with Section 19955) of Division 13 of the Health and Safety Code shall conform to the American Standards Association Specifications A117.1/1961.

(e) This chapter shall apply to temporary or emergency construction as well as permanent buildings.

(f) Administrative authorities as designated under Section 4453 may grant exceptions from the literal requirements of the building standards published in the State Building Standards Code relating to access for the physically handicapped or the other regulations adopted pursuant to this section or permit the use of other methods or materials, but only when it is clearly evident that equivalent facilitation and protection are thereby secured.

SEC 12 Section 4452 of the Government Code is amended to read

4452. It is the intent of the Legislature that the building standards published in the State Building Standards Code relating to access by the physically handicapped and the other regulations adopted by the State Architect pursuant to Section 4450 shall be used as minimum requirements to insure that buildings, structures and related facilities covered by this chapter are accessible to, and functional for, the physically handicapped to, through, and within their doors, without loss of function, space, or facility where the general public is concerned.

Any unauthorized deviation from such regulations or building standards shall be rectified by full compliance within 90 days after discovery of the deviation.

SEC 12 2 Section 11343 of the Government Code, as added by Assembly Bill No. 1111 of the 1979–80 Regular Session, is amended to read

11343 Every state agency shall:

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

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

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

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

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

(b) Transmit to the office for filing with the Secretary of State and

with the Rules Committee of each house of the Legislature a certified copy of every order of repeal of a regulation required to be filed under subdivision (a) of this section.

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

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

(e) (1) Transmit to the State Building Standards Commission for approval a certified copy of every regulation, or order of repeal of a regulation, that is a building standard together with a citation of authority pursuant to which it or any part thereof was adopted, a copy of the notice of proposed action required by Section 11346.4, and any other records prescribed by the State Building Standards Law, Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code.

(2) After approval of a regulation which is a building standard or order of repeal of a regulation which is a building standard, the State Building Standards Commission shall transmit a certified copy of such regulation or such order of repeal to the office for filing with the Secretary of State and the Rules Committee of each house of the Legislature, and shall comply with the provisions of subdivisions (c) and (d)

SEC. 12.4. Section 11346.1 of the Government Code, as added by Assembly Bill No. 1111 of the 1979–80 Regular Session, is amended to read.

11346.1. (a) The provisions of this article shall not apply to any regulation not required to be filed with the Secretary of State under this chapter, and only this section, Sections 11346.2 and 11346.3 of this article and Section 11349.6 shall apply to any regulation prescribing an agency's organization or procedure or to an emergency regulation adopted pursuant to subdivision (b) of this section.

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

Any finding of an emergency shall include a written statement which contains the information required by Section 11346.5 and a description of the specific facts showing the need for immediate action.

The statement and the regulation or order of repeal shall be filed immediately with the Rules Committees of both houses of the Legislature and shall be published in the next issue of the notice supplement to the California Administrative Register.

(c) (1) Notwithstanding any other provision of the law, no board or commission shall have the power to adopt an emergency regulation to interpret, implement, or make specific provisions of the

law relating to campaign disclosure except by a unanimous vote of all members of such board or commission present at the proceeding at which such regulation is adopted.

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

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

(e) No regulation adopted as an emergency regulation shall remain in effect more than 120 days unless the agency complies with the other provisions of this chapter.

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

(g) In the event a regulation is orginally adopted and filed as an emergency and the adopting agency fails to comply with subdivision (e) as provided above, such failure shall constitute a repeal thereof and after notice to the adopting agency by the Office of Administrative Law, shall be deleted.

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

SEC. 12 6. Section 11346.2 of the Government Code, as added by Assembly Bill No. 1111 of the 1979–80 Regular Session, is amended to read

11346 2 A regulation or an order of repeal required to be filed with the Secretary of State shall become effective on the 30th day after the date of filing unless:

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

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

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

(d) The regulation or order of repeal is determined to be a building standard, as defined in Section 18909 of the Health and Safety Code, by the State Building Standards Commission and such building standard has not been approved by such commission. The office shall consult with the State Building Standards Commission on all regulations which may appear to be such building standards. Any such building standard improperly transmitted to the office as determined pursuant to this subdivision shall be transmitted to the State Building Standards Commission and the adopting state agency shall be notified of such transmittal.

SEC. 12.8. Section 11349.1 of the Government Code, as added by Assembly Bill No. 1111 of the 1979–80 Regular Session, is amended to read:

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

(a) Necessity.
(b) Authority.
(c) Clarity.
(d) Consistency.
(e) Reference
(f) Approval of the State Building Standards Commission for all regulations which are building standards, as defined in Section 18909 of the Health and Safety Code.

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

SEC. 13. Section 11152.5 is added to the Government Code, to read:

11152.5. Wherever, pursuant to this code, any state department, officer, board, agency, committee, or commission is authorized to adopt rules and regulations, such rules and regulations which are building standards, as defined in Section 18909 of the Health and Safety Code, shall be adopted pursuant to the provisions of Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code unless the provisions of Sections 18930, 18933, 18938, 18940, 18943, 18944, and 18945 of the Health and Safety Code are expressly excepted in the provision of this code under which the authority to adopt the specific building standard is delegated. Any building standard adopted in violation of this section shall have no force or effect. Any building standard adopted prior to January 1, 1980, pursuant to this code and not expressly excepted by statute from such provisions of the State Building Standards Law shall remain in effect only until January 1, 1985, or until adopted,

amended, or superseded by provisions published in the State Building Standards Code, whichever occurs sooner.

SEC 13.5. Section 11446 is added to the Government Code, to read:

11446. The provisions of Article 6 (commencing with Section 11349) shall not be applicable to any building standards subject to the approval of the State Building Standards Commission.

SEC. 14. Section 12856 is added to the Government Code, to read:

12856. In addition to any other provision of law, the Secretary of the State and Consumer Services Agency may appoint an assistant, who is exempt from the civil service laws. The secretary shall prescribe the duties of such assistant and shall fix the salary of such assistant subject to the approval of the Director of Finance. Such assistant shall serve at the pleasure of the secretary.

SEC. 15. Section 25 is added to the Health and Safety Code, to read·

25. Wherever, pursuant to this code, any state department, officer, board, agency, committee, or commission is authorized to adopt rules and regulations, such rules and regulations which are building standards, as defined in Section 18909 of the Health and Safety Code, shall be adopted pursuant to the provisions of Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code unless the provisions of Sections 18930, 18933, 18938, 18940, 18943, 18944, and 18945 of the Health and Safety Code are expressly excepted in the provision of this code under which the authority to adopt the specific building standard is delegated. Any building standard adopted in violation of this section shall have no force or effect. Any building standard adopted prior to January 1, 1980, pursuant to this code and not expressly excepted by statute from such provisions of the State Building Standards Law shall remain in effect only until January 1, 1985, or until adopted, amended, or superseded by provisions published in the State Building Standards Code, whichever occurs sooner.

SEC. 16. Section 208 of the Health and Safety Code is amended to read:

208 (a) It may adopt and enforce rules and regulations for the execution of its duties.

(b) All regulations heretofore adopted by the State Department of Health or its predecessors relating to public health, the licensing and certification of health facilities, except the licensing of community care facilities, or any other function performed by the Division of Public Health of the State Department of Health, and in effect immediately preceding the operative date of the amendment of this section enacted by the Legislature during the 1977–78 Regular Session, shall remain in effect and shall be fully enforceable unless and until readopted, amended, or repealed by the director or as otherwise provided by Section 25 or other provisions of law. This subdivision shall not apply to any regulation relating to a function transferred to a different state agency or department as a result of

another provision of the statutes enacted during the 1977–78 Regular Session.

SEC. 17. Section 432.4 of the Health and Safety Code is amended to read:

432.4. The state department shall by regulation prescribe minimum requirements for the maintenance and operation of hospitals which receive federal aid for construction under the state plan and shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 of this code as required for such purposes.

SEC. 18. Section 1275 of the Health and Safety Code is amended to read:

1275 The state department shall adopt, 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 and Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 of this 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 including, but not limited to, the provisions of the State Building Standards Law, Part 2.5 (commencing with Section 18901) of Division 13 of this code.

All regulations in effect on December 31, 1973, which were adopted by the State Board of Public Health, the State Department of Public Health, the State Department of Mental Hygiene, or the State Department of Health relating to licensed health facilities shall remain in full force and effect until altered, amended, or repealed by the director or pursuant to Section 25 of this code or other provisions of law.

SEC 19 Section 1276 of the Health and Safety Code is amended to read:

1276. The building standards published in the State Building Standards Code and the other regulations adopted by the state department 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 type of health facility and the needs of the persons served thereby.

SEC. 20 Section 5474.29 of the Health and Safety Code is amended to read:

5474 29. Except as provided in Section 18930, the State Department of Health Services, after consultation with the State Departments of Food and Agriculture and Industrial Relations, may make and promulgate reasonable regulations in accordance with this chapter pursuant to Chapter 4.5 (commencing with Section 11371), Part 1, Division 3, Title 2 of the Government Code and may adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 of this code

SEC. 21. Section 12081 of the Health and Safety Code is amended to read

12081. Except as limited by Chapter 6 (commencing with Section 140) of Division 1 of the Labor Code and Section 18930 of this code, the State Fire Marshal shall prepare and adopt, in accordance with the provisions of Chapter 4.5 (commencing at Section 11371), Part 1, Division 3, Title 2 of the Government Code, reasonable regulations which are not in conflict with this part, relating to the sale, use, handling, possession, and storage of explosives.

The building standards adopted and submitted for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 of this code and the other regulations adopted by the State Fire Marshal shall·

(a) Make reasonable allowances for storage facilities in existence when the regulations become effective. No allowance, however, shall be made for storage facilities which constitute a distinct hazard to life and property, nor shall any allowance be made for storage facilities wherein proper safeguards for the control and security of explosives cannot be maintained

(b) Be based on performance standards wherever possible.

(c) Make reasonable allowances for the storage of gunpowder for commerical and private use. No allowance, however, shall be made for storage facilities which constitute a distinct hazard to life and property, nor shall any allowance be made for storage facilities wherein proper safeguards for the control and security of explosives cannot be maintained.

(d) Set uniform requirements for the use and handling of explosives that would apply statewide.

(e) The building standards published in the State Building Standards Code relating to storage of explosives and the other regulations adopted by the State Fire Marshal pursuant to this section shall apply uniformly throughout the State of California, and no city, county, city and county, or other political subdivision of this state, including, but not limited to, a chartered city, county, or city and county, shall adopt or enforce any ordinance or regulation which is inconsistent with the provisions of this section.

(f) In making the regulations the State Fire Marhsal shall consider as evidence of generally accepted safety standards the publications of the National Fire Protection Association, the United States Bureau of Mines, the United States Department of Defense, and the Institute of Makers of Explosives.

SEC 22 Section 13025 of the Health and Safety Code is amended to read

13025 (a) All equipment for fire protection purposes having couplings or fittings with an inside diameter of three inches or less, purchased by any authorities having charge of public property, shall be equipped with standard threads for fire hose couplings and hydrant fittings designated as the national standard as adopted by the National Board of Fire Underwriters, which standard is

designated as the standard for such equipment in this state. The State Fire Marshal shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 of this code in order to conform such building standards to the provisions of this subdivision and subdivision (b).

(b) All equipment for fire protection purposes having couplings or fittings with an inside diameter greater than three inches, if equippped with threads, shall be equipped with the standard threads prescribed in subdivision (a).

(c) All equipment for fire protection purposes having couplings or fittings with an inside diameter greater than three inches not equipped with threaded fittings or couplings shall be approved by the State Fire Marshal, with advice from the State Board of Fire Services. The proposed system of use of such nonthreaded couplings or fittings shall be submitted in detail to the State Fire Marshal who shall, with advice from the State Board of Fire Services, approve its use if mutual aid capability is assured.

(d) The State Fire Marshal shall adopt and submit building standards for approval pursuant to the provisions of Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 of this code for any fire hydrants, including dry standpipe connections, in or on any improvement to land, which building standards define the requirements for standard threads for fire hose couplings and hydrant fittings as provided in subdivision (a) or (b).

SEC. 23. Section 13104 of the Health and Safety Code is amended to read:

13104. The State Fire Marshal shall aid in the enforcement of all laws and ordinances, any rules and regulations adopted under the provisions of Division 11 (commencing with Section 12000) of, and Part 1 (commencing with Section 13000) and Part 2 (commencing with Section 13100) of Division 12 of, the Health and Safety Code, and building standards adopted by the State Fire Marshal and published in the State Building Standards Code relating to fires or to fire prevention and protection.

The State Fire Marshal shall, if possible, attend, and take charge of and protect all property which may be imperiled by any fire other than:

(a) A forest, brush, or grain fire.

(b) A fire occurring within any city or town maintaining a fire department, within a fire protection district, or within a county where there is a regularly appointed county fire warden.

SEC. 24. Section 13108 of the Health and Safety Code is amended to read:

13108. (a) Except as limited by Chapter 6 (commencing with Section 140) of Division 1 of the Labor Code and Section 18930 of this code, the State Fire Marshal shall prepare and adopt building standards, not inconsistent with existing laws or ordinances, relating to fire protection in the design and construction of the means of egress and the adequacy of exits from, and the installation and

maintenance of fire alarm and fire extinguishment equipment or systems in, any state institution or other state-owned building or in any state-occupied building and submit such building standards to the State Building Standards Commission for approval pursuant to the provisions of Chapter 4 (commencing with Section 18935) of Part 2 5 of Division 13 of this code. The State Fire Marshall shall prepare and adopt regulations other than building standards for the installation and maintenance of equipment and furnishings that present unusual fire hazards in any state institution or other state-owned building or in any state-occupied building. The State Fire Marshal shall adopt such regulations as are reasonably necessary to define what buildings shall be considered as state-occupied buildings.

(b) The fire chief of any city, county, or fire protection district, or such person's authorized representative, may enter any state institution or any other state-owned or state-occupied building for the purpose of preparing a fire suppression preplanning program or for the purpose of investigating any fire in a state-occupied building.

(c) Except as otherwise provided in this section, the State Fire Marshal shall enforce the regulations adopted by him and building standards relating to fire and panic safety published in the State Building Standards Code in all state-owned buildings, state-occupied buildings, and state institutions throughout the state. Upon written request from the chief fire official of any city, county, or fire protection district, the State Fire Marshal may authorize such chief fire official and his authorized representatives, in their geographical area of responsibility, to make fire prevention inspections of state-owned or state-occupied buildings, other than state institutions, for the purpose of enforcing the regulations relating to fire and panic safety adopted by the State Fire Marshal pursuant to this section and building standards relating to fire and panic safety published in the State Building Standards Code Authorization from the State Fire Marshal shall be limited to those fire departments or fire districts which maintain a fire prevention bureau staffed by paid personnel.

(d) Any requirement or order made by any chief fire official pursuant to this section may be appealed to the State Fire Marshal. The State Fire Marshal shall, upon receiving an appeal and subject to the provisions of Chapter 5 (commencing with Section 18945) of Part 2 5 of Division 13 of this code, determine if the requirement or order made is reasonably consistent with the fire and panic safety regulations adopted by him and building standards relating to fire and panic safety published in the State Building Standards Code

SEC 25 Section 13113 of the Health and Safety Code is amended to read

13113 (a) Except as otherwise provided in this section, no person, firm, or corporation shall establish, maintain, or operate any hospital, children's home, children's nursery, or institution, or a home or institution for the care of aged or senile persons, or any sanitarium or institution for insane or mentally retarded persons and

any nursing or convalescent home, wherein more than six guests or patients are housed or cared for on a 24-hour-per-day basis unless there is installed and maintained in an operable condition in every building or portion thereof where patients or guests are housed an automatic sprinkler system approved by the State Fire Marshal.

(b) Any hospital, children's home, children's nursery, or institution, or any home or institution for the care of aged or senile persons, or any sanitarium or institution for insane or mentally retarded persons, or any nursing or convalescent home under construction or in existence and operating on March 4, 1972, which does not meet the requirements of this section, may operate or continue to operate without meeting such requirements until June 30, 1976. In no event shall the continued use of such facilities extend beyond that date, unless an appoved automatic sprinkler system as required by this section has been installed or is in the process of being installed in accordance with the schedule set forth in subdivision (f).

(c) This section shall not apply to homes or institutions for the 24-hour-per-day care of ambulatory children if all of the following conditions are satisfied:

(1) The buildings or portions thereof in which such children are housed are not more than two stories in height and are constructed and maintained in accordance with regulations adopted by the State Fire Marshal pursuant to Section 13143 and building standards published in the State Building Standards Code.

(2) The buildings or portions thereof housing more than six such children shall have installed and maintained in an operable condition therein a fire alarm system of a type approved by the State Fire Marshal. Such system shall be activated by detectors responding to invisible products of combustion other than heat.

(3) The buildings or portions thereof do not house mentally ill or mentally retarded children.

(d) This section shall not apply to any one-story building or structure of an institution or home for the care of the aged providing 24-hour-per-day care if such building or structure is used or intended to be used for the housing of no more than six ambulatory aged persons. However, such buildings or institutions shall have installed and maintained in an operable condition therein a fire alarm system of a type approved by the State Fire Marshal. Such system shall be activated by detectors responding to products of combustion other than heat.

(e) This section shall not apply to occupancies, or any alterations thereto, located in type I construction, as defined by the State Fire Marshal, under construction or in existence on March 4, 1972.

(f) Any facility exempted from the requirements of subdivision (a) until June 30, 1976, by subdivision (b) may continue to operate without having therein an operational automatic sprinkler system approved by the State Fire Marshal if the installation of such a system, or the installation of an approved fire alarm system as authorized by subdivision (c) or (d), is commenced prior to June 30,

1976, and completed on or before December 31, 1976. Installation shall be deemed commenced for purposes of this subdivision when the facility has completed all of the following:

(1) Submitted to the state department a written contract with a licensed contractor for installation of such an automatic sprinkler system or fire alarm system in accordance with plans and specifications approved by the State Fire Marshal. The contract shall require the contractor to complete such installation within six months of the date of execution thereof and not later than December 31, 1976.

(2) Obtained all necessary permits and other governmental approvals required by law for the commencement of such installation.

(3) The contractor has commenced performance under the contract and has performed onsite work thereunder.

(g) This section shall not apply to the continuing use of an existing hospital which is to be replaced by the construction of another facility, during the period of time required to complete construction of the replacement hospital and make it available for occupancy without unreasonable delay, as determined by the state department, and which shall not in any case exceed two years from the date the actual work of construction is commenced, provided each of the following conditions is satisfied.

(1) The governing body or board of the hospital, on or before June 30, 1976, files with the state department a letter of intent to replace the existing facility with a new facility, the construction of which is planned to commence prior to December 31, 1976

(2) On or before June 30, 1976, plans for the replacement facility are approved pursuant to Chapter 1 (commencing with Section 15000) of Division 12.5, approved by the State Fire Marshal or local enforcement agency as meeting applicable requirements of this chapter, regulations adopted hereunder, and building standards published in the State Building Standards Code relating to fire and panic safety, and approved by the state department pursuant to its regulations and procedures governing plan review.

(3) The replacement facility is under construction prior to December 31, 1976.

(h) "Under construction," as used in this section, means that actual work shall have been performed on the construction site and shall not be construed to mean that the hospital, home, nursery, institution, sanitarium or any portion thereof, is in the planning stage

SEC 27. Section 13116 of the Health and Safety Code is amended to read

13116. Except as provided in Section 18930, the State Fire Marshal shall prepare and adopt rules and regulations establishing minimum requirements for the prevention of fire and panic in connection with the use of tents, awnings or other fabric enclosures. The State Fire Marshal shall adopt and submit building standards for

approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 of this code for the purposes described in this section.

SEC. 28. Section 13142.6 of the Health and Safety Code is amended to read·

13142 6. (a) The board, under the direction of the vice chairman, shall sit as a board of appeals on the application of the State Fire Marshal's regulations excepting application of building standards published in the State Building Standards Code, by the State Fire Marshal or his salaried assistants. When any affected person believes that such regulations, excepting building standards, are being applied incorrectly, such person may appeal the decision of the State Fire Marshal to the board. The board shall not consider any such appeal unless the matter has come to the attention of the State Fire Marshal and he has rendered a decision in writing Any appeal to the board shall be made by the affected person or his agent in writing in the form and manner prescribed by the board. The decision of the board shall be binding upon the State Fire Marshal. Any decision made by the board shall be for the instant case only and shall not be construed as setting precedent for general application.

(b) When any affected person believes that such building standards are being applied incorrectly by the State Fire Marshal or his salaried assistants, such person may appeal to the State Building Standards Commission pursuant to Chapter 5 (commencing with Section 18945) of Part 2.5 of Division 13 of this code.

SEC. 29. Section 13143 of the Health and Safety Code is amended to read:

13143. (a) Except as provided in Section 18930, the State Fire Marshal, with the advice of the State Board of Fire Services, shall prepare, adopt, and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 of this code and shall prepare and adopt other regulations establishing minimum requirements for the prevention of fire and for the protection of life and property against fire and panic in any building or structure used or intended for use as an asylum, jail, mental hospital, hospital, sanitarium, home for aged, children's nursery, children's home or institution not otherwise excluded from the coverage of this subdivision, school, or any similar occupancy of any capacity, and in any theater, dancehall, skating rink, auditorium, assembly hall, meeting hall, nightclub, fair building, or similar place of assemblage where 50 or more persons may gather together in a building, room or structure for the purpose of amusement, entertainment, instruction, deliberation, worship, drinking or dining, awaiting transportation, or education, and in any building or structure which is open to the public and is used or intended to be used for the showing of motion pictures when an admission fee is charged and when such building or structure has a capacity of 10 or more persons. The State Fire Marshal shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing

with Section 18935) of Part 2.5 of Division 13 of this code for the purposes described in this section. Regulations adopted pursuant to this subdivision and building standards relating to fire and panic safety published in the State Building Standards Code shall establish minimum requirements relating to the means of egress and the adequacy of exits from, the installation and maintenance of fire extinguishing and fire alarm systems in, the storage and handling of combustible or explosive materials or substances, and the installation and maintenance of appliances, equipment, decorations, and furnishings that present a fire, explosion or panic hazard, and such minimum requirements shall be predicated on the height and fire-resistive qualities of the building or structure and the type of occupancy for which it is to be used. The building standards and other regulations shall apply to auxiliary or accessory buildings used or intended for use with any of the occupancies mentioned in this subdivision. Violation of any such building standard or other such regulation shall be a violation of the provisions of this chapter.

In preparing and adopting building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 of this code, and in preparing and adopting other regulations affecting public schools, the State Fire Marshal shall also secure the advice of the Department of Education. No regulation adopted by the State Fire Marshal shall conflict with any rule, regulation, or building standard lawfully adopted or enforced by the Department of General Services pursuant to Article 3 (commencing with Section 39140) of Chapter 2 of Part 23 or Article 7 (commencing with Section 81130) of Chapter 1 of Part 49 of the Education Code.

Notwithstanding the provisions of subdivision (a) of this section and Section 13143.6, facilities licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 which provide nonmedical board, room, and care for six or fewer ambulatory children placed with the licensee for such care shall not be subject to the provisions of Article 1 (commencing with Section 13100) or Article 2 (commencing with Section 13140) of this chapter or regulations adopted pursuant thereto. No city, county, or public district shall adopt or enforce any requirement for the prevention of fire or for the protection of life and property against fire and panic with respect to structures used as facilities specified in this subdivision, unless the requirement would be applicable to such a structure regardless of such special occupancy. Nothing in this subdivision shall restrict the application of state or local housing standards to such facilities, if the standards are applicable to residential occupancies and are not based upon the use of the structure as such a facility.

"Ambulatory children," as used in this subdivision, does not include nonambulatory persons, as defined in Section 13131, and relatives of the licensee or the licensee's spouse.

SEC. 30. Section 13143.6 of the Health and Safety Code, as amended by Chapter 442 of the Statutes of 1979, is amended to read:

13143.6. (a) Except as provided in Section 18930, the State Fire Marshal, with the advice of the State Board of Fire Services, shall prepare and adopt regulations establishing minimum standards for the prevention of fire and for the protection of life and property against fire in any building or structure used or intended for use as a home or institution for the housing of any person of any age when such person is referred to or placed within such home or institution for protective social care and supervision services by any governmental agency. The State Fire Marshal shall adopt and submit building standards for approval pursuant to the provisions of Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 for the purposes described in this section. Occupancies within the meaning of this subdivision shall be those not otherwise specified in Sections 13113 and 13143 and shall include, but are not limited to, those commonly referred to as "certified family care homes," "out-of-home placement facilities," and "halfway houses." Building standards relating to fire and panic safety published in the State Building Standards Code and other regulations adopted pursuant to this subdivision shall establish minimum requirements relating to the means of egress and the adequacy of exits, the installation and maintenance of fire extinguishing and fire alarm systems, the storage, handling, or use of combustible or flammable materials or substances, and the installation and maintenance of appliances, equipment, decorations, and furnishings that may present a fire, explosion, or panic hazard. Such minimum requirements shall be predicated on the height, area, and fire-resistive qualities of the building or structure used or intended to be used.

Any building or structure within the scope of this subdivision used or intended to be used for the housing of more than six nonambulatory persons shall have installed and maintained in proper operating condition an automatic sprinkler system approved by the State Fire Marshal. "Nonambulatory person," as used in this section, means nonambulatory person as defined in Section 13131

The ambulatory or nonambulatory status of any mentally retarded person within the scope of this subdivision shall be determined by the Director of Developmental Services.

Any building or structure within the scope of this subdivision used or intended to be used for the housing of more than six ambulatory persons shall have installed or maintained in proper operating condition an automatic fire alarm system approved and listed by the State Fire Marshal which will respond to products of combustion other than heat

In preparing and adopting regulations pursuant to this subdivision, the State Fire Marshal shall give reasonable consideration to the continued use of existing buildings' housing occupancies established prior to March 4, 1972.

In preparing and adopting regulations pursuant to this subdivision, the State Fire Marshal shall also secure the advice of the appropriate governmental agencies involved in the affected protective social

care programs in order to provide compatibility and maintenance of operating programs in this state.

Any governmental agency that refers any person to, or causes his or her placement in, any home or institution subject to this section shall, within seven days after the referral or placement, request verification of conformance to the fire safety standards adopted by the State Fire Marshal pursuant to this section from the fire authority having jurisdiction pursuant to Sections 13145 and 13146. Any referral or placement in homes or institutions subject to this section shall be subject to rescission if the fire authority having jurisdiction subsequently informs the governmental agency that it is unable to give the requested verification.

When a building or structure within the scope of this subdivision is used to house either ambulatory or nonambulatory persons, or both, and an automatic sprinkler system, approved by the State Fire Marshal, is installed, this subdivision shall not be construed to also require the installation of an automatic fire alarm system.

(b) Notwithstanding any other provision of law, facilities which are subject to the provisions of subdivision (a) and which are used for the housing of persons, none of whom are physically or mentally handicapped or nonambulatory persons within the meaning of Section 13131, shall not be required to have installed an automatic sprinkler system or an automatic fire alarm system. In adopting regulations, or when adopting building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13, affecting facilities specified in this subdivision, the State Fire Marshal shall take into consideration the ambulatory and nonhandicapped status of persons housed in such facilities.

(c) It is the intent of the Legislature that any building or structure within the scope of subdivision (a) in which there is housed any totally deaf person, shall be required by the State Fire Marshal to be equipped with fire warning devices to which such person is able to respond.

SEC. 30.5. Section 13143.6 of the Health and Safety Code, as amended by Chapter 442 of the Statutes of 1979, is amended to read:

13143.6. (a) Except as provided in Section 18930, the State Fire Marshal, with the advice of the State Board of Fire Services, shall prepare and adopt regulations establishing minimum standards for the prevention of fire and for the protection of life and property against fire in any building or structure used or intended for use as a home or institution for the housing of any person of any age when such person is referred to or placed within such home or institution for protective social care and supervision services by any governmental agency. The State Fire Marshal shall adopt and submit building standards for approval pursuant to the provisions of Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 for the purposes described in this section. Occupancies within the meaning of this subdivision shall be those not otherwise specified in Sections 13113 and 13143 and shall include, but are not limited to, those

commonly referred to as "certified family care homes," "out-of-home placement facilities," and "halfway houses " Building standards relating to fire and panic safety published in the State Building Standards Code and other regulations adopted pursuant to this subdivision shall establish minimum requirements relating to the means of egress and the adequacy of exits, the installation and maintenance of fire extinguishing and fire alarm systems, the storage, handling, or use of combustible or flammable materials or substances, and the installation and maintenance of appliances, equipment, decorations, and furnishings that may present a fire, explosion, or panic hazard. Such minimum requirements shall be predicated on the height, area, and fire-resistive qualities of the building or structure used or intended to be used.

Any building or structure within the scope of this subdivision used or intended to be used for the housing of more than six nonambulatory persons shall have installed and maintained in proper operating condition an automatic sprinkler system approved by the State Fire Marshal. "Nonambulatory person," as used in this section, means nonambulatory person as defined in Section 13131

The ambulatory or nonambulatory status of any developmentally disabled person within the scope of this subdivision shall be determined by the Director of Social Services, or his or her designated representative, in consultation with the Director of Developmental Services, or his or her designated representative

Any building or structure within the scope of this subdivision used or intended to be used for the housing of more than six ambulatory persons shall have installed or maintained in proper operating condition an automatic fire alarm system approved and listed by the State Fire Marshal which will respond to products of combustion other than heat.

In preparing and adopting regulations pursuant to this subdivision, the State Fire Marshal shall give reasonable consideration to the continued use of existing buildings' housing occupancies established prior to March 4, 1972.

In preparing and adopting regulations pursuant to this subdivision, the State Fire Marshal shall also secure the advice of the appropriate governmental agencies involved in the affected protective social care programs in order to provide compatibility and maintenance of operating programs in this state

Any governmental agency that refers any person to, or causes his or her placement in, any home or institution subject to this section shall, within seven days after the referral or placement, request verification of conformance to the fire safety standards adopted by the State Fire Marshal pursuant to this section from the fire authority having jurisdiction pursuant to Sections 13145 and 13146. Any referral or placement in homes or institutions subject to this section shall be subject to rescission if the fire authority having jurisdiction subsequently informs the governmental agency that it is unable to give the requested verification

When a building or structure within the scope of this subdivision is used to house either ambulatory or nonambulatory persons, or both, and an automatic sprinkler system, approved by the State Fire Marshal, is installed, this subdivision shall not be construed to also require the installation of an automatic fire alarm system.

(b) Notwithstanding any other provision of law, facilities which are subject to the provisions of subdivision (a) and which are used for the housing of persons, none of whom are physically or mentally handicapped or nonambulatory persons within the meaning of Section 13131, shall not be required to have installed an automatic sprinkler system or an automatic fire alarm system. In adopting regulations, or when adopting building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13, affecting facilities specified in this subdivision, the State Fire Marshal shall take into consideration the ambulatory and nonhandicapped status of persons housed in such facilities.

(c) It is the intent of the Legislature that any building or structure within the scope of subdivision (a) in which there is housed any totally deaf person, shall be required by the State Fire Marshal to be equipped with fire warning devices to which such person is able to respond.

SEC. 31. Section 13143.7 of the Health and Safety Code is amended to read:

13143.7. It is the intent of the Legislature that the provisions of Section 13143.6, the regulations adopted by the State Fire Marshal pursuant to Section 13143.6, and building standards adopted by the State Fire Marshal pursuant to Section 13143.6 and published in the State Building Standards Code relating to fire and panic safety shall apply uniformly throughout the State of California and no county, city, city and county, or district shall adopt or enforce any ordinance or local rule or regulation relating to fire and panic safety in buildings or structures used or intended for use as community care facilities, as defined in Section 1502.

SEC. 32. Section 13144.1 of the Health and Safety Code is amended to read:

13144.1. Except as provided in Sections 18930 and 18933, the State Fire Marshal shall biennially prepare and publish listings of construction materials and equipment and methods of construction and of installation of equipment, together with the name of any person, firm, corporation, association, or similar organization designated as the manufacturer, representative, or supplier, which are in conformity with building standards relating to fire and panic safety adopted and published in the State Building Standards Code and other fire and panic safety requirements adopted by the State Fire Marshal and published in Title 19 of the California Administrative Code. The State Fire Marshal shall in alternate years prepare and publish revisions to the listings.

Copies of such listings or revisions shall be distributed by the State Fire Marshal at the costs incurred by him for the printing and

distribution of such listings or revisions to persons who have submitted written requests for such approved listings or revisions.

The purpose of this section is to provide enforcement authorities, architects, engineers, contractors, local building officials, and any other interested persons, with a reliable and readily available source of information of construction materials, equipment, methods of construction, and installation of equipment which meet the minimum requirements established or enforced by the State Fire Marshal, pursuant to Sections 13108 and 13143. No person, firm, corporation, association, or similar organization shall be denied listing if the material to be listed is approved by a testing organization using testing procedures approved by the State Fire Marshal

It shall not be construed that because a material, assemblies of materials, method of construction and installation of equipment has not been listed, as provided by this section, that such a material, assemblies of materials, method of construction and installation of equipment does not conform to the fire and panic safety requirements as published in the State Building Standards Code or in Title 19 of the California Administrative Code.

SEC. 33. Section 13145 of the Health and Safety Code is amended to read.

13145. The State Fire Marshal, the chief of any city or county fire department or fire protection district, and their authorized representatives, shall enforce in their respective areas building standards relating to fire and panic safety adopted by the State Fire Marshal and published in the State Building Standards Code and other regulations that have been formally adopted by the State Fire Marshal for the prevention of fire or for the protection of life and property against fire or panic.

SEC. 34. Section 13146 of the Health and Safety Code is amended to read·

13146. The division of authority for enforcement of building standards adopted by the State Fire Marshal and published in the State Building Standards Code relating to fire and panic safety and other regulations of the State Fire Marshal shall be as follows:

(a) The chief of any city or county fire department or fire protection district, and their authorized representatives, shall enforce such building standards and other regulations of the State Fire Marshal in their respective areas.

(b) The State Fire Marshal shall have authority to enforce such building standards and other regulations of the State Fire Marshal in areas outside of corporate cities and county fire protection districts.

(c) The State Fire Marshal shall have authority to enforce such building standards and other regulations of the State Fire Marshal in corporate cities and county fire protection districts upon request of the chief fire official or the governing body.

SEC 35. Section 13201 of the Health and Safety Code is amended to read·

13201. The minimum building standards for all drycleaning plants and processes in this state shall be the provisions published in the State Building Standards Code. The State Fire Marshal shall adopt regulations for protection against fire and panic safety in drycleaning plants and processes, other than building standards, reasonably consistent with the Uniform Fire Code, 1979 edition, and its referenced document, as published by the International Conference of Building Officials and the Western Fire Chiefs Association, Inc. The State Fire Marshal shall adopt building standards for such purposes, reasonably consistent with such model code, and submit such building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 of this code. Any local agency may adopt more restrictive building standards and regulations relating to fire and panic safety in drycleaning plants.

SEC. 36. Section 13211 of the Health and Safety Code is amended to read:

13211. The State Fire Marshal, with the advice of the State Board of Fire Services, shall prepare and adopt building standards relating to fire and panic safety in high-rise structures and submit such building standards for approval and publication in the State Building Standards Code pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 of this code. The State Fire Marshal shall prepare and adopt other regulations establishing minimum standards for the prevention of fire and for the protection of life and property against fire and panic in high-rise structures. Such regulations shall differentiate between existing high-rise structures and new high-rise structures.

SEC. 37. Section 13212 of the Health and Safety Code is amended to read:

13212. Subject to the provisions of Sections 25 and 18943 of this code, regulations adopted by the State Fire Marshal pursuant to Section 13211 applicable to new high-rise structures shall be adopted on or before July 1, 1974, and shall become effective July 1, 1974. Such regulations may include, but not be limited to, requirements with respect to the following elements:

(a) Automatic smoke and fire detection systems.

(b) Automatic fire extinguishing systems.

(c) An intrastructure communication system for those engaged in fire suppression activities.

SEC. 38. Section 13213 of the Health and Safety Code is amended to read:

13213. (a) Building standards and other regulations of the State Fire Marshal applicable to existing high-rise structures shall provide to the greatest feasible extent for the safety of occupants of the high-rise structure and persons involved in fire suppression activities. All existing high-rise structures shall be conformed to the requirements contained in such building standards and such other regulations on or before April 26, 1979.

(b) The period for compliance with such requirements may be extended upon showing of good cause for such extension if a systematic and progressive plan of correction is submitted to, and approved by, the enforcing agency Such extension shall not exceed two years from the date of approval of such plan Any plan of correction submitted pursuant to this subdivision shall be submitted and approved on or before April 26, 1979

SEC. 39 Section 13214 of the Health and Safety Code is amended to read

13214. The provisions of this chapter, building standards applicable to high-rise structures published in the State Building Standards Code relating to fire and panic safety, and the other regulations of the State Fire Marshal adopted pursuant to this chapter shall be enforced in the same manner as provided in Sections 13145 and 13146. The State Fire Marshal, his deputies, or his salaried assistants, the chief of any city or county fire department or fire protection district and their authorized representatives may enter any building, premises, or portion thereof not used for dwelling purposes at any reasonable hour for the purpose of enforcing this chapter. The owner, lessee, manager, or operator of any such building or premises shall permit the State Fire Marshal, his deputies, his salaried assistants, or the chief or any city or county fire department or fire protection district or their authorized representatives to enter and inspect the building or premises at the time and for the purpose stated in this chapter

SEC 40. Section 13215 of the Health and Safety Code is amended to read

13215 It is unlawful for any person to construct or maintain any high-rise structure in violation of the provisions of this chapter, building standards published in the State Building Standards Code relating to fire or panic safety, or other regulations adopted pursuant to the provisions of this chapter

SEC 41 Section 13216 of the Health and Safety Code is amended to read:

13216 The governing body of any city or county may impose greater restrictions with respect to high-rise structures than are imposed by the building standards published in the State Building Standards Code relating to fire or panic safety or the other regulations of the State Fire Marshal adopted pursuant to this chapter.

SEC 42 Section 15000 of the Health and Safety Code is amended to read

15000 It is the intent of the Legislature that the Department of General Services shall analyze the structural systems and details, as set forth in the working drawings and specifications, and observe the construction of hospital projects and report the findings of such analysis to the state department It is further the intent of the Legislature to preempt from local jurisdictions the enforcement of building standards published in the State Building Standards Code

relating to the regulation of hospital projects pursuant to this chapter and the enforcement of other regulations adopted pursuant to this chapter, including the plan checking. It is further the intent of the Legislature that where local jurisdictions have more restrictive requirements for the enforcement of building standards, other building regulations, and construction supervision, such requirements shall be enforced by the state.

SEC 43 Section 15020 of the Health and Safety Code is amended to read:

15020. Except as provided in Section 18930, the state department, with the advice of the Department of General Services, shall from time to time make such rules and regulations as it deems necessary, proper, or suitable to effectually carry out the provisions of this chapter. The state department shall also adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 of this code relating to seismic structural safety for hospitals.

SEC. 44. Section 15021 of the Health and Safety Code is amended to read·

15021. (a) There is in the Office of Statewide Health Planning and Development a Building Safety Board which shall advise and, except as provided in Section 18945, which shall act as a board of appeals with regard to seismic safety of hospitals. The Director of the Office of Statewide Health Planning and Development, with the advice of the Department of General Services, shall appoint the members of the Building Safety Board, which shall advise and, except as provided in Section 18945, which shall act as a board of appeals in all matters affecting seismic safety in the administration and enforcement of building standards relating to seismic safety for hospitals published in the State Building Standards Code and the other provisions of this chapter. The board shall consist of 11 members appointed by the Director of the Office of Statewide Health Planning and Development and six ex officio members who are· the Director of the Office of Statewide Health Planning and Development, the State Architect, the State Fire Marshal, the State Geologist, the Chief of the Facilities Development Section in the Office of Statewide Health Planning and Development, and the Chief Structural Engineer of the Structural Safety Section of the Office of the State Architect in the Department of General Services, or their officially designated representatives. Of the appointive members, two shall be structural engineers, two shall be architects, one shall be an engineering geologist, one shall be a soils engineer, one shall be a seismologist, one shall be a mechanical engineer, one shall be an electrical engineer, one shall be a member of any of such above listed professions, and one shall be a hospital administrator

(b) The chairperson of the board shall be an appointive member and shall be elected by a majority of the appointive members.

(c) The appointive members shall serve at the pleasure of the director The appointive members holding office on January 1, 1979,

may continue to serve until the appointment of their successors by the director The director may also appoint as many other ex officio members, with the advice of the chairperson, as the director may desire. Ex officio members are not entitled to vote

(d) Board members, qualified by close connection with hospital design and construction and highly knowledgeable in their respective fields with particular reference to seismic safety, shall be appointed from nominees recommended by the governing bodies of the Structural Engineers Association of California, the California Council, American Institute of Architects; the Earthquake Engineering Research Institute; the Association of Engineering Geologists; the Consulting Engineers Association of California, and the California Hospital Association. Board members shall be residents of California.

SEC 45. Section 17001 of the Health and Safety Code, as added by Chapter 62 of the Statutes of 1979, is amended to read

17001 Buildings used for human habitation, and buildings accessory thereto, within a labor camp shall comply with the building standards published in the State Building Standards Code relating to labor camps and with the other regulations adopted pursuant to this part, unless a local ordinance prescribing minimum standards adopted in accordance with Sections 17958.5 and 17958 7 which is equal to such regulations is applicable. Notwithstanding the provisions of Section 17050, if such a local ordinance is applicable to buildings used for human habitation, and buildings accessory thereto, within a labor camp, such buildings shall comply with the construction and erection provisions of the ordinance

SEC 46 Section 17020 of the Health and Safety Code, as added by Chapter 62 of the Statutes of 1979, is amended to read·

17020 Except as otherwise provided in this part, the provisions of this part, building standards published in the State Building Standards Code relating to labor camps, and the other rules and regulations promulgated pursuant to the provisions of this part which relate to labor camps apply in all parts of the state and supersede any ordinance or regulations enacted by any city, county, or city and county applicable to labor camps Rules and regulations adopted or continued in effect prior to January 1, 1980, by former Chapter 4 (commencing with Section 2610) of Part 9 of Division 2 of the Labor Code are hereby continued in effect as rules and regulations under this part until amended or repealed by the Commission of Housing and Community Development

Building standards as defined by Section 18909 shall remain in effect only until January 1, 1985, or until adopted, amended, or superseded by provisions published in the State Building Standards Code relating to labor camps pursuant to the provisions of Chapter 4 (commencing with Section 18935) of Part 2 5, whichever occurs sooner

SEC 48 Section 17023 of the Health and Safety Code, as added by Chapter 62 of the Statutes of 1979, is amended to read

17023 Rules and regulations adopted or continued in effect pursuant to the provisions of this part relating to the erection or construction of buildings or structures within labor camps shall not apply to existing buildings or structures or to buildings and structures as to which construction is commenced or approved prior to the effective date of the rules and regulations, except by act of the Legislature, but regulations relating to use, maintenance, and occupancy shall apply to all labor camps approved for construction and operation before or after the effective date of such rules and regulations.

Building standards as defined in Section 18909 shall remain in effect only until January 1, 1985, or until adopted, amended, or superseded by provisions published in the State Building Standards Code pursuant to the provisions of Chapter 4 (commencing with Section 18935) of Part 2 5, whichever occurs sooner.

SEC. 49. Section 17031 of the Health and Safety Code, as amended by Chapter 385 of the Statutes of 1979, is amended to read:

17031. (a) The operator of a labor camp on a farm, which meets the requirements of Section 32505 of the Food and Agricultural Code, consisting only of permanent housing may request an exemption from the requirement of obtaining an annual permit to operate. The labor camp operator shall notify each tenant of the permanent housing in writing that such an exemption is being requested. Such a request for exemption shall be made in writing to the enforcement agency.

An exemption shall be granted to permanent housing unless such housing is in violation of the State Housing Law, building standards published in the State Building Standards Code relating to labor camps, or the other regulations adopted pursuant to the State Housing Law in a manner which materially affects the health and safety of the occupants, or in the case of a mobilehome, is in violation of the National Mobile Home Construction and Safety Act of 1974 (42 U.S C. 5401, et seq) or regulations of the commission pursuant to Section 18056 5 of the Health and Safety Code in a manner which materially affects the health and safety of the occupants, or has been found in violation of this chapter within the previous two years.

(b) Whenever the enforcement agency issues an exemption from the requirement of obtaining a permit to operate, it shall make written findings indicating the reasons for issuing such an exemption Exemptions shall be reviewed annually by the enforcement agency.

The findings of the enforcement agency shall include, but not be limited to, the following information

(1) The year the dwellings on the labor camp were constructed

(2) The number of years the labor camp has been operated with a valid permit to operate.

(3) The number and character of any complaints received during the time the labor camp has been operating either with or without a permit

(4) Any violations cited in the last inspection of the labor camp

(c) Failure to maintain any permanent housing in accordance with the State Housing Law, or, in the case of mobilehomes, failure to maintain such mobilehomes in accordance with the provisions of Part 2.1 (commencing with Section 18200) of Division 13 of this code, and the regulations adopted pursuant thereto, in a manner which materially affects the health and safety of the occupants, shall be considered cause for revocation of an exemption.

SEC. 50. Section 17034 of the Health and Safety Code, as added by Chapter 62 of the Statutes of 1979, is amended to read:

17034. If any person who holds an annual permit to operate a labor camp violates any of the provisions of this part, building standards published in the State Building Standards Code relating to labor camps, the other regulations adopted pursuant to the provisions of this part, or conditions of the permit, the enforcement agency shall proceed according to Section 17055 immediately upon discovery of such a violation.

SEC. 51 Section 17036 of the Health and Safety Code, as added by Chapter 62 of the Statutes of 1979, is amended to read:

17036 Except as provided in Section 18930, the commission shall adopt regulations which it determines are necessary for the administration and enforcement of this part. Such regulations adopted, amended, or repealed shall prescribe reasonable requirements for issuance of permits and establish procedures for suspension of permits, including appeal procedures.

The commission shall establish a schedule of fees to pay for the cost of administration and enforcement of this part

SEC. 52. Section 17037 of the Health and Safety Code, as added by Chapter 62 of the Statutes of 1979, is amended to read.

17037. Every person, or the agent or officer thereof, constructing, operating, or maintaining a labor camp shall comply with the requirements of this part, building standards published in the State Building Standards Code relating to labor camps, and the other regulations adopted pursuant to the provisions of this part. Any person operating or maintaining a labor camp without first having obtained a permit to operate from the enforcement agency shall pay double the fees prescribed for the permit to operate such camp.

SEC. 53 Section 17040 of the Health and Safety Code, as added by Chapter 62 of the Statutes of 1979, is amended to read.

17040. (a) Except as provided in Section 18930, the commission shall adopt, amend, or repeal rules and regulations for the protection of the public health, safety, and general welfare of employees and the public, governing the erection, construction, enlargement, conversion, alteration, repair, occupancy, use, sanitation, ventilation, and maintenance of all labor camps

(b) The appropriate enforcement agency shall enforce building standards published in the State Building Standards Code relating to labor camps and other regulations of the commission promulgated pursuant to subdivision (a)

(c) The commission shall adopt and submit building standards for

approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 for the purposes described in this chapter.

SEC 54 Section 17042 is added to the Health and Safety Code, to read

17042. Notwithstanding any other provision of this code or of law and except as provided in the State Building Standards Law, Part 2.5 (commencing with Section 18900), on and after January 1, 1980, the commission or the department shall not adopt nor publish a building standard as defined in Section 18909 unless the provisions of Sections 18930, 18933, 18938, 18940, 18943, 18944, and 18945 are expressly excepted in the statute under which the authority to adopt rules, regulations, or orders is delegated. Any building standard adopted in violation of this section shall have no force or effect. Any building standard adopted before January 1, 1980, or continued in effect, pursuant to this part and not expressly excepted by statute from such provisions of the State Building Standards Law, shall remain in effect only until January 1, 1985, or until adopted, amended, or superseded by provisions published in the State Building Standards Code, whichever occurs sooner.

SEC 55 Section 17050 of the Health and Safety Code, as added by Chapter 62 of the Statutes of 1979, is amended to read·

17050 (a) Except as provided in Section 18930, the Commission of Housing and Community Development may promulgate rules and regulations to interpret and make specific the provisions of this part and when adopted such rules and regulations shall apply to all parts of the state

(b) Upon written notice to the Department of Housing and Community Development, any city, county, or city and county may assume the responsibility for the enforcement of this part, the building standards published in the State Building Standards Code relating to labor camps, and the other regulations adopted pursuant to the provisions of this part following approval by the department for such assumption

(c) The Commission of Housing and Community Development shall adopt regulations which shall set forth the conditions for assumption and may include required qualifications of local enforcement agencies. When assumption is approved, the department shall transfer the responsibility for enforcement to the city, county, or city and county, together with all records of labor camps within its jurisdiction

(d) Such city, county, or city and county may, by ordinance, establish a schedule of fees for the operation of labor camps not to exceed that which is established by the commission

(e) In the event of nonenforcement of this part, the building standards published in the State Building Standards Code relating to labor camps, or the other rules and regulations adopted pursuant to the provisions of this part, the department shall enforce the provisions of this part, the building standards published in the State Building Standards Code relating to labor camps, and the rules and

regulations adopted pursuant to the provisions of this part in any such city, county, or city and county after the department has given written notice to the governing body of such city, county, or city and county setting forth in what respects the city, county, or city and county has failed to discharge its responsibility, and has failed to initiate corrective measures to carry out its responsibility within 30 days of the date of such notice.

(f) The department shall conduct an annual evaluation of the enforcement of this part, the building standards published in the State Building Standards Code relating to labor camps, and the other regulations adopted pursuant to the provisions of this part by each city, county, or city and county which has assumed responsibility for enforcement.

(g) Except as provided in Section 18945, the department shall be sole judge as to whether the local enforcement agency is properly enforcing such provisions. Except as provided in Section 18945, the local enforcement agency shall have the right to appeal such decision to the commission

(h) Any city, county, or city and county, upon written notice from the governing body to the department, may cancel its assumption of responsibility for the enforcement of such provisions The department, upon receipt of such notice, shall assume such responsibility within 30 days.

(i) The enforcement agency may:

(1) Enter public or private properties to determine whether there exists any labor camp to which this part applies.

(2) Enter and inspect all labor camps wheresoever situated, and inspect all accommodations, equipment, or paraphernalia connected therewith.

(3) Enter and inspect the land adjacent to the labor camp to determine whether the sanitary and other requirements of this part, the building standards published in the State Building Standards Code relating to labor camps, and the other rules and regulations adopted pursuant to the provisions of this part have been or are being complied with

SEC. 56 Section 17052 of the Health and Safety Code, as amended by Chapter 385 of the Statutes of 1979, is amended to read:

17052. The enforcement agency shall annually enter and inspect all registered labor camps; except labor camps consisting only of permanent housing which have been granted an exemption as provided in Section 17031, and all accommodations, equipment, or paraphernalia connected therewith and shall make such reinspection as deemed necessary to assure compliance with the current provisions of this part, the building standards published in the State Building Standards Code relating to labor camps, and the other regulations adopted pursuant to the provisions of this part The enforcement agency shall make every effort to complete such inspection prior to the occupancy of such labor camps.

SEC 57 Section 17055 of the Health and Safety Code, as added

by Chapter 62 of the Statutes of 1979, is amended to read:

17055 Any person residing in housing subject to this part may file an administrative complaint with the enforcement agency, provided that the complainant also delivers a copy of the complaint, by mail or in person, to the employer, at the time of filing the complaint, and, if a civil action under Section 17060 has not been filed within 30 days after receipt of the complaint, the complainant may bring a civil action for injunctive or declaratory relief or damages which arise from any violation of this part, building standards published in the State Building Standards Code relating to labor camps, regulations adopted pursuant to the provisions of this part, or conditions of the permit. In any civil action under this section, if the enforcement agency certifies that the labor camp is in compliance with this part, building standards published in the State Building Standards Code relating to labor camps, regulations adopted pursuant to the provisions of this part, and conditions of the permit, no injunctive relief shall be granted with respect to any alleged violation covered by the certificate

SEC 58 Section 17060 of the Health and Safety Code, as added by Chapter 62 of the Statutes of 1979, is amended to read·

17060 (a) Any labor camp which does not conform to this part, building standards published in the State Building Standards Code relating to labor camps, the other regulations adopted pursuant to the provisions of this part, or conditions of the permit, is a public nuisance and if not made to conform within five days, or within such longer period of time, not to exceed 30 days, which may be allowed by the enforcement agency after written notice, shall be abated by proper action brought in the superior court of the county in which the labor camp or greater portion thereof is situated. Where inspection verifies that the owner or operator of a labor camp is proceeding with reasonable diligence, or where conditions beyond the control of the owner or operator prevent conformance, the enforcement agency may grant time extensions not to exceed 30 days in duration No more than two such extensions shall be allowed by the enforcement agency prior to initiation of action to abate the public nuisance.

(b) Any violation of this part, building standards published in the State Building Standards Code relating to labor camps, the other regulations adopted pursuant to the provisions of this part, or the provisions of the permit which constitute an immediate or material hazard to the health or safety of the occupants of a labor camp, shall be remedied within five days after written notice by the enforcement agency, or shorter time in case of emergency. In the event of failure to comply with this section, the Attorney General, or the attorney for the enforcement agency, shall, by verified complaint setting forth the facts, apply to the superior court for an order granting the relief for which the action or proceeding is brought until the entry of a final judgment or order.

(c) The superior court may make any order for which application

is made pursuant to this section

(d) In any action or proceeding brought pursuant to this part, service of summons is sufficient if served in the manner provided in the Code of Civil Procedure.

SEC. 59. Section 17912 of the Health and Safety Code is amended to read.

17912 Rules and regulations promulgated pursuant to the provisions of this part and building standards published in the State Building Standards Code, relating to the erection or construction of buildings or structures, shall not apply to existing buildings or structures or to buildings or structures as to which construction is commenced or approved prior to the effective date of the rules, regulations, or building standards, except by act of the Legislature, but rules, regulations, and building standards relating to use, maintenance, and change of occupancy shall apply to all hotels, motels, lodginghouses, apartment houses, and dwellings, or portions thereof, and buildings and structures accessory thereto, approved for construction or constructed before or after the effective date of such rules, regulations, or building standards.

SEC 60. Section 17920 of the Health and Safety Code, as amended by Chapter 434 of the Statutes of 1979, is amended to read:

17920. As used in this part:

(a) "Building" means a structure subject to this part.

(b) "Building standard" means building standard as defined in Section 18909.

(c) "Commission" means the Commission of Housing and Community Development.

(d) "Department" means the Department of Housing and Community Development

(e) "Noise insulation" means the protection of persons within buildings from excessive noise, however generated, originating within or without such buildings.

(f) "Nuisance" means any nuisance defined pursuant to Part 3 (commencing with Section 3479) of Division 4 of the Civil Code, or any other form of nuisance recognized at common law or in equity.

(g) "Public entity" has the same meaning as defined in Section 811.2 of the Government Code.

SEC 60.5. Section 17920 of the Health and Safety Code, as amended by Chapter 434 of the Statutes of 1979, is amended to read:

17920 As used in this part:

(a) "Building" means a structure subject to this part.

(b) "Building standard" means building standard as defined in Section 18909.

(c) "Commission" means the Commission of Housing and Community Development

(d) "Department" means the Department of Housing and Community Development

(e) "Enforcement" means diligent effort to secure compliance, including review of plans and permit applications, response to

complaints, citation of violations, and other legal process. Except as otherwise provided in this part, "enforcement" may, but need not, include inspections of existing buildings on which no complaint or permit application has been filed, and effort to secure compliance as to such existing buildings.

(f) "Fire protection district" means any special district, or any other municipal or public corporation or district, which is authorized by law to provide fire protection and prevention services.

(g) "Noise insulation" means the protection of persons within buildings from excessive noise, however generated, originating within or without such buildings.

(h) "Nuisance" means any nuisance defined pursuant to Part 3 (commencing with Section 3479) of Division 4 of the Civil Code, or any other form of nuisance recognized at common law or in equity.

(i) "Public entity" has the same meaning as defined in Section 811.2 of the Government Code.

SEC. 61. Section 17920.7 of the Health and Safety Code, as amended by Chapter 62 of the Statutes of 1979, is amended to read:

17920.7. (a) Except as provided in Section 18930, the commission shall adopt, amend, repeal, and except as otherwise provided in this part, enforce building standards published in the State Building Standards Code and other rules and regulations for the provision of structural fire safety and fire-resistant exits in multiple-story structures existing on January 1, 1975, let for human habitation including, and limited to, apartment houses, hotels, and motels wherein rooms used for sleeping are let above the ground floor. The commission shall adopt, amend, or repeal and shall submit building standards for approval pursuant to the provisions of Chapter 4 (commencing with Section 18935) of Part 2.5. The rules and regulations and building standards shall provide adequate safety to the occupants and the general public, and shall be consistent with the requirements contained in subdivisions (d), (e), (f), (g), (h), (i), (k), and (*l*) of Section 1313 of Chapter 13 of the appendix of the Uniform Building Code, 1970 edition, as adopted by the International Conference of Building Officials.

Except as provided in Section 18930, the commission, after consultation with the State Fire Marshal, may allow reasonable exceptions to subdivisions (e) and (g) of Section 1313 to permit the continued use of existing stairs and to subdivision (*l*) of Section 1313 to permit equivalent protection in lieu of occupancy separations. However, such exceptions shall not impair occupant safety and shall be consistent with the legislative intent of this section.

Such building standards adopted by the commission and submitted for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 shall not require that interior stairs and vertical openings be enclosed in two-story buildings

(b) Notwithstanding the provisions of subdivision (a), any city, county, or city and county may adopt building standards for structural fire safety and fire-resistant exits in structures subject to

the provisions of this section, provided that such building standards are substantially equivalent in fire safety to the building standards published in the State Building Standards Code. Each city, county, or city and county adopting such alternative standards shall submit a detailed statement, with supporting data, to the Director of Housing and Community Development demonstrating the equivalency of the alternate standards to the state building standards and other regulations adopted by the commission. The Director of Housing and Community Development shall make a finding as to the equivalency of alternate local standards to such requirements It is the intention of the Legislature that the building standards adopted and published in the State Building Standards Code shall be consistent with the requirements for new construction contained in the Uniform Building Code, 1970 edition, as adopted by the International Conference of Building Officials, except as otherwise required by state or federal law.

(c) The provisions of this section shall not apply to any apartment house, hotel, or motel existing on May 14, 1979, having floors, as measured from the top of the floor surface, used for human occupancy located more than 75 feet above the lowest floor level having building access which is subject to the provisions of Chapter 3 (commencing with Section 13210) of Part 2 of Division 12 relating to high-rise buildings existing on May 14, 1979.

SEC 61.5. Section 17920.7 of the Health and Safety Code, as amended by Chapter 62 of the Statutes of 1979, is amended to read:

17920.7. (a) Except as provided in Section 18930, the commission shall adopt, amend, and repeal rules and regulations, and except as otherwise provided in this part, the department shall enforce building standards published in the State Building Standards Code and such other rules and regulations for the provision of structural fire safety and fire-resistant exits in multiple-story structures existing on January 1, 1975, let for human habitation including, and limited to, apartment houses, hotels, and motels wherein rooms used for sleeping are let above the ground floor. The commission shall adopt, amend, or repeal and shall submit building standards for approval pursuant to the provisions of Chapter 4 (commencing with Section 18935) of Part 2 5 The rules and regulations and building standards shall provide adequate safety to the occupants and the general public, and shall be consistent with the requirements contained in subdivisions (d), (e), (f), (g), (h), (i), (k), and (*l*) of Section 1313 of Chapter 13 of the appendix of the Uniform Building Code, 1970 edition, as adopted by the International Conference of Building Officials.

Except as provided in Section 18930, the commission, after consultation with the State Fire Marshal, may allow reasonable exceptions to subdivisions (e) and (g) of Section 1313 to permit the continued use of existing stairs and to subdivision (*l*) of Section 1313 to permit equivalent protection in lieu of occupancy separations. However, such exceptions shall not impair occupant safety and shall

be consistent with the legislative intent of this section.

Such building standards adopted by the commission and submitted for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 shall not require that interior stairs and vertical openings be enclosed in two-story buildings.

(b) Notwithstanding the provisions of subdivision (a), any city, county, or city and county may adopt building standards for structural fire safety and fire-resistant exits in structures subject to the provisions of this section, provided that such building standards are substantially equivalent in fire safety to the building standards published in the State Building Standards Code Each city, county, or city and county adopting such alternative standards shall submit a detailed statement, with supporting data, to the Director of Housing and Community Development demonstrating the equivalency of the alternate standards to the state building standards and other regulations adopted by the commission. The Director of Housing and Community Development shall make a finding as to the equivalency of alternate local standards to such requirements. It is the intention of the Legislature that the building standards adopted and published in the State Building Standards Code shall be consistent with the requirements for new construction contained in the Uniform Building Code, 1970 edition, as adopted by the International Conference of Building Officials, except as otherwise required by state or federal law.

(c) The provisions of this section shall not apply to any apartment house, hotel, or motel existing on May 14, 1979, having floors, as measured from the top of the floor surface, used for human occupancy located more than 75 feet above the lowest floor level having building access which is subject to the provisions of Chapter 3 (commencing with Section 13210) of Part 2 of Division 12 relating to high-rise buildings existing on May 14, 1979.

(d) The enforcement agency shall make such inspections as are necessary to identify the structures within its jurisdiction in violation of the rules and regulations adopted by the commission pursuant to this section, and all structures subject to the provisions of this section shall be conformed to the requirements contained in such regulations on or before January 1, 1982.

SEC. 62 Section 17920 9 of the Health and Safety Code is amended to read.

17920.9 (a) The commission shall adopt, amend, or repeal, and submit building standards for approval pursuant to the provisions of Chapter 4 (commencing with Section 18935) of Part 2 5, and the commission shall adopt, amend, and repeal such regulations as are necessary for the provision of minimum fire safety and fire-resistant standards relating to the manufacture, composition, and use of foam building systems manufactured for use, or used, in construction of buildings subject to this part, mobilehomes subject to Part 2 (commencing with Section 18000), or factory-built housing subject to Part 6 (commencing with Section 19960) for the protection of the

health and safety of persons occupying such buildings, mobilehomes, or factory-built housing. The department shall enforce building standards published in the State Building Standards Code relating to foam building systems, and other rules and regulations adopted by the commission or by federal law. Each manufacturer of such foam building systems shall have any foam building system manufactured for use in any building, factory-built housing, or mobilehome listed and labeled by an approved testing agency certifying that such system meets fire safety and fire-resistant building standards published in the State Building Standards Code adopted by the commission. The department shall consult with all available public and private sources to assist in the development of such building standards and other rules and regulations.

"Approved testing agency" means any agency which is determined by rule and regulation of the commission to have adequate personnel and expertise to carry out the testing of such systems

(b) The department shall make such inspections of the manufacture of such foam building systems as it determines are necessary to insure compliance with the requirements of subdivision (a).

(c) No person shall sell, offer for sale, or use in construction of buildings subject to this part, mobilehomes subject to Part 2 (commencing with Section 18000), or factory-built housing subject to Part 6 (commencing with Section 19960) in this state, any foam building system, and no person shall sell or offer for sale in this state any such building, mobilehome, or factory-built housing of which such foam building system is a component, which foam building system does not comply with, or has not been listed and labeled by an approved testing agency certifying that such foam building system is in compliance with, the requirements of subdivision (a) on and after the 180th day after such building standards or other rules or regulations become effective.

This subdivision shall not apply to any buildings, mobilehomes, or factory-built housing constructed prior to the 180th day after such standards become effective.

(d) No person shall sell, offer for sale, or use in construction of any building subject to this part, mobilehome subject to Part 2 (commencing with Section 18000), or factory-built housing subject to Part 6 (commencing with Section 19960), in this state, any foam building system, and no person shall sell or offer for sale in this state any such building, mobilehome, or factory-built housing in which such foam building system is a component, if the manufacturer thereof refuses to permit the department to conduct the inspections required by subdivision (b) on and after the 180th day after such building standards or other rules or regulations become effective.

(e) As used in this section:

(1) "Foam" means a material made by mixing organic polymers with air or other gases in a manner that forms a solid substance with

holes filled with air or gas when the mixture is allowed to set

(2) "Foam building system" means a system of building materials composed of, in whole or in part, of foam. It includes, but is not limited to, all combinations of systems such as those composed of foam inserted between and bonded to two boundary surface materials or those composed exclusively of foam.

(3) "Building standard" means building standard as defined in Section 18909.

SEC. 63 Section 17921 of the Health and Safety Code is amended to read:

17921. The commission shall adopt, amend, or repeal and submit building standards for approval pursuant to the provisions of Chapter 4 (commencing with Section 18935) of Part 2.5 of this division, and the commission shall adopt, amend, and repeal such other rules and regulations for the protection of the public health, safety, and general welfare of the occupant and the public governing the erection, construction, enlargement, conversion, alteration, repair, moving, removal, demolition, occupancy, use, height, court, area, sanitation, ventilation and maintenance of all hotels, motels, lodginghouses, apartment houses, and dwellings, and buildings and structures accessory thereto. Except as otherwise provided in this part, the department shall enforce such building standards and such other rules and regulations. Such other rules and regulations adopted by the commission may include a schedule of fees to pay the cost of enforcement by the department under Sections 17952 and 17965

SEC 64 Section 17921 1 of the Health and Safety Code is amended to read

17921 1 Notwithstanding the provisions of Section 17921, and except as provided for herein, the department shall not adopt or enforce any rule or regulation relating to the installation, maintenance, or use of a hotplate in a room of any building occupied on or prior to the effective date of this act, if all of the following conditions exist·

(a) The hotplate is used solely for the cooking or preparation of meals for consumption by not more than two occupants of the room.

(b) The hotplate contains not more than two burners or heating elements, and has been approved by a testing agency acceptable to the department

(c) The installation, maintenance, or use of a hotplate will not be, or is not, hazardous to life or property.

(d) The hotplate rests on its own legs, is set not closer than six inches from any wall or projection thereof, and rests on an impervious surface

(e) The walls behind and adjacent to the hotplate are lined or backflashed with incombustible material equivalent to one-fourth-inch asbestos millboard, the backflashing extends from 12 inches below to 24 inches above the base of the hotplate, and there is 36 inches of clear and unobstructed space above the surface of the hotplate

(f) The area of such room is not less than 120 square feet in superficial floor area.

(g) The room contains an approved sink with hot and cold running water.

(h) All plumbing in the room complies with the provisions of this part and building standards published in the State Building Standards Code.

(i) An approved storage cabinet is installed in the room wherein all food, dishes, and cooking and eating utensils are stored when not in use.

(j) The bed, and any drapes, curtains, towels, or other readily combustible materials, in the room are located so that they do not come in contact with the hotplate.

(k) The room complies with the provisions of this part and building standards published in the State Building Standards Code pertaining to window area, ventilation, ceiling height, and cubic airspace.

(*l*) An approved method of heating is installed in or for the room and the hotplate is not used for the purpose of heating the room or installed within an unventilated area.

(m) Toilet and bath facilities are installed and maintained in the building as required by this part and building standards published in the State Building Standards Code.

In the event of any structural addition or any alteration or reconstruction involving the floor area of any room the provisions of Section 17921 shall apply.

Any city or county may enact an ordinance to prohibit the installation, maintenance, or use of a hotplate in any room.

"Approved," when used in connection with any material, type of construction, or appliance in this section, means meeting the approval of the enforcement agency as the result of investigation and tests conducted by the agency or by reason of accepted principles or tests by national authorities, technical, health, or scientific organizations or agencies.

SEC. 65. Section 17921.3 of the Health and Safety Code is amended to read:

17921.3. After January 1, 1978, no new hotel, motel, apartment house, or dwelling shall be constructed which employs a tank-type water closet that uses more than an average of 3½ gallons of water per flush and which is not approved by the department as meeting adequate standards of safety and sanitation. Such requirement shall only be applicable to new additions to, or renovations of, existing hotels, motels, apartment houses, and dwellings if compliance with the requirements of this section will not require substantial modification of the existing plumbing system. In satisfaction of the requirements of this section and subject to the provisions of Section 18930, the department shall permit the installation of tank-type water closets equipped with devices which are found by the department to meet applicable performance standards, that reduce

average water consumption to no more than 3½ gallons per flush, in water closets having a tank capacity in excess of 3½ gallons The department shall periodically publish a list of acceptable water closets and devices to reduce water consumption.

A manufacturer may sell water closets in this state which do not meet the foregoing requirements in a quantity sufficient to serve the need for water closet installation or replacement in structures other than new hotels, motels, apartment houses, or dwellings, or when authorized by the local enforcement agency

Any local enforcement agency may allow the use of standard flush toilets, when, in the opinion of the local agency, the configuration of the building drainage system requires a greater quantity of water to adequately flush the system.

This section shall not apply in any local jurisdiction, area, or region of the state subject to waste discharge requirements imposed pursuant to Article 4 (commencing with Section 13260) of Chapter 4 of Division 7 of the Water Code when the local enforcement agency determines that the waste water discharges would exceed such waste discharge requirements if this section was made applicable.

Subject to the provisions of Section 18930, the requirements prescribed by this section may be suspended for a specified period of time by a regulation adopted by the commission when the commission finds that there is an inadequate supply, including a choice of styles or colors for the consumer, of water closets specified in this section to meet the needs of new construction, or such water closets are not available at reasonable prices as compared to water closets not complying with the requirements of this section.

SEC 66. Section 17922 of the Health and Safety Code, as amended by Chapter 434 of the Statutes of 1979, is amended to read·

17922 (a) Except as otherwise specifically provided by law, the building standards adopted and submitted by the commission for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2 5 and the other rules and regulations adopted, amended, or repealed from time to time pursuant to this chapter shall impose substantially the same requirements as are contained in the most recent editions of the following uniform industry codes as adopted by the organizations specified·

(1) The Uniform Housing Code of the International Conference of Building Officials, except its definition of "substandard building "

(2) The Uniform Building Code of the International Conference of Building Officials

(3) The Uniform Plumbing Code of the International Association of Plumbing and Mechanical Officials.

(4) The Uniform Mechanical Code of the International Conference of Building Officials and the International Association of Plumbing and Mechanical Officials

(5) The National Electrical Code of the National Fire Protection Association.

In adopting building standards for approval pursuant to Chapter 4

(commencing with Section 18935) of Part 2 5 for publication in the State Building Standards Code and in promulgating other regulations, the commission shall consider local conditions and any amendments to the uniform codes referred to in this section. Except as provided in Part 2.5 (commencing with Section 18901), in the absence of adoption by regulation, the most recent editions of the uniform codes referred to in this section shall be considered to be adopted one year after the date of publication of such uniform codes.

(b) Except as provided in Section 17959.5, local use zone requirements, local fire zones, building setback, side and rear yard requirements, and property line requirements are hereby specifically and entirely reserved to the local jurisdictions notwithstanding any requirements found or set forth in this part.

(c) Regulations other than building standards which are adopted, amended, or repealed by the commission, and building standards adopted and submitted by the commission for approval pursuant to Chapter 4 (commencing with Section 18935) of part 2.5, governing alteration and repair of existing buildings and moving of apartment houses and dwellings shall permit the replacement, retention, and extension of original materials and the continued use of original methods of construction as long as the hotel, lodginghouse, motel, apartment house, or dwelling, or portions thereof, or building and structure accessory thereto, complies with the provisions published in the State Building Standards Code and the other rules and regulations of the commission or alternative local standards adopted pursuant to subdivision (b) of Section 17920.7 or 17958 5 and does not become or continue to be a substandard building. Building additions or alterations which increase the area, volume, or size of an existing building, and foundations for apartment houses and dwellings moved, shall comply with the requirements for new builldings or structures specified in this part, or in building standards published in the State Building Standards Code, or in the other rules and regulations adopted pursuant to this part. However, such additions and alterations shall not cause the building to exceed area or height limitations applicable to new construction

(d) Regulations other than building standards which are adopted by the commission and building standards adopted and submitted by the commission for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2 5 governing alteration and repair of existing buildings shall permit the use of alternate materials, appliances, installations, devices, arrangements, or methods of construction if the material, appliance, installation, device, arrangement, or method is, for the purpose intended, at least the equivalent of that prescribed in this part, the building standards published in the State Building Standards Code, and the rules and regulations promulgated pursuant to the provisions of this part in performance, safety, and for the protection of life and health Regulations governing abatement of substandard buildings shall permit those conditions prescribed by Section 17920 3 which do not

endanger the life, limb, health, property, safety, or welfare of the public or the occupant thereof.

(e) No local enforcement agency may prohibit the use of materials, appliances, installations, devices, arrangements, or methods of construction specifically permitted by the commission to be used in the alteration or repair of existing buildings, but such materials, appliances, installations, devices, arrangements, or methods of construction may be specifically prohibited by local ordinance as provided pursuant to Section 17958.5.

(f) No local ordinance may permit any action or proceeding to abate violations of regulations governing maintenance of existing buildings, unless the building is a substandard building or the violation is a misdemeanor.

SEC. 67. Section 17922.1 of the Health and Safety Code is amended to read·

17922.1. Notwithstanding Section 17922, local agencies may modify or change the requirements published in the State Building Standards Code or contained in other regulations adopted by the commission pursuant to Section 17922 if they make a finding that temporary housing is required for use in conjunction with a filed mining claim on federally owned property located within the local jurisdiction and that the modification or change would be in the public interest and consistent with the intent of the so-called Federal Mining Act of 1872 (see 30 U.S.C., Sec. 22, et seq.), relating to the development of mining resources of the United States.

SEC. 68. Section 17922.6 of the Health and Safety Code is amended to read:

17922.6. (a) The Office of Noise Control in coordination with the department shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18934) of Part 2.5 of this division and shall adopt, amend, and repeal rules and regulations other than building standards which establish uniform minimum noise insulation requirements for hotels, motels, apartment houses, and dwellings other than detached single-family dwellings.

(b) Such requirements shall be based on performance in order to require compliance onsite where the hotel, motel, apartment house, or dwelling other than a detached single-family dwelling, is located.

(c) Such requirements shall be sufficient to protect persons within the hotel, motel, apartment house, or dwelling other than a detached single-family dwelling, from the effects of excessive noise, including, but not limited to, hearing loss or impairment and persistent interference with speech and sleep.

(d) The provisions of this section, the building standards published in the State Building Standards Code relating to noise insulation, and the other rules and regulations adopted pursuant to this section shall apply equally to those hotels, motels, apartment houses, and dwellings other than detached single-family dwellings, owned, operated, or maintained by any public entity. The

department shall enforce such building standards published in the State Building Standards Code and such other rules and regulations with respect to any such hotel, motel, apartment house, or dwelling other than a detached single-family dwelling, which is not subject to the jurisdiction of any local building department.

(e) The provisions of this section, the building standards published in the State Building Standards Code relating to noise insulation, and the other rules and regulations adopted pursuant to this section shall not apply to detached single-family dwellings.

(f) Such other rules and regulations adopted by the Office of Noise Control shall become operative six months after their date of adoption.

(g) Sections 17925, 17958, 17958.5, and 17958 7 shall not apply to the provisions of this section.

SEC 69. 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 published in the State Building Standards Code relating to noise insulation and as are contained in the other rules and regulations adopted pursuant to Section 17922.6 within six months after the date of publication in the State Building Standards Code or the date of adoption of such other rules and regulations. The building standards relating to noise insulation published in the State Building Standards Code and the other 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 publication or 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 such building standards relating to noise insulation published in the State Building Standards Code, or in the other 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 local 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

dimunition of the noise levels permitted by the building standards relating to noise insulation published in the State Building Standards Code and in the other 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. 70. 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, the building standards published in the State Building Standards Code relating thereto, and the other 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, the building standards published in the State Building Standards Code relating thereto, and the other 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, the building standards published in the State Building Standards Code relating thereto, and the other 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. 71. Section 17924 of the Health and Safety Code is amended to read.

17924. Rules and regulations shall be promulgated pursuant to Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code, and no state department, officer, board, agency, committee, or commission shall have power pursuant to the provisions of this part to publish building standards, as defined in Section 18909, but shall adopt and submit such building standards as deemed necessary to carry out the provisions of this part for approval and publishing pursuant to the provisions of Part 2.5 (commencing with Section 18901) of this division.

SEC. 72. Section 17925 of the Health and Safety Code is amended to read:

17925. Except as provided in Section 17922.6, any person, firm, corporation, or governmental agency that opposes the application of

any applicable building standard published in the State Building Standards Code or any other rule or regulation adopted by the commission within a particular local area may request a hearing before the local appeals board regarding the matter. If the local appeals board determines after the hearing that because of local conditions or factors it is not reasonable for the building standard, rule, or regulation to be applied in the local area, the building standard, rule, or regulation shall have no application within such local area. A copy of the determination of the local appeals board, together with a report of the local conditons upon which the determination is based, shall be filed with the department pursuant to Section 17958.7.

SEC. 73. Section 17927 of the Health and Safety Code is amended to read·

17927 The commission shall adopt, amend, or repeal and submit building standards for approval pursuant to the provisions of Chapter 4 (commencing with Section 18935) of Part 2.5 of this division, and the commission shall adopt, amend, and repeal such other rules and regulations for garage door springs for installation in garages which are accessory to apartment houses, hotels, motels, and dwellings as the commission determines are reasonably necessary to prevent the death or injury of persons or damage to property resulting from the breaking of the garage door springs. Except as otherwise provided in this part, the department shall enforce building standards published in the State Building Standards Code relating to garage door springs and such other rules and regulations adopted by the commission pursuant to this section.

No garage door spring which violates the provisions of any building standard published in the State Building Standards Code relating to garage door springs or any other rule or regulation adopted by the commission pursuant to this section shall be sold or offered for sale, or installed in any garage which is accessory to an apartment house, hotel, motel, or dwelling, on or after the date of publication of such building standard or the effective date of such rule or regulation.

SEC. 74 Section 17930 of the Health and Safety Code is amended to read

17930 Except as provided in Section 18945, the commission shall hear appeals brought by any person as to the application of any rule or regulation of the commission promulgated pursuant to this part, except a building standard published in the State Building Standards Code, to such person under any facts and circumstances presented to the commission by such person alleging that the application or enforcement of any such other rule or regulation by the department under such facts and circumstances is an erroneous or unlawful application or enforcement of such other rule or regulation by the department Any such appeal shall be submitted through the designated local agency.

Any appeal alleging erroneous or unlawful application by the department of a building standard published in the State Building

Standards Code may be brought pursuant to the provisions of Chapter 5 (commencing with Section 18945) of Part 2.5 of this division.

The commission shall not, however, hear any appeals regarding local regulations which have been adopted pursuant to Sections 17958 5 and 17958.7.

SEC. 75 Section 17950 of the Health and Safety Code is amended to read.

17950. The provisions of this part, the building standards published in the State Building Standards Code, or the other rules and regulations promulgated pursuant to the provisions of this part which relate to apartment houses, hotels, motels, and dwellings, and buildings and structures accessory thereto, apply in all parts of the state

SEC. 76 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 the State Building Standards Code or the provisions of this part, provided any such alternate has been approved.

The building department of any city or county may approve any such alternate if it finds that the proposed design is satisfactory and that the material, appliance, installation, device, arrangement, method, or work offered is, for the purpose intended, at least the equivalent of that prescribed in the State Building Standards Code or the provisions of this part in performance, safety, and for the protection of life and health.

The building department of any city or county shall require evidence that any material, appliance, installation, device, arrangement, or method of construction conforms to, or that the proposed alternate is at least equivalent to, the requirements of this part, building standards published in the State Building Standards Code, or the other rules and regulations promulgated pursuant to the provisions of this part and in order to substantiate claims for alternates, the building department of any city or county may require tests as proof of compliance to be made at the expense of the owner or his agent by an approved testing agency.

SEC 76 5. 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 governing body of any city or county or fire protection

district may prescribe fees to defray the costs of enforcement required by this part to be carried out by local enforcement agencies.

(c) The amount of the fees prescribed pursuant to subdivisions (a) and (b) of this section shall not exceed the amount reasonably required to administer or process such permits, certificates, or other forms or documents, or to defray the costs of enforcement required by this part to be carried out by local enforcement agencies, and shall not be levied for general revenue purposes.

(d) The provisions of this part are not intended to prevent the use of any material, appliance, installation, device, arrangement, or method of construction not specifically prescribed by the State Building Standards Code or the provisions of this part, provided any such alternate has been approved.

The building department of any city or county may approve any such alternate if it finds that the proposed design is satisfactory and that the material, appliance, installation, device, arrangement, method, or work offered is, for the purpose intended, at least the equivalent of that prescribed in the State Building Standards Code or the provisions of this part in performance, safety, and for the protection of life and health.

The building department of any city or county shall require evidence that any material, appliance, installation, device, arrangement, or method of construction conforms to, or that the proposed alternate is at least equivalent to, the requirements of this part, building standards published in the State Building Standards Code, or the other rules and regulations promulgated pursuant to the provisions of this part and in order to substantiate claims for alternates, the building department of any city or county may require tests as proof of compliance to be made at the expense of the owner or his agent by an approved testing agency.

SEC 77 Section 17952 of the Health and Safety Code, as amended by Chapter 62 of the Statutes of 1979, is amended to read:

17952. (a) In the event of nonenforcement of this part, or the building standards published in the State Building Standards Code, or the other rules and regulations promulgated pursuant to the provisions of this part, such provisions, building standards, or other rules and regulations shall be enforced by the department in any such city or county after the department has given written notice to the governing body of such city or county of a violation of this part, such building standards, or the other rules or regulations promulgated pursuant to the provisions of this part and the city or county has failed to initiate proceedings to secure correction of the violation within 30 days of the date of such notice The city or county may request a hearing before the commission pursuant to Section 17930 within such 30 days to show cause for nonenforcement. Enforcement by the department shall not be initiated until the decision of the commission, adverse to the city or county, is rendered.

(b) In the event that a city or county or city and county fails to

initiate proceedings to correct a specific violation of the rules and regulations or building standards adopted pursuant to Section 17920.7 and in the event of enforcement of such rules and regulations or building standards by the department pursuant to subdivision (a) of this section, the costs incurred by the department for such enforcement shall be borne by such city or county or city and county.

SEC 77.5. Section 17952 of the Health and Safety Code, as amended by Chapter 62 of the Statutes of 1979, is amended to read:

17952. (a) In the event of nonenforcement of this part, or the building standards published in the State Building Standards Code, or the other rules and regulations promulgated pursuant to the provisions of this part, such provisions, building standards or other rules and regulations shall be enforced by the department in any such city or county after the department has given written notice to the governing body of such city or county or fire protection district, as the case may be, of a violation of this part, such building standards, or the other rules or regulations promulgated pursuant to the provisions of this part and the city or county has failed to initiate proceedings to secure correction of the violation within 30 days of the date of such notice. The city or county or fire protection district may request a hearing before the commission pursuant to Section 17930 within such 30 days to show cause for nonenforcement. Enforcement by the department shall not be initiated until the decision of the commission, adverse to the city or county or fire protection district, is rendered.

(b) In the event that a city, or county, or city and county, or fire protection district fails to initiate proceedings to correct a specific violation of the rules and regulations or building standards adopted pursuant to Section 17920.7 and in the event of enforcement of such rules and regulations or building standards by the department pursuant to subdivision (a) of this section, the costs incurred by the department for such enforcement shall be borne by such city, or county, or city and county, or fire protection district. The department may assess fees to defray the costs of enforcement, thereby reducing the cost to be borne by the city, county, city and county, or fire protection district, but the department need not assess such fees and may not require the city, county, city and county, or fire protection district to assess fees to offset department costs.

SEC. 78. Section 17958 of the Health and Safety Code is amended to read

17958. Except as provided in Sections 17958 8 and 17958.9, after March 7, 1973, any city or county shall have one year from the effective date of any changes in the provisions adopted pursuant to Section 17922 and published in the State Building Standards Code or the other regulations thereafter adopted pursuant to Section 17922 in which to amend, add, or repeal ordinances or regulations to impose the same requirements as are contained in the provisions adopted pursuant to Section 17922 and published in the State Building Standards Code or the other regulations adopted pursuant

to Section 17922 or to make changes or modifications in such requirements upon express findings pursuant to Sections 17958.5 and 17958.7. If any city or county does not amend, add, or repeal ordinances or regulations to impose such requirements or make changes or modifications in such requirements upon express findings by such time, the provisions published in the State Building Standards Code or the other regulations promulgated pursuant to Section 17922 shall be applicable to it.

SEC. 79. Section 17958.5 of the Health and Safety Code is amended to read:

17958.5. Except as provided in Section 17922.6, in adopting the ordinances or regulations pursuant to Section 17958, a city or county may make such changes or modifications in the requirements contained in the provisions published in the State Building Standards Code and the other regulations adopted pursuant to Section 17922 as it determines, pursuant to the provisions of Section 17958.7, are reasonably necessary because of local conditions.

SEC. 80. Section 17958.7 of the Health and Safety Code is amended to read

17958.7. (a) Except as provided in Section 17922.6, the governing body of a city or county, before making any modifications or changes pursuant to Section 17958.5, shall make an express finding that such modifications or changes are needed. Such a finding shall be available as a public record and a copy, together with the modification or change, shall be filed with the department. No such modification or change shall become effective or operative for any purpose until the finding and the modification or change have been filed with the department Except as provided in Sections 17958.8 and 17958.9, nothing contained in this part shall be construed to require the governing body of any city or county to alter in any way building regulations enacted on or before November 23, 1970.

(b) If, prior to January 1, 1977, the governing body of a city or county has filed the modification or change but has failed to file the express finding, the governing body shall file the express finding with the department on or before April 1, 1977. If the express finding is not so filed on or before April 1, 1977, the modification or change shall have no force or effect on and after such date.

SEC. 81. Section 17958.8 of the Health and Safety Code is amended to read:

17958 8 Local ordinances or regulations governing alterations and repair of existing buildings shall, after July 1, 1975, permit the replacement, retention, and extension of original materials and the use of original methods of construction as long as the hotel, lodginghouse, motel, apartment house or dwelling, or portions thereof, or building and structure accessory thereto, complies with the provisions published in the State Building Standards Code and the other rules and regulations of the commission or alternative local standards adopted pursuant to Section 17920 7 and does not become or continue to be a substandard building

SEC. 82. Section 17958.9 of the Health and Safey Code is amended to read:

17958.9. Local ordinances or regulations governing the moving of apartment houses and dwellings shall, after July 1, 1978, permit the retention of existing materials and methods of construction so long as the apartment house or dwelling complies with the provisions published in the State Building Standards Code and the other rules and regulations of the commission or alternative local standards adopted pursuant to Section 17920.7, complies with the building standards for foundation applicable to new construction, and does not become or continue to be a substandard building.

SEC. 83. Section 17960 of the Health and Safety Code is amended to read:

17960 The building department of every city or county shall enforce within its jurisdiction all the provisions published in the State Building Standards Code, the provisions of this part, and the other rules and regulations promulgated pursuant to the provisions of this part pertaining to the erection, construction, reconstruction, movement, enlargement, conversion, alteration, repair, removal, demolition, or arrangement of apartment houses, hotels, or dwellings.

SEC. 84. Section 17961 of the Health and Safety Code is amended to read.

17961. The housing department or, if there is no housing department, the health department, of every city or county shall enforce within its jurisdiction all the provisions of this part, the building standards published in the State Building Standards Code, and the other rules and regulations promulgated pursuant to the provisions of this part pertaining to the maintenance, sanitation, ventilation, use, or occupancy of apartment houses, hotels, or dwellings

SEC. 85 Section 17961.5 of the Health and Safety Code is amended and renumbered to read:

17962 The chief of any city or any county fire department or fire protection district and their authorized representatives shall enforce in their respective areas all those provisions of this part, the provisions published in the State Building Standards Code, and those rules and regulations promulgated pursuant to the provisions of this part pertaining to fire prevention, fire protection, the control of the spread of fire, and safety from fire or panic.

SEC 86. Section 17964 of the Health and Safety Code is amended to read

17964 By charter, ordinance, or resolution, a city or county may designate and charge a department organized to carry out the purposes of this part, or an officer charged with the responsibility of carrying out this part, with the enforcement of this part, the building standards published in the State Building Standards Code, or any other rules and regulations promulgated pursuant to the provisions of this part for the protection of the public health, safety, and general

welfare as set forth in Section 17921; provided that this section shall apply to the duties and responsibilities enumerated in Section 17962 only if, in the area involved, there is no city or county fire department or fire protection district

SEC. 87. Section 17965 of the Health and Safety Code is amended to read·

17965 Where there is no local enforcement agency, the department shall enforce all the applicable provisions of this part, the building standards published in the State Building Standards Code, and other rules and regulations promulgated by the department pursuant to the provisions of this part pertaining to apartment houses, hotels, or dwellings.

SEC 87 5 Section 17965 of the Health and Safety Code is amended to read·

17965. Where there is no local enforcement agency charged with the enforcement of this part pursuant to Section 17964, and to the extent that enforcement responsibility is not assigned to a local enforcement agency pursuant to Section 17960, 17961, or 17961.5, the department shall enforce all the applicable provisions of this part, the building standards published in the State Building Standards Code, and other rules and regulations promulgated by the department pursuant to the provisions of this part, or alternative standards adopted by a city or county pursuant to this part, pertaining to apartment houses, hotels, or dwellings.

SEC. 88 Section 17966 of the Health and Safety Code is amended to read·

17966 Cities or counties may contract with the department for assistance by the department in the enforcement of the applicable provisions of this part, the building standards published in the State Building Standards Code, and the other rules and regulations promulgated pursuant to the provisions of this part within such cities or counties Such contracts shall contain provisions for the payment of the costs of such enforcement, or portions thereof, as may be determined by the department.

SEC 88 5 Section 17966 of the Health and Safety Code is amended to read·

17966 Cities or counties or fire protection districts may contract with the department for assistance by the department in the enforcement of the applicable provisions of this part, the building standards published in the State Building Standards Code, and the other rules and regulations promulgated pursuant to the provisions of this part within such cities or counties Such contracts shall contain provisions for the payment of the costs of such enforcement, or portions thereof, as may be determined by the department

SEC 89 Section 17967 of the Health and Safety Code, as added by Chapter 62 of the Statutes of 1979, is amended to read

17967 The department may examine the records of the various city, city and county, or county departments charged with the enforcement of building standards published in the State Building

Standards Code and the other rules and regulations promulgated pursuant to the provisions of this part and secure from them reports and copies of their records at any time. The department shall pay the cost of duplicating such records.

SEC. 90. Section 17970 of the Health and Safety Code is amended to read.

17970. Any officer, employee, or agent of an enforcement agency may enter and inspect any building or premises whenever necessary to secure compliance with, or prevent a violation of, any provision of this part, the building standards published in the State Building Standards Code, and other rules and regulations promulgated pursuant to the provisions of this part which the enforcement agency has the power to enforce.

SEC 91 Section 17971 of the Health and Safety Code is amended to read:

17971 The owner, or authorized agent of any owner, of any building or premises may enter the building or premises whenever necessary to carry out any instructions, or perform any work required to be done pursuant to this part, the building standards published in the State Building Standards Code, and other rules and regulations promulgated pursuant to the provisions of this part.

SEC. 92 Section 17980 of the Health and Safety Code, as amended by Chapter 434 of the Statutes of 1979, is amended to read·

17980 (a) If any building is constructed, altered, converted, or maintained in violation of any provision of, or of any order or notice giving a reasonable time to correct such violation issued by an enforcement agency pursuant to, this part, the building standards published in the State Building Standards Code, or other rules and regulations promulgated pursuant to the provisions of this part, or if a nuisance exists in any building or upon the lot on which it is situated, the enforcement agency shall, after 30 days' notice to abate such nuisance, institute any appropriate action or proceeding to prevent, restrain, correct, or abate the violation or nuisance

(b) Whenever the enforcement agency has inspected or caused to be inspected any building and has determined that such building is a substandard building, the enforcement agency shall commence proceedings to abate the violation by repair, rehabilitation, vacation, or demolition of the building. The enforcement agency shall not require the vacating of a residential building unless it concurrently requires expeditious demolition or repair to comply with the provisions of this part, the building standards published in the State Building Standards Code, or other rules and regulations promulgated pursuant to the provisions of this part The owner shall have the choice of repairing or demolishing However, if the owner chooses to repair, the enforcement agency shall require that the building be brought into compliance according to a reasonable and feasible schedule for expeditious repair The enforcement agency may require vacation and demolition or may itself vacate the building, repair, demolish, or institute any other appropriate action or

proceeding, if repair work is not done as scheduled or if the owner does not make a timely choice of repair or demolition.

(c) Notwithstanding the provisions of subdivision (b) of this section and notwithstanding local ordinances, tenants in a residential building shall be provided notice of an order to demolish, of the enforcement agency's decision to demolish, or of the issuance of a demolition permit following upon abatement order of an enforcement agency.

SEC. 93 Section 17995 of the Health and Safety Code is amended to read.

17995. Any person who violates any of the provisions of this part, the building standards published in the State Building Standards Code relating to the provisions of this part, or any other rule or regulation promulgated pursuant to the provisions of this part is guilty of a misdemeanor, punishable by a fine not exceeding five hundred dollars ($500) or by imprisonment not exceeding six months, or by both such fine and imprisonment.

SEC 111. Section 18201 of the Health and Safety Code is amended to read:

18201. "Approved" when used in connection with any material, appliance, or construction, means meeting the requirements of any building standard published in the State Building Standards Code or other requirements of, and approval of, the Department of Housing and Community Development of the State of California.

SEC. 112 Section 18203 is added to the Health and Safety Code, to read:

18203. "Building standard" means building standard as defined in Section 18909.

SEC. 113. Section 18253 of the Health and Safety Code is amended to read·

18253. The Legislature finds and declares that the specific requirements relating to construction, maintenance, occupancy, use, and design of mobilehome parks are best developed by the Commission of Housing and Community Development in accordance with the criteria established by the provisions of this part Placing such responsibility with the commission will allow for modifications of specific requirements in a rapid fashion and in a manner responsive to the needs of mobilehome park residents and owners. However, the necessity for avoiding conflicting building standards with their attendant cost and confusion is best fulfilled by approval and publication of all building standards by one state agency pursuant to the provisions of the State Building Standards Law Part 2 5 (commencing with Section 18901) of this division

SEC 114. Section 18254 of the Health and Safety Code is amended to read:

18254 It shall be the purpose of the provisions of this part to (1) assure protection of the health, safety, and general welfare of mobilehome park residents, (2) allow modifications in regulations adopted pursuant to the provisions of this part in a manner consistent

with the criteria established in this part, and (3) provide for one nonconflicting code of building standards applicable to mobilehome parks. The building standards adopted and submitted for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of this division and the other regulations adopted by the commission pursuant to the authority granted in this part shall provide equivalent or greater protection to residents of mobilehome parks than the statutes and regulations in effect prior to January 1, 1978

SEC. 115 Section 18300 of the Health and Safety Code is amended to read:

18300. (a) The provisions of this part apply to all parts of the state and supersede any ordinance enacted by any city, county, or city and county, whether general law or chartered, applicable to the provisions of this part. Except as provided in Section 18930, the commission may adopt regulations to interpret and make specific the provisions of this part and when adopted such regulations shall apply to all parts of the state.

(b) Upon 30 days' written notice from the governing body to the department, any city, county, or city and county may assume the responsibility for the enforcement of this part, the building standards published in the State Building Standards Code relating to mobilehome parks, travel trailer parks, recreational trailer parks, temporary trailer parks, incidental camping areas, and tent camps, and the regulations adopted pursuant to the provisions of this part following approval by the department for such assumption.

(c) The commission shall adopt regulations which set forth the conditions for assumption and may include required qualifications of local enforcement agencies The conditions set forth and the qualifications required in the regulations which set forth the conditions for assumption shall relate solely to the ability of local agencies to enforce properly the building standards published in the State Building Standards Code relating to mobilehome parks, travel trailer parks, recreational trailer parks, temporary trailer parks, incidental camping areas, and tent camps, and the other regulations relating to mobilehome parks promulgated pursuant to this part The regulations which set forth the conditions for assumption shall not set requirements for local agencies different than those which the state maintains for its own enforcement program When assumption is approved, the department shall transfer the responsibility for enforcement to the city, county, or city and county, together with all records of mobilehome parks within the jurisdiction of the city, county, or city and county

(d) (1) In the event of nonenforcement of the provisions of this part, the building standards published in the State Building Standards Code relating to mobilehome parks, travel trailer parks, recreational trailer parks, temporary trailer parks, incidental camping areas, and tent camps, or the other regulations adopted pursuant to the provisions of this part by a city, county, or city and county, the department shall enforce the provisions of this part, the

building standards published in the State Building Standards Code relating to mobilehome parks, travel trailer parks, recreational trailer parks, temporary trailer parks, incidental camping areas, and tent camps, and the other regulations adopted pursuant to the provisions of this part in any such city, county, or city and county after the department has given written notice to the governing body of such city, county, or city and county setting forth in what respects the city, county, or city and county has failed to discharge its responsibility, and the city, county, or city and county has failed to initiate corrective measures to carry out its responsibility within 30 days of such notice.

(2) Where the department determines that the local enforcement agency is not properly enforcing this part, the local enforcement agency shall have the right to appeal such a decision to the commission.

(e) Any city, city and county, or county, upon written notice from the governing body to the department, may cancel its assumption of responsibility for the enforcement of this part. The department, upon receipt of such notice, shall assume such responsibility within 30 days.

(f) Every city, county, or city and county, within its jurisdiction, shall enforce all of the provisions of this part, the building standards published in the State Building Standards Code relating to mobilehome parks, travel trailer parks, recreational trailer parks, temporary trailer parks, incidental camping areas, and tent camps, and the other regulations adopted pursuant to the provisions of this part, as they relate to mobilehomes and to mobilehome accessory buildings or structures located outside of mobilehome parks

(g) The provisions of this part shall not prevent local authorities of any city, county, or city and county, within the reasonable exercise of their police powers:

(1) From establishing certain zones for mobilehomes or mobilehome parks, travel trailers, travel trailer parks, recreational trailer parks, temporary trailer parks, or tent camps within such city, county, or city and county, or establishing types of uses and locations, including family mobilehome parks, adult mobilehome parks, mobilehome condominiums, mobilehome subdivisions, or mobilehome planned unit developments within such city, county, or city and county, as defined in the zoning ordinance, or from adopting rules and regulations by ordinance or resolution prescribing standards of lot, yards, or park area, landscaping, walls or enclosures, signs, access, and vehicle parking or from prescribing the prohibition of certain uses for mobilehome parks, travel trailer parks, recreational trailer parks, temporary trailer parks, or tent camps.

(2) From regulating the construction and use of equipment and facilities located outside of a mobilehome or camp car used to supply gas, water, or electricity thereto, except facilities owned, operated, and maintained by a public utility, or to dispose of sewage or other waste therefrom when such facilities are located outside a

mobilehome park, travel trailer park, recreational trailer park, or temporary trailer park for which a permit is required by this part, or the regulations adopted pursuant thereto.

(3) From requiring a permit to use a mobilehome or camp car outside a mobilehome park, travel trailer park, recreational trailer park, or temporary trailer park for which a permit is required by this part or by regulations adopted pursuant thereto, and require a fee therefor by local ordinance commensurate with the cost of enforcing this part and local ordinance with reference to the use of mobilehomes and camp cars, which permit may be refused or revoked if such use violates any provisions of this part or Part 2 (commencing with Section 18000) of this division, any regulations adopted pursuant thereto, or any local ordinance applicable to such use.

(4) From requiring a local building permit to construct an accessory structure for a mobilehome when such mobilehome is located outside a mobilehome park, travel trailer park, recreational trailer park or temporary trailer park, under circumstances which the provisions of this part or Part 2 (commencing with Section 18000) of this division and the regulation adopted pursuant thereto do not require the issuance of a permit therefor by the department

SEC. 116. Section 18301 of the Health and Safety Code is amended to read:

18301. (a) The provisions of this part applicable to mobilehome parks shall apply equally to travel trailer parks, recreational trailer parks, temporary trailer parks, incidental camping areas, and tent camps except where specifically exempted by regulations adopted by the commission pursuant to this part.

(b) The commission shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2 5 of this division and shall adopt other regulations for travel trailer parks, recreational trailer parks, temporary trailer parks, incidental camping areas, and tent camps which shall take into consideration such special conditions as location, physical environment, density of usage, type of operation, type of vehicles to be accommodated, and duration of occupancy. The commission may vary the requirements for travel trailer parks, recreational trailer parks, temporary trailer parks, incidental camping areas, and tent camps according to such conditions. Such building standards or other adopted regulations shall establish requirements which are determined by the commission to be reasonable and necessary for the protection of life and property, and which do not conflict with valid local regulations authorized by Section 18300

SEC 117 Section 18305 of the Health and Safety Code is amended to read

18305 (a) The provisions of this part are not intended to prevent the use of any material, appliance, installation, device, arrangement, or method of construction not specifically prescribed by this part, building standards published in the State Building Standards Code

relating to mobilehome parks, travel trailer parks, recreational trailer parks, temporary trailer parks, incidental camping areas, and tent camps, and the other rules and regulations promulgated pursuant to the provisions of this part, provided any such alternate has been approved

(b) 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, building standards published in the State Building Standards Code relating to mobilehome parks, travel trailer parks, recreational trailer parks, temporary trailer parks, incidental camping areas, and tent camps, and the other rules and regulations promulgated pursuant to the provisions of this part in quality, strength, effectiveness, fire resistance, durability, safety, and for the protection of life and health

(c) Whenever there is evidence that any material, appliance, installation, device, arrangement, or method of construction does not conform to the requirements of this part, building standards published in the State Building Standards Code relating to mobilehome parks, travel trailer parks, recreational trailer parks, temporary trailer parks, incidental camping areas, and tent camps, and the other rules and regulations promulgated pursuant to the provisions of this part, or in order to substantiate claims for alternates, the department may require proof of compliance to be made at the expense of the owner or his agent

(d) The department shall notify the appropriate enforcement agency of its findings.

(e) This section is not applicable to local regulations authorized by this part

SEC. 118. Section 18306 of the Health and Safety Code is amended to read

18306 The department shall evaluate the enforcement of this part, building standards published in the State Building Standards Code relating to mobilehome parks, travel trailer parks, recreational trailer parks, temporary trailer parks, incidental camping areas, and tent camps, and other regulations adopted pursuant to the provisions of this part by each city, county, or city and county which has assumed responsibility for enforcement.

SEC 119 Section 18400 of the Health and Safety Code is amended to read

18400 The department shall enforce every provision of this part, building standards published in the State Building Standards Code relating to mobilehome parks, travel trailer parks, recreational trailer parks, temporary trailer parks, incidental camping areas, and tent camps, and the other rules and regulations promulgated pursuant to the provisions of this part, except as provided in Section 18300

The officers or agents of the enforcement agency may

(a) Enter public or private property to determine whether there exists any mobilehome park to which this part applies.

(b) Enter and inspect all mobilehome parks, wherever situated, and inspect all accommodations, equipment, or paraphernalia used in connection therewith, including the right to examine any registers of occupants maintained therein in order to secure the enforcement of such provisions.

SEC. 120. Section 18401 of the Health and Safety Code is amended to read

18401. The enforcement agency shall notify the mobilehome owner or occupant of any violations of the provisions of this part, building standards published in the State Building Standards Code relating to mobilehome parks, or of any other rules or regulations issued pursuant to this part applicable to a mobilehome, accessory structure, or other appurtenance owned, occupied, or under such person's control. The notification shall include a statement that any willful violation of such provisions is a misdemeanor under Section 18700 of the Health and Safety Code.

SEC. 121. Section 18403 of the Health and Safety Code is amended to read

18403. In any action or proceeding to abate a nuisance in a mobilehome park, proof of any one of the following facts is sufficient for a judgment or order for the abatement of the operation of the mobilehome park:

(a) Previous conviction of the owner or operator of a violation of this part or a building standard published in the State Building Standards Code relating to mobilehome parks which constitutes a nuisance or failure on the part of the owner or operator to correct the violation after the conviction.

(b) The violation is the basis for the proceeding.

SEC. 122 Section 18404 of the Health and Safety Code is amended to read

18404. (a) If any mobilehome park is constructed, altered, converted, used, occupied, or maintained in violation of any provision of this part, a building standard published in the State Building Standards Code relating to mobilehome parks, or the other regulations adopted pursuant to the provisions of this part, or any order or notice issued by the enforcement agency which allows a reasonable time to correct such violation, the enforcement agency may institute any appropriate action or proceeding to prevent, restrain, correct, or abate the violation

(b) The superior court may make any order for which application is made pursuant to this part.

SEC. 123 Section 18505 of the Health and Safety Code is amended to read

18505 A permit to operate shall be issued by the enforcement agency, with a copy to the department, following notice by the owner or operator of completion of construction and receipt of application and appropriate fees, if upon inspection the construction

is found to be in compliance with the provisions of this part and building standards published in the State Building Standards Code relating to mobilehome parks.

SEC 125 Section 18552 of the Health and Safety Code is amended to read

18552 The commission shall adopt and submit building standards for approval pursuant to the provisions of Chapter 4 (commencing with Section 18935) of Part 2 5 of this division, and the commission shall adopt other regulations for mobilehome accessory buildings or structures. The building standards published in the State Building Standards Code and the other regulations adopted by the commission shall provide for the construction, location, and use of mobilehome accessory buildings or structures to protect the health and safety of the occupants and the public, and shall be enforced by the appropriate enforcement agency.

SEC 126 Section 18554 of the Health and Safety Code is amended to read:

18554. It is unlawful to permit any wastewater or material from any plumbing fixtures in a mobilehome to be deposited upon the surface of the ground. All plumbing fixtures, when in use, shall be connected to a sewage disposal system meeting the requirements of building standards published in the State Building Standards Code relating to mobilehome parks and such other requirements established by the commission. Except as provided in Section 18930, the commission may promulgate such rules and regulations as it determines are reasonably necessary for the protection of life and property and to carry out the purposes of this section

SEC 128 Section 18610 of the Health and Safety Code is amended to read

18610 Except as provided in Section 18930, the commission shall adopt regulations to govern the construction, use, occupancy, and maintenance of mobilehome parks and lots within such parks The commission shall adopt and submit building standards for approval pursuant to the provisions of Chapter 4 (commencing with Section 18935) of Part 2 5 of this division for the purposes described in this section The building standards published in the State Building Standards Code relating to mobilehome parks and the other regulations adopted by the commission shall establish standards and requirements which protect the health, safety, and general welfare of the residents of mobilehome parks The building standards published in the State Building Standards Code relating to mobilehome parks and the other regulations adopted by the commission shall provide equivalent or greater protection to the residents of mobilehome parks than the statutes and regulations in effect on December 31, 1977

SEC 129 Section 18612 of the Health and Safety Code is amended to read

18612 Except as provided in Section 18930, the commission shall adopt regulations to govern mobilehome lot access and driveways

within mobilehome parks. The commission shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2 5 of this division for the purposes described in this section. The building standards published in the State Building Standards Code and the other regulations adopted by the commission shall establish standards or requirements which protect the health, safety, and general welfare of the residents of mobilehome parks and shall require proper maintenance of lot access and driveways. The building standards published in the State Building Standards Code and the other regulations adopted by the commission shall provide equivalent or greater protection to the residents of mobilehome parks than the statutes and regulations in effect on December 31, 1977.

SEC. 130. Section 18613 of the Health and Safety Code is amended to read:

18613. On and after July 1, 1974, a permit shall be obtained from the enforcement agency each time a mobilehome, which is required to be moved under a permit, is to be located or installed on any site for the purpose of human habitation or occupancy as a dwelling.

The contractor engaged to install the mobilehome shall obtain the permit, except when the owner of the mobilehome proposes to perform the installation. When a contractor applies for a permit to install a mobilehome, he shall display a valid contractor's license. The contractor shall complete the installation of the mobilehome in accordance with the building standards published in the State Building Standards Code relating to mobilehome parks and the other regulations adopted by the commission within the time limitations which shall be established by regulations of the commission. Such time limitations shall allow contractors a reasonable amount of time within which to complete mobilehome installations If inspection of the mobilehome installation by the enforcement agency determines that the mobilehome cannot be approved for occupancy due to defective material, systems, workmanship, or equipment of the mobilehome, the contractor shall be allowed a reasonable amount of time, as determined by regulations of the commission, to complete the installation after the defects in the mobilehome have been corrected The enforcement agency shall immediately notify the department whenever any mobilehome cannot be approved for occupancy due to defects of the mobilehome The report of notification shall indicate health and safety defects and, in the case of new mobilehomes, substantial defects of materials and workmanship For purposes of this section, "substantial defects of materials and workmanship" means defects objectively manifested by broken, ripped, cracked, stained, or missing parts or components and shall not include alleged defects concerning color combinations or grade of materials used. If the mobilehome fails the installation inspection because of conditions which do not endanger the health or safety of the occupant, the owner may occupy the mobilehome If, however, the installation fails inspection due to immediate

hazards to the health or safety of the occupant, as determined by the enforcement agency, the mobilehome shall not be occupied.

Except as provided in Section 18930, the commission shall adopt regulations for such installations. The commission shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of this division for the purposes described in this section The building standards published in the State Building Standards Code relating to mobilehomes and mobilehome parks and the other regulations adopted by the commission pursuant to this section shall establish such requirements as the commission determines are reasonably necessary for the protection of life and property and to carry out the purposes of this section In adopting building regulations or adopting other regulations pursuant to this section, the commission shall consider reassembly of the mobilehome, stabilizing devices and load-bearing supports, and utility connections and connectors

The commission shall establish a schedule of fees for the permits required by this section commensurate with the cost of the enforcement of this section, the building standards published in the State Building Standards Code relating to mobilehomes and mobilehome parks, and the other regulations adopted pursuant to the provisions of this section. Where a city, county, or city and county is responsible for such enforcement, such a city, county, or city and county may establish a schedule of fees commensurate with the cost of enforcement The fee for an installation permit shall in no case exceed forty dollars ($40). If, however, the mobilehome cannot be approved for occupancy when inspected, a reinspection fee not to exceed thirty dollars ($30) may be required. Permit fees and reinspection fees shall be paid to the enforcement agency by the permittee

This section does not apply to recreational vehicles or commercial coaches

SEC. 131. Section 18614 of the Health and Safety Code is amended to read.

18614 If the installation of a mobilehome by a contractor has failed the inspection of the enforcement agency and the contractor has failed to perform corrections to remedy the reasons for the failure within the time permitted by regulations of the commission adopted pursuant to Section 18613, the enforcement agency shall promptly notify the registrar of contractors of such fact and the name of the contractor

Upon such notification, the registrar shall investigate the actions of the contractor Failure by the contractor to comply with the provisions of Section 18613 and the building standards referenced therein and the regulations adopted pursuant thereto may constitute cause for disciplinary action

SEC 132 Section 18620 of the Health and Safety Code is amended to read

18620 Except as provided in Section 18930, the commission shall

promulgate such rules and regulations regarding the construction of buildings in mobilehome parks as the commission shall determine are reasonably necessary for the protection of life and property and to carry out the purposes of this part. The commission shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of this division for the purposes described in this section The building standards published in the State Building Standards Code and the other rules and regulations adopted by the commission shall be applicable to the construction of all permanent buildings in a mobilehome park, except in a mobilehome park in a city, county, or city and county which has adopted and is enforcing a building code imposing restrictions equal to or greater than the restrictions imposed by such building standards published in the State Building Standards Code and the other rules and regulations adopted by the commission and which city, county, or city and county is the enforcement agency.

SEC. 133. Section 18630 of the Health and Safety Code is amended to read:

18630 Except as provided in Section 18930, the commission shall promulgate such rules and regulations regarding plumbing in mobilehome parks as the commission determines are reasonably necessary for the protection of life and property and to carry out the purposes of this part The commission shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2 5 of this division for the purposes described in this section. The building standards published in the State Building Standards Code and the other rules and regulations adopted by the commission shall be applicable to all plumbing in mobilehome parks, except in permanent buildings within a mobilehome park in a city, county, or city and county which has adopted and is enforcing a plumbing code imposing restrictions equal to or greater than the restrictions imposed by such building standards published in the State Building Standards Code and the other rules and regulations adopted by the commission and which city, county, or city and county is the enforcement agency

SEC 134 Section 18640 of the Health and Safety Code is amended to read.

18640 Except as provided in Section 18930, the commission shall adopt regulations for public toilets, shower, and laundry facilities in mobilehome parks. The commission shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2 5 of this division for the purposes described in this section The building standards published in the State Building Standards Code and the other regulations adopted by the commission shall establish standards and requirements which protect the health, safety, and general welfare of the residents of mobilehome parks, and shall require proper maintenance of such facilities The building standards published in the State Building Standards Code and the other regulations adopted by the

commission shall provide equivalent or greater protection to the residents of mobilehome parks than the statutes and regulations in effect on December 31, 1977

SEC 135. Section 18670 of the Health and Safety Code is amended to read:

18570. Except as provided in Section 18930, the commission shall promulgate such rules and regulations regarding electrical wiring, fixtures, and equipment installed in mobilehome parks as the commission determines are reasonably necessary for the protection of life and property and to carry out the purposes of this part The commission shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of this division for the purposes described in this section. The building standards published in the State Building Standards Code and the other rules and regulations adopted by the commission shall be applicable to all electrical wiring, fixtures, and equipment installed in a mobilehome park, except in permanent buildings within a mobilehome park in a city, county, or city and county which has adopted and is enforcing an electrical code imposing restrictions equal to or greater than the restrictions imposed by such building standards published in the State Building Standards Code and the other rules and regulations adopted by the commission and which city, county, or city and county is the enforcement agency.

SEC. 136 Section 18690 of the Health and Safety Code is amended to read

18690. Except as provided in Section 18930, the commission shall promulgate such rules and regulations regarding fuel gas equipment and installations in mobilehome parks as the commission determines are reasonably necessary for the protection of life and property and to carry out the purposes of this part The commission shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of this division for the purposes described in this section The building standards published in the State Building Standards Code and the other rules and regulations adopted by the commission shall be applicable to all fuel gas equipment and installations in a mobilehome park, except in permanent buildings within a mobilehome park in a city, county, or city and county which has adopted and is enforcing a gas code imposing restrictions equal to or greater than the restrictions imposed by such building standards published in the State Building Standards Code and the other rules and regulations adopted by the commission and which city, county, or city and county is the enforcement agency

SEC 137 Section 18691 of the Health and Safety Code is amended to read

18691 Except as provided in Section 18930, the commission shall adopt rules and regulations which it determines are reasonably consistent with generally recognized fire protection standards, governing conditions relating to the prevention of fire or for the

protection of life and property against fire in mobilehome parks. The commission shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of this division for the purposes described in this section.

The building standards published in the State Building Standards Code and the other rules and regulations adopted by the commission shall be applicable in all mobilehome parks, except in a mobilehome park within a city, county, or city and county which has adopted and is enforcing a fire prevention code imposing restrictions equal to or greater than the restrictions imposed by such building standards published in the State Building Standards Code and the other state regulations adopted by the commission and which city, county, or city and county is the enforcement agency

Notwithstanding the provisions of this section, the rules and regulations adopted by the commission relating to the installation of water supply and fire hydrant systems shall not apply within mobilehome parks constructed, or approved for construction, prior to January 1, 1966

SEC 138 Section 18700 of the Health and Safety Code is amended to read:

18700 Any person who willfully violates any of the provisions of this part, building standards published in the State Building Standards Code relating thereto, or any other rules or regulations adopted by the commission pursuant to this part is guilty of a misdemeanor, punishable by a fine not exceeding two hundred dollars ($200) or by imprisonment not exceeding 30 days, or by both such fine and imprisonment.

Any permitholder who willfully violates any of the provisions of this part, building standards published in the State Building Standards Code relating thereto, or any other rules or regulations adopted by the commission pursuant to this part shall be subject to suspension or revocation of his permit to operate

Any person who willfully violates any provision of this part, building standards published in the State Building Standards Code relating thereto, or any other rules or regulations adopted by the commission pursuant to this part, shall be liable for a civil penalty of five hundred dollars ($500) for each such violation or for each day of a continuing violation The enforcement agency shall institute or maintain an action in the appropriate court to collect any civil penalty arising under this section

SEC 139. Section 18800 of the Health and Safety Code is amended to read·

18800 Mobilehome accommodation structures shall comply with the provisions of this part, building standards published in the State Building Standards Code, and the other regulations adopted by the commission pursuant to the provisions of this part The provisions of this part, building standards published in the State Building Standards Code, and the other regulations adopted pursuant to the provisions of this part shall apply to all parts of the state.

The provisions of this part shall not prevent local authorities of any city or county, within the reasonable exercise of their police powers, from prohibiting mobilehome accommodation structures within all or certain zones within such city or county or from prescribing standards of lot area, side yards, landscaping, walls or enclosures, signs, access, and automobile parking by local ordinances. Local authorities may also prescribe by regulation the prohibition of certain uses of mobilehome accommodation structures.

SEC. 140 Section 18801 of the Health and Safety Code is amended to read·

18801. Except as provided in Section 18930, the commission may adopt regulations to interpret and make specific the provisions of this part. The commission shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of this division for the purposes described in this part. Such regulations adopted by the commission may establish a schedule of fees to defray the costs of work related to administration and enforcement of this part

SEC 141 Section 18811 of the Health and Safety Code is amended to read:

18811. "Approved" means compliance with the provisions of this part, building standards published in the State Building Standards Code, and the other regulations adopted pursuant to the provisions of this part as determined by the enforcement agency.

SEC. 142. Section 18811.5 is added to the Health and Safety Code, to read·

18811.5. "Building standard" means building standard as defined in Section 18909.

SEC. 143. Section 18820 of the Health and Safety Code is amended to read:

18820. The provisions of this part, building standards published in the State Building Standards Code, and the regulations adopted pursuant to the provisions of this part, relating to mobilehome accommodation structures, and buildings and structures accessory thereto, shall apply to all parts of the state, except as provided by Section 18823.

SEC 144. Section 18822 of the Health and Safety Code is amended to read:

18822. (a) The provisions of this part are not intended to prevent the use of any material, appliance, installation, device, arrangement, or method of construction not specifically prescribed by this part, building standards published in the State Building Standards Code, and the regulations promulgated pursuant to the provisions of this part, provided any such alternate has been approved.

(b) The enforcement agency 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, building standards published in the State

Building Standards Code, and regulations promulgated pursuant to the provisions of this part in quality, strength, effectiveness, fire resistance, durability, safety, and for the protection of life and health.

(c) Whenever there is evidence that any material, appliance, installation, device, arrangement, or method of construction does not conform to the requirements of this part, building standards published in the State Building Standards Code, and regulations promulgated pursuant to the provisions of this part, or in order to substantiate claims for alternates, the enforcement agency may require tests or proof of compliance to be made at the expense of the owner or his agent

SEC. 145. Section 18823 of the Health and Safety Code is amended to read:

18823 Except as provided in Section 18945, any person, firm, or corporation that opposes the application of any building standard published in the State Building Standards Code, or any other regulation adopted by the commission relating to mobilehome accommodation structures and buildings and structures accessory thereto within a particular local area may request a hearing before the local appeals board regarding the matter. If the local appeals board determines after the hearing that because of local conditions or factors it is not reasonable for such building standard published in the State Building Standards Code, or such other regulation adopted by the commission to be applied in the local area, such building standard published in the State Building Standards Code, or such other regulation adopted by the commission shall have no application within such local area.

SEC. 146. Section 18824 of the Health and Safety Code is amended to read:

18824 Except as provided in Section 18945, where the department is the enforcement agency, the commission shall hear appeals brought by any person, firm, corporation, or governmental agency as to the application of any regulation, other than an appeal from the administration of a building standard, adopted pursuant to the provisions of this part alleging that the application of any such other regulation adopted pursuant to the provisions of this part is unreasonable or unlawful.

The commission shall not, however, hear any appeals regarding local regulations which are equal to or more restrictive than those prescribed by this part, building standards published in the State Building Standards Code, or regulations adopted pursuant to the provisions of this part.

SEC. 147. Section 18830 of the Health and Safety Code is amended to read·

18830. Except as provided in Section 18930, the commission may adopt such regulations for the construction and operation of mobilehome accommodation structures as the commission determines are necessary for the protection of the health and safety of persons using such structures and of the public The commission

shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2 5 of this division for the purposes described in this section. Nothing in this section shall prevent local authorities of any city, county, or city and county from adopting more restrictive regulations relating to structural standards and fire safety for such purposes.

SEC. 148. Section 18830.1 of the Health and Safety Code is amended to read

18830.1. Until such time as applicable building standards are adopted and approved pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of this division and published in the State Building Standards Code and the commission adopts the other regulations as set forth in Section 18830, any city, county, or city and county may adopt ordinances regulating the construction and operation of mobilehome accommodation structures as the governing board or legislative body determines are necessary for the protection of the health and safety of the public and persons using such structures.

SEC 149 Section 18831 of the Health and Safety Code is amended to read.

18831 The building standards adopted and submitted by the commission for approval pursuant to the provisions of Chapter 4 (commencing with Section 18935) of Part 2.5 of this division, and the other regulations adopted, amended, or repealed from time to time pursuant to this part, shall include provisions imposing requirements reasonably consistent with recognized and accepted standards contained in the latest revisions or editions of the Uniform Building Code, as adopted by the International Conference of Building Officials, the Uniform Plumbing Code, as adopted by the International Association of Plumbing and Mechanical Officials, the Uniform Mechanical Code, as adopted by the International Conference of Building Officials and the International Association of Plumbing and Mechanical Officials, and the National Electrical Code, as adopted by the National Fire Protection Association. Except as provided in Section 18930, the Commission of Housing and Community Development shall adopt such other regulations as it deems necessary to carry out the provisions of this part.

SEC 150 Section 18832 of the Health and Safety Code is amended to read·

18832 Building standards shall be adopted and published pursuant to Part 2.5 (commencing with Section 18901) of this division, and the other regulations adopted by the commission pursuant to the provisions of this part shall be promulgated pursuant to Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 151. Section 18840 of the Health and Safety Code is amended to read.

18840 The building department, or other local governmental agency designated by the governing body, of every city or county

shall enforce within its jurisdiction all the provisions of this part, the building standards published in the State Building Standards Code relating to mobilehome accommodation structures, and other regulations adopted by the commission promulgated pursuant to the provisions of this part pertaining to the erection, construction, reconstruction, movement, enlargement, conversion, alteration, repair, removal, or demolition of mobilehome accommodation structures.

SEC. 152 Section 18841 of the Health and Safety Code is amended to read:

18841. Where there is no local enforcement agency, the department shall enforce all the applicable provisions of this part, the building standards published in the State Building Standards Code relating to mobilehome accommodation structures, and regulations promulgated by the commission pursuant to the provisions of this part pertaining to mobilehome accommodation structures.

SEC 153. Section 18842 of the Health and Safety Code is amended to read·

18842. In the event of nonenforcement of this part, building standards published in the State Building Standards Code relating to mobilehome accessory structures, or the other regulations promulgated by the commission pursuant to Section 18830, the provisions of this part, building standards published in the State Building Standards Code relating to mobilehome accessory structures, and the other regulations promulgated by the commission pursuant to the provisions of this part shall be enforced by the department in any such city, county, or city and county after the department has given written notice to the governing body of such city, county, or city and county of a violation of this part, building standards published in the State Building Standards Code relating to mobilehome accessory structures, or the regulations promulgated by the commission pursuant to the provisions of this part, and the city, county, or city and county has failed to initiate proceedings to secure correction of the violation within 30 days of the date of such notice. The city, county, or city and county may request a hearing before the commission pursuant to Section 18824 within such 30 days to show cause for nonenforcement. Enforcement by the department shall not be initiated until the decision of the commission, adverse to the city, county, or city and county, is rendered.

SEC. 154. Section 18850 of the Health and Safety Code is amended to read:

18850 Construction or operation of a mobilehome accommodation structure in violation of any of the provisions of this part, building standards published in the State Building Standards Code relating to mobilehome accessory structures, or other regulations adopted by the commission pursuant to the provisions of this part shall be deemed to be a nuisance and may be abated as such, in addition to any other remedies which may be available.

SEC 155. Section 18851 of the Health and Safety Code is

amended to read:

18851. Any person who violates any of the provisions of this part, building standards published in the State Building Standards Code relating to mobilehome accessory structures, or any other regulation adopted by the commission pursuant to the provisions of this part is guilty of a misdemeanor, punishable by a fine not exceeding five hundred dollars ($500) or by imprisonment not exceeding six months, or by both such fine and imprisonment.

SEC. 156. Section 18897.2 of the Health and Safety Code, as amended by Chapter 342 of the Statutes of 1974, is amended to read.

18897.2. (a) Except as provided in Section 18930, the State Director of Health Services shall adopt, in accordance with the provisions of Chapter 4.5 (commencing with Section 11371), Part 1, Division 3, Title 2 of the Government Code, such rules and regulations establishing minimum standards for organized camps and regulating the operation of organized camps as the director determines are necessary to protect the health and safety of the campers The State Director of Health Services shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 for the purposes described in this section. The State Department of Health Services shall enforce building standards published in the State Building Standards Code relating to organized camps and such other rules and regulations adopted by such director pursuant to the provisions of this section as such director determines are necessary to protect the health and safety of campers In adopting building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 and in adopting such other rules and regulations pursuant to the provisions of this section, the State Director of Health Services shall consider the Resident Camp Standards of the American Camping Association.

(b) The Director of Health Services shall, on or before January 1, 1981, adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 and shall, on or before January 1, 1981, adopt such other rules and regulations pursuant to the provisions of this section establishing minimum standards for intermittent short-term organized camps operated by a city or a county as the director deems necessary to protect the health and safety of campers. For the purposes of this subdivision, "intermittent short-term organized camps" means a site for camping by any group of people for a period of not more than 72 consecutive hours for such group.

SEC. 157 Section 18897.3 of the Health and Safety Code is amended to read:

18897 3 Except as provided in Section 18930, the State Fire Marshal shall adopt minimum fire safety regulations for organized camps 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. The State Fire Marshal shall adopt and

submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of this division for the purposes described in this section.

SEC. 158 Section 18897.4 of the Health and Safety Code is amended to read:

18897.4. Every local health officer shall enforce within his jurisdiction the building standards published in the State Building Standards Code relating to organized camps and the other rules and regulations adopted by the State Director of Health Services pursuant to Section 18897.2

SEC. 159 Section 18897 5 of the Health and Safety Code is amended to read·

18897 5 The building standards published in the State Building Standards Code relating to fire and panic safety and the other regulations adopted by the State Fire Marshal pursuant to Section 18897 3 shall be enforced in the same manner as is prescribed by Sections 13145, 13146, and 13146.5 of this code for the enforcement of building standards published in the State Building Standards Code relating to fire and panic safety and the other regulations that have been formally adopted by the State Fire Marshal for the prevention of fire or for the protection of life and property against fire or panic

SEC. 160 Section 18897 6 of the Health and Safety Code is amended to read

18897.6 Organized camps shall not be subject to regulation by any state agency other than the State Department of Health Services, California regional water quality control boards, the State Water Resources Control Board, and the State Fire Marshal; provided, that this section shall not affect the authority of the Department of Industrial Relations to regulate the wages or hours of employees of organized camps and this section shall not be construed to limit the application of building standards published in the State Building Standards Code to structures in organized camps

SEC. 161 Section 18897 7 of the Health and Safety Code is amended to read:

18897.7. No organized camp shall be operated in this state unless each site or location in which the camp operates satisfies the minimum standards for organized camps prescribed in building standards published in the State Building Standards Code relating to organized camps, and in other rules and regulations adopted by the State Director of Health Services and the State Fire Marshal. Any violation of this section or of any building standard published in the State Building Standards Code relating to organized camps or any other rule or regulation adopted pursuant to Section 18897.2 or 18897 3 in the operation of organized camps is a misdemeanor

SEC 162 Part 2 5 (commencing with Section 18900) of Division 13 of the Health and Safety Code is repealed

SEC 163. Part 2.5 (commencing with Section 18901) is added to Division 13 of the Health and Safety Code, to read

PART 2.5. STATE BUILDING STANDARDS

CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

Article 1 Title

18901. This part shall be known and may be cited as the State Building Standards Law.

Article 2. Definitions

18905 Unless the context otherwise requires, the definitions contained in this article shall govern the construction of this part.

18905.5. "Adopting agency" means a state agency responsible for the administration of a program which has adopted and submitted for approval a building standard or building standards to the commission.

18906. "Adoption" or "adopt" means, with respect to the procedure for promulgation of a building standard, the final act of a state agency responsible for the administration of a program in promulgating a building standard for such program, to become effective upon approval.

18907 "Approval" means, with respect to the procedure for promulgation of a building standard, the codification, including publication, of a building standard by the commission.

18908 (a) "Building" means any structure used for support or shelter of any use or occupancy. "Structure" means that which is built or constructed, an edifice or building of any kind or any piece of work artificially built or composed of parts joined together in some definite manner, except any mobilehome as defined in Section 396 of the Vehicle Code.

(b) "Building" includes a structure wherein things may be grown, made, produced, kept, handled, stored, or disposed of.

(c) All appendages, accessories, apparatus, appliances, and equipment installed as a part of building or structure shall be deemed to be a part thereof.

(d) "Building" does not include machinery, equipment, or appliances installed for manufacture or process purposes only, any construction installations which are not a part of a building, or any tunnel, mine shaft, highway, or bridge.

18909. (a) "Building standard" means any statute, rule, regulation, order, or other requirement promulgated by a state agency, including any amendment or repeal of such requirement, which affects, regulates, requires, forbids, or pertains to the method of use, properties, performance, or types of materials used in construction, alteration, improvement, repair, or rehabilitation of a building, structure, factory-built housing, or other improvement to real property, including fixtures therein, and as determined by the commission.

(b) "Building standard" includes architectural and design functions of a building or structure, including, but not limited to, number and location of doors, windows, and other openings, stress or loading characteristics of materials, and methods of fabrication, clearances, and other functions

(c) "Building standard" does not include a regulation, rule, or order relating to the enforcement of a building standard, including the penalties for failure to comply with such building standard

(d) "Building standard" does not include any safety regulations which any state agency is authorized to adopt relating to the operation of machinery and equipment used in manufacturing, processing, or fabricating including, but not limited to, warehousing and food processing operations, excepting safety regulations relating to permanent appendages, accessories, apparatus, appliances, and equipment attached to such building as a part thereof, as determined by the commission.

(e) "Building standard" does not include temporary scaffoldings and similar temporary safety devices and procedures, which are used in the erection, demolition, moving, or alteration of buildings.

(f) "Building standard" does not include any regulation relating to operations or procedures established for the administration of a program of a state agency or for the internal management of a state agency

(g) "Building standard" does not include any regulation, rule, order, or standard which pertains to mobilehomes, commercial coaches, or recreational vehicles.

(h) "Building standard" does not include any regulation, rule, order, or standard which pertains to mausoleums regulated under Part 5 (commencing with Section 9501) of Division 8 of the Health and Safety Code.

18910 "Code" means the State Building Standards Code, including the triennial edition, the annual supplements, and the emergency supplements.

18911. "Codification" or "codify" means the publication of a building standard in the code by the commission pursuant to the provisions of the Administrative Procedure Act, Chapter 4 (commencing with Section 11370), Chapter 4.5 (commencing with Section 11371) and Chapter 5 (commencing with Section 11501) of Part 1 of Division 3 of Title 2 of the Government Code

18912 "Commission" means the State Building Standards Commission.

18913 "Emergency standard" means a building standard filed for publication in the code by the commission pursuant to the provisions of Sections 11421 and 11422 of the Government Code

18914 "Executive secretary" means the Executive Secretary of the State Building Standards Commission.

18915 "Local agency" means a city, county, and city and county, whether general law or chartered, district agency, authority, board, bureau, department, commission, or other governmental entity of

less than statewide jurisdiction. Local agency includes any entity of regional jurisdiction. Local agency does not include an agency of the federal government.

18916 "Model code" means any building code recommended for adoption by public bodies, whether drafted by private organizations or otherwise, and shall include, but not be limited to, the latest edition of the following:

(a) Uniform Housing Code of the International Conference of Building Officals

(b) The Uniform Building Code of the International Conference of Building Officials.

(c) The Uniform Plumbing Code of the International Association of Plumbing and Mechanical Officials.

(d) The Uniform Mechanical Code of the International Conference of Building Officials and the International Association of Plumbing and Mechanical Officials.

(e) The National Electrical Code of the National Fire Protection Association.

(f) The Uniform Fire Code of the International Conference of Building Officials and the Western Fire Chiefs Association, Inc.

18917 "Occupancy" means the purpose for which a building, structure, or other improvement to property, or a part thereof, is used or intended to be used

18917 3. "Publication" or "publish" means "codification" as defined in Section 18911.

18917.5 "Secretary" means the Secretary of the State and Consumer Services Agency

18918. "State agency" means a state agency as defined in Section 11000 of the Government Code, excepting an agency in the judicial or legislative departments of the State Government, and excepting a local agency as defined in Section 18915 of this code.

18919. "Regulation" means any rule, regulation, ordinance, or order promulgated by a state or local agency, including rules, regulations, or orders relating to occupancy or the use of land "Regulation" includes building standards.

CHAPTER 2 ORGANIZATION

Article 1 The State Building Standards Commission

18920 There is continued in existence in the State and Consumer Services Agency a State Building Standards Commission consisting of the Secretary of State and Consumer Services Agency, who shall serve ex officio, and 10 members appointed by the Governor subject to confirmation by the Senate

18921 (a) The appointed members of the commission shall be selected from, and represent the public, design professions, the building and construction industry, local government, building officials, fire and safety officials, and labor in accordance with the

following:

(b) Four members shall be appointed from among the professions and industries concerned with building construction as follows:

(1) An architect.

(2) A mechanical or electrical engineer or fire protection engineer.

(3) A structural engineer.

(4) A licensed contractor.

(c) Three members shall be appointed from among the general public.

(d) One member shall be appointed from organized labor in the building trades.

(e) One member shall be appointed who is a local building official.

(f) One member shall be appointed who is a local fire official.

18922. The Secretary of the State and Consumer Services Agency or the secretary's representative shall serve as the chairman of the commission. The commission shall elect a vice chairman annually from among its members.

18923. (a) Except as provided in this section, the term of office of members of the commission shall be four years and they shall hold office until the appointment and qualification of their successors, not to exceed 180 days after such term is expired.

(b) The terms of members of the commission in office on January 1, 1980, shall expire on January 1, 1980, but they shall continue to serve pending the appointment and qualifications of their successors.

(c) The terms of the initial members of the commission appointed to serve after January 1, 1980, shall be determined by the Governor, as follows:

(1) The terms of two members shall expire on January 1, 1981.

(2) The terms of three members shall expire on January 1, 1982.

(3) The terms of two members shall expire January 1, 1983.

(4) The terms of three members shall expire on January 1, 1984.

(d) Prior members of the commission may be reappointed.

18924. The members of the commission shall serve without compensation. Members of the commission who are not state officers shall be paid their actual necessary travel expenses.

Article 2. The Executive Secretary of the State Building Standards Commission

18925 The commission shall appoint an Executive Secretary of the State Building Standards Commission who shall hold office at the pleasure of the commission. The executive secretary shall make public the processes of the commission. The executive secretary shall appoint, in accordance with civil service and other provisions of law, such officers and employees as may be necessary to carry out the intent and purposes of this part.

Article 3. The Coordinating Council and Advisory Panels

18926. (a) There is, in the office of the executive secretary, a coordinating council. The membership of such council shall consist of the executive secretary who shall serve as chairperson, and representatives appointed by the State Director of Health Services, the Director of the Office of Statewide Health Planning and Development, the Director of Housing and Community Development, the Director of Industrial Relations, the State Fire Marshal, the Executive Director of the State Energy Resources Conservation and Development Commission, and the Director of General Services.

(b) Subject to the pleasure of the commission.

(1) The council shall review proposed building standards submitted to the commission for approval for compliance with the criteria for approval set forth in Section 18930.

(2) The council shall draft proposed building standards which the commission is authorized to adopt pursuant to Section 18933 for the consideration of the commission and approval, utilizing the criteria of Section 18930.

18927. The commission may appoint from the design professions, the building and construction industry, the occupancies to be affected by the proposed standards, and interested governmental agencies, appropriate advisory panels to advise the commission and its staff with respect to building standards. The persons appointed to such panels shall be specifically qualified in the type of work embraced by the building standards in question. Such persons shall serve without compensation, but may receive actual necessary travel expenses

CHAPTER 3 POWERS OF THE COMMISSION

18930 (a) Any building standard adopted by state agencies shall be submitted to and approved by the State Building Standards Commission prior to codification In order to accomplish this task, building standards adopted by state agencies and submitted to the commission for approval shall be accompanied by an analysis written by the adopting agency which shall, to the satisfaction of the commission, justify the approval thereof in terms of the following criteria

(1) The proposed building standard does not conflict with, overlap, or duplicate other building standards

(2) The proposed building standard is within the parameters established by enabling legislation.

(3) The public interest requires the adoption of such building standards

(4) The proposed building standard is not unreasonable, arbitrary, unfair, or capricious, in whole or in part.

(5) The cost to the public is reasonable based on the overall

benefit to be derived from such building standards.

(6) The proposed building standard is not unnecessarily ambiguous or vague, in whole or in part.

(7) The applicable national specifications, published standards, and model codes have been incorporated therein as provided in this part, where appropriate.

(8) The format of the proposed building standards is consistent with that adopted by the commission.

(b) In reviewing building standards submitted for its approval, the commission shall consider only the following:

(1) The record of the proceedings of the adopting agency.

(2) The evidence submitted to and considered by the adopting agency.

(c) The commission shall give great weight to the determinations and analysis of the adopting agency on each of the criteria for approval set forth in subdivision (a). Any factual determinations of the adopting agency shall be considered conclusive by the commission unless the commission specifically finds, and sets forth its reasoning in writing, that such factual determination is arbitrary and capricious or substantially unsupported by the evidence considered by the adopting agency.

Whenever the commission makes such a finding, it shall return the standard to the adopting agency for a reexamination of its original determination of the disputed fact.

(d) Whenever a building standard is principally intended to protect the public health and safety, its adoption shall not be a "factual determination" for purposes of subdivision (c). Whenever a building standard is principally intended to conserve energy or other natural resources, the commission shall consider or review the cost to the public or benefit to be derived as a "factual determination" pursuant to subdivision (c).

(e) Whenever the commission finds, pursuant to paragraph (2) of subdivision (a) that a building standard is adopted by an adopting agency pursuant to statutes requiring adoption of such building standard, the commission shall not consider or review whether such adoption is in the public interest pursuant to paragraph (3) of subdivision (a).

18931. The commission shall perform the following:

(a) In accordance with Section 18930 and within 120 days from the date of receipt of adopted standards, review such standards of adopting agencies in order to approve, return for amendment with recommended changes, or reject building standards submitted to the commission for its approval. When building standards are returned for amendment or rejected, the commission shall inform the adopting agency of the specific reasons for such recommended changes or rejection, citing the criteria required under Section 18930 When standards are not acted upon by the commission within 120 days, such standards shall be approved, including codification and publication in the State Building Standards Code, without

further review and without return or rejection by the commission.

(b) Codify, including publish, all building standards of state agencies and statutes defining building standards into one State Building Standards Code.

(c) Resolve conflict, duplication, and overlap in building standards in the code

(d) Ensure consistency in nomenclature and format in the code.

(e) In accordance with Section 18945, hear appeals resulting from the administration of state building standards.

(f) Adopt such procedural regulations as it deems necessary to administer this part.

18932. (a) The commission may require an appropriate state agency to adopt the repealer, in whole or in part, of building standards published in the State Building Standards Code. The commission may request state agencies to adopt the repealers, in whole or in part, of building standards published in other titles in the California Administrative Code, and in such event, a state agency may adopt, and the commission may approve, any portion of such repealed building standards into the State Building Standards Code in accordance with Sections 18930 and 18933.

(b) The code shall indicate the agency having responsibility vested by law for the administration of each building standard and the occupancy or occupancies affected by each such building standard.

(c) The code shall include an index and reference guide.

(d) The commission shall establish the format for the code to conform it as nearly as it deems practicable with the model codes.

18933. (a) The commission may give affected state agencies reasonable time, as specified by the commission, to adopt amendments to building standards submitted for approval. If such agencies do not do so within such reasonable time as specified, the commission shall convene a committee composed of a representative from each of the agencies affected and such other qualified persons as selected by the commission. This committee shall prepare a recommendation for commission action upon such building standards. Upon such recommendation, or if the committee does not prepare such a recommendation and deliver it to the commission within 30 days after being appointed, the commission may rewrite, edit, amend, or adopt, and approve such building standards consistent with the intent of this part and in accordance with the Administrative Procedure Act and the criteria for approval provided in Section 18930. It shall not, however, be required that hearings or other administrative procedure be duplicated on unchanged portions of building standards previously adopted and approved by the commission

(b) Pursuant to the provisions of Section 18943, the commission, after publication of building standards pursuant to Section 18941 in the triennial edition of the code, shall recommend to affected state agencies the repeal of building standards of such state agencies

which were adopted, or are, in conflict with such published standards in the code. If the state agency does not adopt the repealer of such building standards of such state agencies within a reasonable time as specified by the commission, the commission shall convene a committee composed of a representative of each of the agencies affected and such other qualified persons as selected by the commission to prepare a recommendation for commission action on such building standards. Upon such recommendation, or if such committee does not prepare such recommendation and deliver it to the commission within 30 days after being appointed, the commission may repeal such building standards, in accordance with the Administrative Procedure Act. This subdivision shall not supersede the provisions of Section 18943, but, instead, provides the procedure for effecting such provisions.

18934. State agencies proposing to adopt building standards shall adopt, and the commission shall approve, regulations establishing procedures to assure public participation in the development of building standards and regulations. The commission shall also adopt regulations establishing guidelines for these procedures to assure consistency among the various state agencies.

CHAPTER 4. THE STATE BUILDING STANDARDS CODE

18935. (a) Notice of proposed building standards shall be given and hearings shall be held by the adopting agencies, as required by the Administrative Procedure Act, prior to the adoption of such building standards and submission to the commission for approval.

(b) In order as to assure an absence of conflict between hearings and a maximum opportunity for interested parties to be heard, no hearings by adopting agencies shall be conducted unless the time and place thereof has been approved in writing by the commission prior to public notices of such hearing being given by such adopting agencies

(c) If, after standards are submitted to the commission for approval, the commission requires changes therein as a condition for such approval, and such changes are made, no additional hearing by the affected state agencies shall be required in connection with making such changes

18936. The commission shall mail notices of hearings prescribed by Section 11423 of the Government Code with respect to its proposed action on any building standards to any design profession organizations, chambers of commerce, consumer groups, building and construction industry organizations, governmental agencies, and other parties and organizations that have submitted a written request therefor within the one year period immediately preceding the date of such notices, at least 30 days prior to any hearing thereon, provided that the failure to do so shall not invalidate any such adoption or approval.

18937 (a) Emergency standards shall be acted on by the

commission within 30 days and only when the adopting agencies have made the finding of emergency required by Sections 11421 and 11422 of the Government Code, and the commission concurs with such finding. Both such concurrence and the approval of the emergency standards require an affirmative vote of ⅔ of the members of the commission attending a meeting, or not less than six affirmative votes, whichever is greater.

(b) After the state agencies affected hold a subsequent hearing, as required by Section 11422.1 of the Government Code with respect to such emergency standards approved by the commission pursuant to subdivision (a) of this section, a certificate of compliance shall not be filed with the Secretary of State, as required by Section 11422.1 of the Government Code, if the affected agency makes further changes in such emergency regulations approved by the commission, until such further changes have also been approved by the commission

18938. Building standards shall be filed with the Secretary of State and published in the code only after they have been approved by the commission and shall not be published in any other title of the California Administrative Code. Emergency standards shall be filed with the Secretary of State, and take effect, only after they have been approved by the commission as required by Section 18937. The filing of building standards adopted or approved pursuant to this part, or any certification with respect thereto, with the Secretary of State, or elsewhere as required by law, shall be done solely by the commission.

18939 Building standards adopted or approved by the commission prior to January 1, 1982, shall incorporate the text of the model codes, applicable national specifications, or published standards, in whole or in part, only by reference, with appropriate additions or deletions therefrom. After that date, in addition to the foregoing authority, the commission shall decide, and if it deems it appropriate, adopt or approve standards which incorporate, in whole or in part, the text of such publications, with changes in, or deletions therefrom, directly incorporated in the text of the State Building Standards Code

18940 (a) Building standards approved by the commission shall be incorporated into the code and shall not be incorporated into other individual titles of state agencies in the California Administrative Code

(b) The Office of Administrative Hearings shall review all building standards and regulations submitted to them for codification to identify and eliminate building standards from titles other than the State Building Standards Code. The commission and its staff shall assist the Office of Administrative Hearings to achieve this objective.

18941 All building standards and regulations shall be written and, whenever practicable, administered and enforced on a performance basis consistent with state and nationally recognized standards for building construction in view of the use and occupancy

of each structure to best preserve and protect the public health and safety.

18941.5. The State Building Standards Law contained in this part shall not limit the authority of any local agency to establish more restrictive building standards when that authority is provided in other provisions of law.

18942. (a) The commission shall publish, or cause to be published, bound editions of the code in its entirety once in every three years, such period commencing with January 1, 1980. In each intervening year the commission shall publish, or cause to be published, annual bound supplements. In addition, the commission shall publish an emergency standards supplement whenever the commission determines it is necessary.

(b) All building standards approved shall be incorporated into the next applicable triennial edition or supplement thereto, and no building standards, except emergency standards and those approved pursuant to subdivision (b) of Section 142.3 of the Labor Code and published pursuant to subdivision (c) of Section 18943, shall become effective until its required approval by the commission and its publication in such triennial edition or annual supplement.

(c) Except emergency standards, no building standards or regulations shall be published in the triennial edition of the code or annual supplement less than 90 days after approval by the commission.

(d) Emergency standards shall become effective when approved by the commission and filed with the Secretary of State, or upon any later date specified therein, and remain in effect as provided by Section 11422.1 of the Government Code and Section 18937 of this code. Emergency standards shall be distributed as soon as practicable after publication to all interested and affected parties. Notice of repeal or reamendment pursuant to the provisions of Section 11422.1 of the Government Code of such emergency standards within the period specified by such section shall also be given to such parties by the affected agencies promptly after the termination of the statutory period for filing the certificate of compliance pursuant to Section 11422.1 of the Government Code.

(e) The commission may publish, stockpile, and sell at a reasonable price the code and any materials incorporated therein by reference if it deems the latter is insufficiently available to the public, or unavailable at a reasonable price. It shall be the duty of each state department concerned and each city and county to have an up-to-date copy of the code available for public inspection.

18943 (a) State agencies shall repeal all building standards promulgated by such agencies and published in any other title of the California Administrative Code other than the State Building Standards Code as soon as practicable after such building standards are published into the triennial edition or annual supplements of the code, or by January 1, 1985, whichever occurs earlier. Pursuant to the provisions of subdivision (b) of Section 18933, after such publication,

the commission may repeal such standards.

(b) Building standards in individual titles of the California Administrative Code other than the State Building Standards Code in effect on January 1, 1980, shall continue in effect until the earlier of the following:

(1) Incorporation into the triennial edition or annual supplements of the code

(2) Repeal by the state agencies affected.

(3) January 1, 1985.

(c) Notwithstanding the provisions of subdivision (a), building standards adopted by the Occupational Safety and Health Standards Board shall be published in the State Building Standards Code. Such building standards may also be published in other provisions of the California Administrative Code if such other provisions include the appropriate numbering of the State Building Standards Code.

18944. (a) State agencies shall adopt regulations for publication in the titles of the California Administrative Code containing other regulations of such agency to identify, by reference, the appropriate sections of the State Building Standards Code containing those building standards for which that agency has enforcement responsibility.

18944 5 The code shall be binding on the state and other public agencies, including federal agencies to the extent permitted by federal law, in the same manner as it binds private parties or entities.

CHAPTER 5 APPEALS AND ENFORCEMENT

18945. (a) Any person adversely affected by any regulation, rules, omission, interpretation, decision, or practice of any state agency respecting the administration of any building standard may appeal the issue for resolution to the commission.

(b) If any local agency having authority to enforce a state building standard and any person adversely affected by any regulation, rule, omission, interpretation, decision, or practice of such agency respecting such building standard both wish to appeal the issue for resolution to the commission, then both parties may appeal to the commission. The commission may accept such appeal only if the commission determines that the issues involved in such appeal have statewide significance.

18946. Except as provided in Section 18947, the commission may hear the appeal itself or may refer the appealing parties to an advisory panel, a committee, or to a hearing officer appointed by the Office of Administrative Hearings, which hearing officer should, where possible, possess some expertise in the technical aspects of the appeal If such referral is made, the panel, committee, or hearing officer may make such investigation and conduct such hearings as they deem appropriate, provided that all interested agencies or parties shall have a full and fair opportunity to be heard A proposed written decision shall be submitted to the commission which the

commission may adopt, adopt as modified, or reject. The commission shall render its decision or interpretation in writing.

18947. Where the appeal issue results from the enforcement of a standard for occupational safety and health by an inspector of the Division of Occupational Safety and Health of the Department of Industrial Relations, the employer shall appeal directly to the Occupational Safety and Health Appeals Board, and the appeal shall be conducted pursuant to the provisions of Chapter 7 (commencing with Section 6600) of Part 1 of Division 5 of the Labor Code. Such an appeal, if sent to the commission in error, shall be forwarded immediately to the Occupational Safety and Health Appeals Board. The date of receipt of any such appeal by the commission shall be considered the date of filing for purposes of meeting the filing time requirements of Section 6600 of the Labor Code.

18948. The responsibility for the enforcement and administration of building standards shall remain in the state or local agency specified by other provisions of law.

SEC. 164. Section 18951 of the Health and Safety Code is amended to read:

18951. It is the purpose of this part to provide alternative building regulations and building standards for the rehabilitation, preservation, restoration (including related reconstruction), or relocation of buildings or structures designated as historic buildings Such alternative building standards and building regulations are intended to facilitate the restoration or change of occupancy so as to preserve their original or restored architectural elements and features, to encourage energy conservation and a cost-effective approach to preservation, and to provide for the safety of the building occupants.

SEC. 165 Section 18954 of the Health and Safety Code is amended to read:

18954. Repairs, alterations, and additions necessary for the preservation, restoration, rehabilitation, moving, or continued use of an historical building or structure may be made if they conform to this part. The building department of every city or county may apply the provisions of regular building standards and building regulations or of alternative building standards and building regulations adopted pursuant to Section 18958, or any combination of regular and alternative building standards and building regulations, in permitting repairs, alterations, and additions necessary for the preservation, restoration, rehabilitation, moving, or continued use of an historical building or structure A state agency may apply the regular or alternative provisions of the State Building Standards Code or the regular building regulations or the alternative building regulations adopted pursuant to Section 18958, or any combination of regular and alternative building code provisions, in permitting repairs, alterations, and additions necessary for the preservation, restoration, rehabilitation, moving, or continued use of an historical building or structure

SEC. 166 Section 18958 of the Health and Safety Code is amended to read:

18958 Except as provided in Section 18930, the following state agencies shall have the authority to adopt alternative rules and regulations governing the rehabilitation, preservation, restoration, or relocation of qualified historical buildings and structures within their jurisdiction.

(a) The Office of the State Architect.

(b) The State Fire Marshal.

(c) The State Building Standards Commission, but only with respect to building standards.

(d) The Department of Housing and Community Development.

(e) The State Historical Resources Commission, which shall advise on historical criteria and officially registered historical structures

(f) Such other state agencies that may be affected by this part.

SEC. 167 Section 18959 of the Health and Safety Code is amended to read.

18959. (a) Except as otherwise provided in Part 2 5 (commencing with Section 18901) of this division, all the state agencies in Section 18958 may administer and enforce this part with respect to qualified historical buildings or structures under their respective jurisdiction

(b) Except as otherwise provided in Part 2 5 (commencing with Section 18901) of this division, all local building authorities may administer and enforce this part with respect to qualified historical structures under their respective jurisdictions where applicable

(c) The State Architect shall coordinate and consult with the other applicable state agencies affected by this part and, except as provided in Section 18943, disseminate provisions adopted pursuant to this part to all local building authorities and state agencies at cost

(d) Regulations adopted by the State Fire Marshal pursuant to this part shall be enforced in the same manner as regulations are enforced under Sections 13145, 13146, and 13146.5 of this code

(e) Regular and alternative building standards published in the State Building Standards Code shall be enforced in the same manner by the same governmental entities as provided by law

SEC. 168 Section 18959.5 of the Health and Safety Code is amended to read

18959.5. Subject to the provisions of Part 2 5 (commencing with Section 18901) of this division, the State Historical Buildings Code Advisory Board may adopt and submit alternative building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2 5 of this division and may adopt, amend, and repeal other alternative rules and regulations under this part which the board has recommended for adoption under subdivision (b) of Section 18960 by the State Architect or other applicable state agencies The alternative rules and regulations adopted by the board pursuant to this section may include all or any portion of rules and

regulations adopted or proposed for adoption by state agencies pursuant to Section 18958 except for those rules and regulations within the jurisdiction of a state agency that the state agency has filed a written objection upon with the State Building Standard Commission prior to approval by such commission pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of this division.

SEC. 169. Section 19124 of the Health and Safety Code is amended to read:

19124. The Division of Codes and Standards of the Department of Housing and Community Development may enforce any provision of this chapter or any building standards published in the State Building Standards Code which it finds is being violated in a building hereafter constructed, after it has given the enforcement agency written notice of the violation and the enforcement agency has failed to secure correction of the violation within the following 10 days. In such cases where the division processes applications for building permits, the fees prescribed in this chapter shall be payable to the division.

SEC. 170. Section 19150 of the Health and Safety Code is amended to read:

19150. Every building or structure and every portion thereof shall be designed and constructed to resist stresses produced by lateral forces as provided in the State Building Standards Code. In areas where the Division of Codes and Standards of the Department of Housing and Community Development is the enforcement agency, plumbing and electrical equipment and installations shall be subject to building standards published in the State Building Standards Code and the other rules and regulations adopted pursuant to Sections 17921 and 17922 of this code.

SEC 171. Chapter 11 (commencing with Section 19870) of Part 3 of Division 13 of the Health and Safety Code is repealed.

SEC 172. Section 19940.5 of the Health and Safety Code is amended and renumbered to read.

19990.5 The provisions of Section 17920 9, the building standards published in the State Building Standards Code relating to foam building systems, and the other rules and regulations adopted pursuant to Section 17920.9, shall be applicable to the sale, offering for sale, or use in the construction of any factory-built housing of any foam building system, and to any factory-built housing in which any such system is used as a component

SEC 173 Section 19967.2 is added to the Health and Safety Code, to read

19967 2. "Building standard" means building standard as defined in Section 18909

SEC 174 Section 19971 of the Health and Safety Code is amended to read

19971 "Factory-built housing" means a residential building, dwelling unit, or an individual dwelling room or combination of

rooms thereof, or building component, assembly, or system manufactured in such a manner that all concealed parts or processes of manufacture cannot be inspected before installation at the building site without disassembly, damage, or destruction of the part, including units designed for use as part of an institution for resident or patient care, which is either wholly manufactured or is in substantial part manufactured at an offsite location to be wholly or partially assembled onsite in accordance with building standards published in the State Building Standards Code and other regulations adopted by the commission pursuant to Section 19990. Factory-built housing does not include a mobilehome, as defined in Section 18008, mobile accessory building or structure, as defined in Section 18010, a recreational vehicle, as defined in Section 18010.5, or a commercial coach, as defined in Section 18012.

SEC. 175. Section 19980 of the Health and Safety Code is amended to read:

19980. All factory-built housing manufactured after the effective date of the building standards published in the State Building Standards Code and the other regulations adopted pursuant to Chapter 4 (commencing with Section 19990) of this part, which is sold or offered for sale to first users within this state, shall bear insignia of approval issued by the department.

SEC 176. Section 19984 of the Health and Safety Code is amended to read:

19984 All building standards shall be adopted and published in the State Building Standards Code pursuant to Part 2.5 (commencing with Section 18901) of this division, and all other rules and regulations promulgated by the commission under the authority of this part shall be adopted pursuant to Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code

SEC 177 Section 19985 of the Health and Safety Code is amended to read:

19985 If the department determines that standards for the manufacture of factory-built housing, which have been prescribed by the statutes or rules and regulations of other states, are at least equal to the provisions of the State Building Standards Code and the other requirements prescribed by the commission, the commission may so provide by regulation. Any factory-built housing which a state has approved as meeting its standards for manufacture shall be deemed to meet the requirements of the department, if the department determines that the standards of such other state are actually being enforced

SEC. 178 Section 19990 of the Health and Safety Code is amended to read.

19990 (a) Except as provided in Section 18930, the commission shall promulgate rules and regulations to interpret and make specific the provisions of this part The commission shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing

with Section 18935) of Part 2.5 of this division for the purposes described in this section. Standards adopted, amended, or repealed from time to time by the commission pursuant to this chapter shall include provisions imposing requirements reasonably consistent with recognized and accepted standards contained in the most recent editions of the following uniform industry codes as adopted or amended from time to time by the organizations specified:

(1) The Uniform Housing Code of the International Conference of Building Officials

(2) The Uniform Building Code of the International Conference of Building Officials.

(3) The Uniform Plumbing Code of the International Association of Plumbing and Mechanical Officials.

(4) The Uniform Mechanical Code of the International Conference of Building Officials and the International Association of Plumbing and Mechanical Officials.

(5) The National Electrical Code of the National Fire Protection Association.

(b) The commission shall require every city and county to file with the department all wind pressure and snow load requirements in effect within their respective jurisdictions, if such requirements differ from building standards published in the State Building Standards Code, on or before January 1 of each year The department shall notify every manufacturer of factory-built housing of these requirements on or before March 1 of each year.

(c) Except as provided in Section 18930, the commission shall adopt such other rules and regulations as it deems necessary to carry out the provisions of this part. In promulgating such other rules and regulations the commission shall consider any amendments to the uniform codes referred to in this section In the event of any conflict with respect to factory-built houses between the provisions of Part 1 5 (commencing with Section 17910) and this part, the requirements of this part shall control.

SEC. 179 Section 19991 of the Health and Safety Code is amended to read·

19991 The department shall enforce every provision of this part, the building standards published in the State Building Standards Code relating to factory-built housing, and the other regulations adopted pursuant to the provisions of this part, except as provided in Sections 19991 1 and 19992.

SEC 180 Section 19992 of the Health and Safety Code is amended to read

19992 Local enforcement agencies shall enforce and inspect the installation of factory-built housing The installation of factory-built housing shall be conducted in accordance with the requirements of the building standards published in the State Building Standards Code relating to factory-built housing and the other requirements of Part 1 5 (commencing with Section 17910), subject to the provisions of Section 19990 The local enforcement agency may, by ordinance,

establish an inspection fee for the inspection of the installation of factory-built housing.

SEC. 181. Section 19995 of the Health and Safety Code is amended to read:

19995. Except as provided in Section 18945, the commission shall hear appeals brought by any person regarding the application to such person of any building standard published in the State Building Standards Code relating to factory-built housing or to any other rule or regulation of the commission promulgated pursuant to this part. Any such appeals shall first be submitted to the local enforcement agency, if any, delegated by the department to enforce the provisions of this part. The commission shall not hear any appeal regarding any local ordinance, rule, or regulation related to the installation of factory-built housing.

SEC. 182 Section 19997 of the Health and Safety Code is amended to read:

19997. Any person who violates any of the provisions of this part, a building standard published in the State Building Standards Code relating to factory-built housing, or any other rules or regulations adopted pursuant to this part is guilty of a misdemeanor, punishable by a fine not exceeding five hundred dollars ($500) or by imprisonment not exceeding thirty (30) days, or by both such fine and imprisonment.

SEC. 183. Section 24102 of the Health and Safety Code is amended to read:

24102. Except as provided in Section 18930, the state department shall make and enforce such rules and regulations pertaining to public swimming pools as it deems proper and shall enforce building standards published in the State Building Standards Code relating to public swimming pools; provided, that no rule or regulation as to design or construction of pools shall apply to any pool which has been constructed before the adoption of such rule or regulation, if such pool as constructed is reasonably safe and the manner of such construction does not preclude compliance with the requirements of such rules and regulations as to bacteriological and chemical quality and clarity of the water in such pool. The state department shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2 5 of Division 13 of this code for the purposes described in this section.

SEC 184. Section 24103 of the Health and Safety Code is amended to read·

24103 Every health officer shall enforce the building standards published in the State Building Standards Code relating to swimming pools and the other rules and regulations adopted by the state department pursuant to this article in his jurisdiction.

SEC 185 Section 24104 of the Health and Safety Code is amended to read

24104. For the purposes of this article, any health officer, or any inspector of the state department, may at all reasonable times enter

all parts of the premises of a public swimming pool to make examination and investigation to determine the sanitary condition and whether this article, building standards published in the State Building Standards Code relating to swimming pools, or the other rules and regulations adopted by the state department pursuant to this article are being violated.

SEC. 186 Section 24108 of the Health and Safety Code is amended to read:

24108 Every person who violates any provision of this article, building standards published in the State Building Standards Code relating to swimming pools, or the rules and regulations adopted pursuant to the provisions of this article, is guilty of a misdemeanor, punishable by a fine of not less than twenty-five dollars ($25) nor more than five hundred dollars ($500), or by imprisonment for not more than six months, or both.

SEC. 187 Section 24156 of the Health and Safety Code is amended to read·

24156. The State Department of Health Services has supervision of sanitation, healthfulness, and safety of the public beaches and public water-contact sport areas of the ocean waters and bays of the state and, except as provided in Section 18930, the department may make and enforce such rules and regulations pertaining thereto as it deems proper

SEC. 188. Section 24210 of the Health and Safety Code is amended to read

24210. Except where in conflict with Section 142 3 of the Labor Code or other applicable provisions of law, the standards board may exempt from the provisions of this chapter and its standards uses of carcinogens which it determines have been shown by a preponderance of the evidence to present no substantial threat to employee health and which may include, but need not be limited to:

(a) Use of carcinogens specified in subdivision (a) of Section 24204 in operations involving the destructive distillation of carbonaceous materials, such as occurs in coke ovens

(b) Use of asbestos, except where there is a material risk of substantial and repeated exposure of employees to such carcinogen

The standards board shall report to the Legislature on or before January 5, 1978, respecting recommendations for standards governing the uses specified in this section.

Except as provided in Section 18930, the standards board shall adopt regulations for the implementation of the provisions of this section

SEC 189 Section 25142 of the Health and Safety Code is amended to read

25142 Any waste which conforms to a criterion adopted pursuant to Section 25141 shall be handled, stored, used, processed, and disposed of in accordance with permits, orders, and requirements issued or promulgated by the department pursuant to this chapter and building standards published in the State Building Standards

Code relating to hazardous waste facilities, until such waste is cited in a list adopted by the department pursuant to Section 25140.

SEC 190. Section 25150 of the Health and Safety Code is amended to read:

25150. Except as provided in Section 18930, 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 hazard to the public health, to domestic livestock, to wildlife, or to the environment.

Except as provided in Section 18930, 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.

The department shall adopt and submit building standards relating to hazardous waste facilities for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 of this code for the purposes described in this section

Before preparation of such building standards or adoption of such other 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, the Division of Industrial Safety, the State Air Resources Board, the State Water Resources Control Board, the State Fire Marshal, regional water quality control boards, the State Building Standards Commission, and the State Solid Waste Management Board

SEC 191. Section 25151 of the Health and Safety Code is amended to read

25151. The department may adopt varying requirements other than building standards for different areas of the state depending on population density, climate, geology and other factors relevant to hazardous waste processing and disposal

SEC 192 Section 25152 of the Health and Safety Code is amended to read

25152 Before adopting building standards or adopting or revising other minimum standards and regulations for the handling, processing, storing, uses, and disposal of, and the recovery of resources from, hazardous and extremely hazardous wastes, the department shall hold at least one public hearing in Sacramento, or in a city within the area of the state to be affected by the proposed regulations Except as provided in Section 18930, the department shall adopt the proposed regulations after making changes or additions that are appropriate in view of the evidence and testimony presented at the public hearing or hearings

SEC 193 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 building standards published in the State Building Standards Code relating to hazardous waste facilities and the other standards and requirements adopted pursuant to Section 25150.

SEC. 194. Section 25811 of the Health and Safety Code is amended to read:

25811 The department shall, for the protection of public health and safety:

(a) Develop programs for evaluation of hazards associated with use of sources of ionizing radiation.

(b) Develop programs, with due regard for compatibility with federal programs, for licensing and regulation of byproduct, source, and special nuclear materials, and other radioactive materials.

(c) Except as provided in Section 18930, adopt, and promulgate rules and regulations relating to control of other sources of ionizing radiation.

(d) Issue such rules and regulations as may be necessary in connection with proceedings under Article 4 (commencing with Section 25815).

(e) Collect and disseminate information relating to control of sources of ionizing radiation, including.

(1) Maintenance of a file of all license applications, issuances, denials, amendments, transfers, renewals, modifications, suspensions, and revocations.

(2) Maintenance of a file of all rules and regulations relating to regulation of sources of ionizing radiation, pending or promulgated, and proceedings thereon.

(3) Disseminate information regarding the evaluation of hazards associated with the use of sources of ionizing radiation.

Nothing in this chapter shall be construed as precluding the Division of Industrial Safety from adopting and enforcing rules and regulations relating to matters within its jurisdiction consistent with, in furtherance of, and designed to implement the provisions of this chapter and the rules and regulations adopted thereunder.

SEC. 195 Section 25820 of the Health and Safety Code is amended to read:

25820. Any officer, employee, or agent of the department or of any state or local agency with which an agreement has been made pursuant to Section 25810 shall have the power to enter at all reasonable times upon any private or public property within the jurisdiction of the agency for the purpose of determining whether or not there is compliance with or violation of the provisions of this chapter, building standards published in the State Building Standards Code relating to buildings in which there are sources of ionizing radiation, or of the rules and regulations promulgated pursuant to the provisions of this chapter, and the owner, occupant, or person in charge of such property shall permit such entry and inspection Entry into areas under the jurisdiction of the federal

government shall be effected only with the concurrence of the federal government or its duly designated representative.

SEC 196 Section 28694 of the Health and Safety Code is amended to read.

28694. Except as provided in Section 18930, the state department may adopt and enforce rules and regulations for the execution of its duties under this chapter.

SEC. 197. Section 28694 5 of the Health and Safety Code is amended to read:

28694.5. (a) Except as provided in Section 18930, the State Department of Health Services shall adopt rules and regulations prescribing such additional requirements for commissaries and mobile units upon which food is prepared and for the administration of Articles 2 (commencing with Section 28540) and 3 (commencing with Section 28590) of this chapter as it determines are reasonably necessary for the protection of the public health and safety Any violation of building standards published in the State Building Standards Code relating to commissaries, and rules and regulations adopted by the State Department of Health Services pursuant to this section is a violation of this chapter.

(b) Except as otherwise provided in this subdivision, no rule or regulation adopted pursuant to subdivision (a) shall be applicable, within any state park depicting or reproducing historical conditions or usages, to any mobile unit which is, or which depicts or represents, any wagon, cart, or other drawn device that is of the historical period during which such conditions or usages occurred. The exemption contained in this subdivision shall not be applicable to mobile units serving, offering for sale, selling, or giving away foods or beverages which are not packaged in sealed containers or which are not foods or beverages which have been approved for unpackaged sale from such mobile units by the state department as consistent with public health and safety

SEC 198. Section 28802.5 of the Health and Safety Code is amended to read·

28802.5 Except as otherwise provided in this section, the provisions of this chapter shall not apply to roadside stands, food establishments which are open to the outside air, or retail dairies or areas therein, in which there is displayed for sale only produce, shell eggs, or packaged foods, or any two or more of such products. Except as provided in Section 18930, the department shall adopt rules and regulations for such establishments as it determines are reasonably necessary for the protection of the public health and safety. Such rules and regulations shall require the issuance of permits by local health departments to such establishments which satisfy the requirements of such rules and regulations

Such establishments shall be required to have a permit within a reasonable time after the adoption of rules and regulations pursuant to this chapter, as determined by the department.

As used in this section, "retail dairies" means the following

(a) Establishments which produce, process, and sell milk to the consumer on the same premises.

(b) Establishments which process and sell milk to the consumer on the same premises.

(c) Establishments where the principal business is the sale of milk and dairy products to consumers.

SEC. 199. Section 28863 of the Health and Safety Code is amended to read:

28863. The provisions of this chapter shall apply to all parts of the state. Except as provided in Section 18930, the State Department of Health Services may adopt such rules and regulations as it determines are reasonably necessary to interpret and carry out the provisions of this chapter. When adopted, such rules and regulations shall apply to all parts of the state. The state department shall investigate to determine satisfactory enforcement of this chapter by local authorities.

SEC. 200. Section 50152 5 is added to the Health and Safety Code, to read:

50152.5. Notwithstanding any other provision of this division or of law and except as provided in the State Building Standards Law, Part 2.5 (commencing with Section 18901) of Division 13, on and after January 1, 1980, the department or the agency shall not adopt nor publish a building standard as defined in Section 18909 unless the provisions of Sections 18930, 18933, 18938, 18940, 18943, 18944 and 18945 of this code are expressly excepted in the statute under which the authority to adopt rules, regulations, or orders is delegated. Any building standard adopted in violation of this section shall have no force or effect Any building standard adopted before January 1, 1980, pursuant to this division and not expressly excepted by statute from such provisions of the State Building Standards Law shall remain in effect only until January 1, 1985, or until adopted, amended, or superseded by provisions published in the State Building Standards Code, whichever occurs sooner.

SEC. 201. Section 50558 of the Health and Safety Code is amended to read:

50558. Except as provided in Section 18930, the commission shall prepare and adopt such minimum standards regulating the use and application of cellular concrete as it determines are reasonably necessary for the protection of life and property.

SEC 202. Section 50559 of the Health and Safety Code is amended to read

50559. Except where the department is specifically vested by this part or by any other provision of law with the authority to adopt rules and regulations, and except as provided in Section 18930, the commission may adopt, amend, and repeal rules and regulations reasonably necessary to carry out the provisions of this part or by any other provision of law. Any rules and regulations of the commission in effect on September 26, 1975, shall remain in effect until amended or repealed except that building standards, as defined in Section

18909, shall remain in effect only until January 1, 1985, or until adopted, amended, repealed, or superseded by building standards adopted and published in the State Building Standards Code pursuant to the provisions of Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 of this code, whichever occurs sooner.

SEC 203. Section 55 of the Labor Code is amended to read:

55. For the purpose of administration the director shall organize the department subject to the approval of the Governor, in the manner he deems necessary properly to segregate and conduct the work of the department. Notwithstanding any provision in this code to the contrary, the director may require any division in the department to assist in the enforcement of any or all laws within the jurisdiction of the department. Except as provided in Section 18930 of the Health and Safety Code, the director may, in accordance with the provisions of Chapter 4.5 (commencing with Section 11371), Part 1, Division 3, Title 2 of the Government Code, make such rules and regulations as are reasonably necessary to carry out the provisions of this chapter and to effectuate its purposes. The provisions of this section, however, shall not apply to the Division of Industrial Accidents or the State Compensation Insurance Fund, except as to any power or jurisdiction within such divisions as may have been specifically conferred upon the director by law.

SEC 204. Section 142 of the Labor Code, as amended by Chapter 72 of the Statutes of 1979, is amended to read.

142. The Division of Occupational Safety and Health shall enforce all building standards as defined by Section 18909 of the Health and Safety Code which relate to occupational safety and health as adopted pursuant to this chapter and published pursuant to subdivision (c) of Section 18943 of the Health and Safety Code, other occupational safety and health standards adopted pursuant to this chapter, and those heretofore adopted by the Industrial Accident Commission or the Industrial Safety Board. General safety orders heretofore adopted by the Industrial Accident Commission or the Industrial Safety Board shall continue to remain in effect, but they may be amended or repealed pursuant to this chapter.

SEC 205 Section 142.3 of the Labor Code, as amended by Chapter 72 of the Statutes of 1979, is amended to read:

142.3 (a) The board, by an affirmative vote of at least four members, may adopt, amend or repeal occupational safety and health standards and orders. The board shall be the only agency in the state authorized to adopt occupational safety and health standards For those standards which are building standards as defined in Section 18909 of the Health and Safety Code, the board shall comply with the provisions of Section 18930 of the Health and Safety Code. The board shall adopt standards at least as effective as the federal standards for all issues for which federal standards have been promulgated under Section 6 of the Occupational Safety and Health Act of 1970 (P.L 91-596) within six months of the effective

date of the federal standards and which, when applicable to products which are distributed or used in interstate commerce, are required by compelling local conditions and do not unduly burden interstate commerce

(b) The State Building Standards Commission shall approve and publish building standards adopted by the board in the State Building Standards Code as are expressly required to be as effective as federal standards published in the Federal Register pursuant to Section 6 of the Occupational Safety and Health Act of 1970 (P.L. 91-596) within the time period specified by federal law and as provided in subdivision (b) of Section 142 4

(c) Except for those standards and orders specified in subdivision (b), all other occupational safety and health standards that are building standards as defined in Section 18909 of the Health and Safety Code shall be submitted to the State Building Standards Commission for approval as provided in Section 18930 of the Health and Safety Code. Notwithstanding paragraph (7) of subdivision (a) of Section 18930 of the Health and Safety Code, the adoption or refusal to adopt provisions of the model codes as part of occupational safety and health standards by the board are presumed to be appropriate in the interests of employee health and safety Notwithstanding paragraph (5) of subdivision (a) of Section 18930 of the Health and Safety Code, and recognizing that cost data may not be presented to the board and that the benefits of eliminating safety and health risks are difficult to quantify, all such building standards are presumed to provide a greater benefit than cost in providing occupational health and safety. The presumptions provided in this subdivision apply unless they are substantially unsupported by the evidence considered by the board.

(d) Any occupational safety or health standard or order promulgated under this section shall prescribe the use of labels or other appropriate forms of warning as are necessary to ensure that employees are apprised of all hazards to which they are exposed, relevant symptoms and appropriate emergency treatment, and proper conditions and precautions for safe use or exposure Where appropriate, such standards or orders shall also prescribe suitable protective equipment and control or technological procedures to be used in connection with such hazards and shall provide for monitoring or measuring employee exposure at such locations and intervals and in such manner as may be necessary for the protection of employees In addition, where appropriate, any such occupational safety or health standard or order shall prescribe the type and frequency of medical examinations or other tests which shall be made available, by the employer or at his cost, to employees exposed to such hazards in order to most effectively determine whether the health of such employee is adversely affected by such exposure

(e) The results of such examinations or tests shall be furnished only to the Division of Occupational Safety and Health, the State Department of Health Services, any other authorized state agency,

the employer, the employee, and, at the request of the employee, to his or her physician

SEC. 206. Section 142.5 of the Labor Code is amended to read:

142.5. Upon the fixing of a time and place for a hearing to consider the adoption, amendment, or repeal of an occupational safety and health standard or order, or a building standard relating to occupational safety and health to be submitted for adoption pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of the Health and Safety Code, the board shall publish, at least 30 calendar days prior to each meeting, a notice of such hearing in one or more daily newspapers of general circulation published and circulated in San Francisco and in one or more daily newspapers of general circulation published and circulated in the County of Los Angeles. No defect or inaccuracy in such notice or in the publication thereof invalidates any standard or order issued by the board or building standard published in the State Building Standards Code after a hearing.

SEC. 207 Section 142.6 is added to the Labor Code, to read:

142.6 Notwithstanding any other provision of this code or of law and except as provided in the State Building Standards Law, Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code, on and after January 1, 1980, the board shall not adopt nor publish a building standard as defined in Section 18909 of the Health and Safety Code unless the provisions of Sections 18930, 18933, 18938, 18940, 18943, 18944, and 18945 of the Health and Safety Code are expressly excepted in the statute under which the authority to adopt rules, regulations, or orders is delegated Any building standard adopted in violation of this section shall have no force or effect except to the extent of the express requirements of federal law for such specific building standard. Except as expressly required by federal law, any building standard adopted prior to January 1, 1980, pursuant to this code and not expressly excepted by statute from such provisions of the State Building Standards Law shall remain in effect only until January 1, 1985, or until adopted, amended, or superseded by provisions published in the State Building Standards Code, whichever occurs sooner.

SEC 208. Section 7326 of the Labor Code is amended to read:

7326. There shall be securely attached to the outside window sills or frames of the window of any building, rings, bolts, lugs, fittings, or other devices to which may be fastened safety belts or other devices to be used, or which may hereafter be used by persons engaged in cleaning windows The division shall, prior to the installation of any such bolts, lugs, rings, fittings, or other devices, approve such bolts, lugs, rings, fittings, or other devices as to their design, durability, and safety Except as provided in Section 18930 of the Health and Safety Code, the division shall by appropriate rules and orders designate the manner in which said safety devices are to be attached, installed, and used

SEC 209 Section 514 is added to the Public Resources Code, to

read

514. Notwithstanding any other provision of this code or of law and except as provided in the State Building Standards Law, Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code, on and after January 1, 1980, the department or the director shall not adopt nor publish a building standard as defined in Section 18909 of the Health and Safety Code unless the provisions of Sections 18930, 18933, 18938, 18940, 18943, 18944, and 18945 of the Health and Safety Code are expressly excepted in the statute under which the authority to adopt rules, regulations, or orders is delegated. Any building standard adopted in violation of this section shall have no force or effect. Any building standard adopted before January 1, 1980, pursuant to this code and not expressly excepted by statute from such provisions of the State Building Standards Law shall remain in effect only until January 1, 1985, or until adopted, amended, or superseded by provisions published in the State Building Standards Code, whichever occurs sooner.

SEC. 210 Section 611 is added to the Public Resources Code, to read·

611. Notwithstanding any other provision of this code or of law and except as provided in the State Building Standards Law, Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code, on and after January 1, 1980, the department, director, the State Geologist, the State Mining and Geology Board, or the Division of Mines and Geology shall not adopt nor publish a building standard as defined in Section 18909 of the Health and Safety Code unless the provisions of Sections 18930, 18933, 18938, 18940, 18943, 18944, and 18945 of the Health and Safety Code are expressly excepted in the statute under which the authority to adopt rules, regulations, or orders is delegated. Any building standard adopted in violation of this section shall have no force or effect Any building standard adopted before January 1, 1980, pursuant to this code and not expressly excepted by statute from such provisions of the State Building Standards Law shall remain in effect only until January 1, 1985, or until adopted, amended, or superseded by provisions published in the State Building Standards Code, whichever occurs sooner

SEC 211 Section 712 is added to the Public Resources Code, to read

712. Notwithstanding any other provision of this code or of law and except as provided in the State Building Standards Law, Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code, on and after January 1, 1980, the Director of Forestry, the Department of Forestry, or the State Board of Forestry shall not adopt nor publish a building standard as defined in Section 18909 of the Health and Safety Code unless the provisions of Sections 18930, 18933, 18938, 18940, 18943, 18944, and 18945 of the Health and Safety Code are expressly excepted in the statute under which the authority to adopt rules, regulations, or orders is delegated Any building

standard adopted in violation of this section shall have no force or effect Any building standard adopted before January 1, 1980, pursuant to this code and not expressly excepted by statute from such provisions of the State Building Standards Law shall remain in effect only until January 1, 1985, or until adopted, amended, or superseded by provisions published in the State Building Standards Code, whichever occurs sooner

SEC. 212 Section 3112 is added to the Public Resources Code, to read:

3112 Notwithstanding any other provision of this code or of law and except as provided in the State Building Standards Law, Part 2 5 (commencing with Section 18901) of Division 13 of the Health and Safety Code, on and after January 1, 1980, the supervisor or the Division of Oil and Gas shall not adopt nor publish a building standard as defined in Section 18909 of the Health and Safety Code unless the provisions of Sections 18930, 18933, 18938, 18940, 18943, 18944, and 18945 of the Health and Safety Code are expressly excepted in the statute under which the authority to adopt rules, regulations, or orders is delegated. Any building standard adopted in violation of this section shall have no force or effect. Any building standard adopted before January 1, 1980, pursuant to this code and not expressly excepted by statute from such provisions of the State Building Standards Law shall remain in effect only until January 1, 1985, or until adopted, amended, or superseded by provisions published in the State Building Standards Code, whichever occurs sooner.

SEC. 213 Section 4120 is added to the Public Resources Code, to read:

4120 Notwithstanding any other provision of this code or of law and except as provided in the State Building Standards Law, Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code, on and after January 1, 1980, the director, the department, or the State Forester shall not adopt nor publish a building standard as defined in Section 18909 of the Health and Safety Code unless the provisions of Sections 18930, 18933, 18938, 18940, 18943, 18944, and 18945 of the Health and Safety Code are expressly excepted in the statute under which the authority to adopt rules, regulations, or orders is delegated Any building standard adopted in violation of this section shall have no force or effect. Any building standard adopted before January 1, 1980, pursuant to this code and not expressly excepted by statute from such provisions of the State Building Standards Law shall remain in effect only until January 1, 1985, or until adopted, amended, or superseded by provisions published in the State Building Standards Code, whichever occurs sooner

SEC 214 Section 4291 of the Public Resources Code is amended to read.

4291 Any person that owns, leases, controls, operates, or maintains any building or structure in, upon, or adjoining any

mountainous area or forest-covered lands, brush-covered lands, or grass-covered lands, or any land which is covered with flammable material, shall at all times do all of the following:

(a) Maintain around and adjacent to such building or structure a firebreak made by removing and clearing away, for a distance of not less than 30 feet on each side thereof or to the property line, whichever is nearer, all flammable vegetation or other combustible growth. This subdivision does not apply to single specimens of trees, ornamental shrubbery, or similar plants which are used as ground cover, if they do not form a means of rapidly transmitting fire from the native growth to any building or structure.

(b) Maintain around and adjacent to any such building or structure additional fire protection or firebreak made by removing all brush, flammable vegetation, or combustible growth which is located from 30 feet to 100 feet from such building or structure or to the property line, whichever is nearer, as may be required by the director if he finds that, because of extra hazardous conditions, a firebreak of only 30 feet around such building or structure is not sufficient to provide reasonable fire safety. Grass and other vegetation located more than 30 feet from such building or structure and less than 18 inches in height above the ground may be maintained where necessary to stabilize the soil and prevent erosion.

(c) Remove that portion of any tree which extends within 10 feet of the outlet of any chimney or stovepipe.

(d) Maintain any tree adjacent to or overhanging any building free of dead or dying wood.

(e) Maintain the roof of any structure free of leaves, needles, or other dead vegetative growth.

(f) Provide and maintain at all times a screen over the outlet of every chimney or stovepipe that is attached to any fireplace, stove, or other device that burns any solid or liquid fuel. The screen shall be constructed of nonflammable material with openings of not more than one-half inch in size.

(g) Except as provided in Section 18930 of the Health and Safety Code, the director may adopt regulations exempting structures with exteriors constructed entirely of nonflammable materials, or conditioned upon the contents and composition of same, he may vary the requirements respecting the removing or clearing away of flammable vegetation or other combustible growth with respect to the area surrounding said structures.

No such exemption or variance shall apply unless and until the occupant thereof, or if there be no occupant, then the owner thereof, files with the department, in such form as the director shall prescribe, a written consent to the inspection of the interior and contents of such structure to ascertain whether the provisions hereof and the regulations adopted hereunder are complied with at all times.

SEC. 215. Section 5003 of the Public Resources Code is amended to read

5003 The department shall administer, protect, develop, and interpret the state park system for the use and enjoyment of the public Except as provided in Section 18930 of the Health and Safety Code, the department may establish rules and regulations not inconsistent with law for the government and administration of the state park system. It may enter into contracts with agencies of the United States, cities, counties, or other subdivisions of the state, for the care and maintenance of park areas, and it may expend all moneys of the department, from whatever source derived, for the care, protection, supervision, extension and improvement or development of the state park system.

It may, with the approval of the Department of General Services, enter into contracts with a regional park district for the care and maintenance of, to maintain and operate concessions within, and to act in the management of, any beaches, parks, public campgrounds, monument site, landmark site, site of historical interest, or other state park areas under its control.

SEC 216. Section 5003.2 is added to the Public Resources Code, to read·

5003 2. Notwithstanding any other provision of this code or of law and except as provided in the State Building Standards Law, Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code, on and after January 1, 1980, the director, the department, or the State Park and Recreation Commission shall not adopt nor publish a building standard as defined in Section 18909 of the Health and Safety Code unless the provisions of Sections 18930, 18933, 18938, 18940, 18943, 18944, and 18945 of the Health and Safety Code are expressly excepted in the statute under which the authority to adopt rules, regulations, or orders is delegated. Any building standard adopted in violation of this section shall have no force or effect. Any building standard adopted before January 1, 1980, pursuant to this code and not expressly excepted by statute from such provisions of the State Building Standards Law shall remain in effect only until January 1, 1985, or until adopted, amended, or superseded by provisions published in the State Building Standards Code, whichever occurs sooner

SEC 217. Section 5055 of the Public Resources Code is amended to read.

5055. Except as provided in Section 18930 of the Health and Safety Code, the director shall adopt such rules and regulations as are necessary to administer the provisions of this article.

SEC 218 Section 6111 is added to the Public Resources Code, to read

6111. Notwithstanding any other provision of this code or of law and except as provided in the State Building Standards Law, Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code, on and after January 1, 1980, the State Lands Commission or the Division of State Lands shall not adopt nor publish a building standard as defined in Section 18909 of the Health

and Safety Code unless the provisions of Sections 18930, 18933, 18938, 18940, 18943, 18944, and 18945 of the Health and Safety Code are expressly excepted in the statute under which the authority to adopt rules, regulations, or orders is delegated. Any building standard adopted in violation of this section shall have no force or effect. Any building standard adopted before January 1, 1980, pursuant to this code and not expressly excepted by statute from such provisions of the State Building Standards Law shall remain in effect only until January 1, 1985, or until adopted, amended, or superseded by provisions published in the State Building Standards Code, whichever occurs sooner.

SEC. 219. Section 6321 of the Public Resources Code is amended to read:

6321. The commission may, upon written application of the littoral owner, grant authority to any such owner to construct, alter or maintain, groins, jetties, sea walls, breakwaters, and bulkheads, or any one or more such structures, upon, across or over any of the swamp, overflowed, marsh, tide or submerged lands of this state bordering upon such littoral lands if, at the time of construction or alteration, such structures do not unreasonably interfere with the uses and purposes reserved to the people of the state. Except as provided in Section 18930 of the Health and Safety Code, the commission shall make reasonable rules with reference to such applications and the location, type, character, design, size, and manner under which such structures may be constructed, altered or maintained, and shall take suitable measures to enforce such rules and building standards published in the State Building Standards Code. It shall fix and collect reasonable fees, not exceeding the actual cost, for the filing and examination of each such application, and for the performance of such other duties as may be required under the provisions of this chapter.

Notwithstanding anything in this article, no such fees for the filing and examination of applications shall be required of, nor collected from the United States or any agency thereof, or from the state, its agencies or political subdivisions.

SEC. 220. Section 6322 of the Public Resources Code is amended to read·

6322 The commission may also remove or require to be removed, repaired or altered, and may regulate the type, character, design, size, and maintenance of, such structures existing on August 14, 1931, and, except as provided in Section 18930 of the Health and Safety Code, may make reasonable rules in reference thereto

SEC. 221. Section 25216.4 is added to the Public Resources Code, to read·

25216.4 Notwithstanding any other provision of this code or of law and except as provided in the State Building Standards Law, Part 2 5 (commencing with Section 18901) of Division 13 of the Health and Safety Code, on and after January 1, 1980, the State Energy Resources Conservation and Development Commission shall not

adopt nor publish a building standard as defined in Section 18909 of the Health and Safety Code unless the provisions of Sections 18930, 18933, 18938, 18940, 18943, 18944, and 18945 of the Health and Safety Code are expressly excepted in the statute under which the authority to adopt rules, regulations, or orders is delegated. Any building standard adopted in violation of this section shall have no force or effect. Any building standard adopted before January 1, 1980, pursuant to this code and not expressly excepted by statute from such provisions of the State Building Standards Law shall remain in effect only until January 1, 1985, or until adopted, amended, or superseded by provisions published in the State Building Standards Code, whichever occurs sooner.

SEC. 222. Section 25402.2 is added to the Public Resources Code, to read·

25402.2. Any standard adopted by the commission pursuant to Sections 25402 and 25402.1 which is a building standard as defined in Section 25488.5 shall be submitted to the State Building Standards Commission for approval pursuant to, and is governed by, the provisions of the State Building Standards Law, Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code and Section 25216.4 of this code. Such building standards adopted by the commission and published in the State Building Standards Code shall be enforced as provided in Sections 25402 and 25402.1.

SEC 223. Section 25488.5 is added to the Publc Resources Code, to read·

25488 5. "Building standard" means a building standard as defined in Section 18909 of the Health and Safety Code which is adopted by the commission.

SEC. 224. Section 25493.5 is added to the Public Resources Code, to read:

25493.5. On and after January 1, 1980, no governmental agency shall commence construction on any new structure unless the new structure complies with all applicable building standards, as defined in Section 25488 5 and published in the State Building Standards Code

SEC. 225. Section 25605 5 is added to the Public Resources Code, to read:

25605.5. Standards adopted by the commission pursuant to Section 25605 which are building standards as defined in Section 25488.5 shall be submitted to the State Building Standards Commission for approval pursuant to, and are governed by, the provisions of the State Building Standards Law, Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code and Section 25216.4 of this code. Such building standards adopted by the commission and published in the State Building Standards Code shall comply with, and be enforced as provided in, Section 25605

SEC. 226. Section 25609.5 is added to the Public Resources Code,

to read:

25609.5 The effective dates of building standards adopted by the commission pursuant to Section 25609 are subject to approval pursuant to the provisions of the State Building Standards Law, Part 2.5 (commencing with Section 18901) of Part 13 of the Health and Safety Code

SEC. 227. Section 25920.5 is added to the Public Resources Code, to read:

25920.5 Insulation standards adopted by the commission pursuant to Sections 25920 and 25922 which are building standards as defined in Section 25488.5 shall be submitted to the State Building Standards Commission for approval pursuant to, and are governed by, the provisions of the State Building Standards Law, Part 2 5 (commencing with Section 18901) of Division 13 of the Health and Safety Code and Section 25216.4 of this code. Such building standards adopted by the commission and published in the State Building Standards Code shall comply with, and be enforced as provided in, Sections 25920 and 25922

SEC. 228 Section 25925.5 is added to the Public Resources Code, to read·

25925.5. Standards adopted by the commission pursuant to the provisions of Section 25925 which are building standards as defined in Section 25488.5 shall also be subject to the requirements of the State Building Standards Law, Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code.

SEC. 229. Section 30333 of the Public Resources Code is amended to read.

30333. Except as provided in Section 18930 of the Health and Safety Code, the commission may adopt rules and regulations to carry out the purposes and provisions of this division, and to govern procedures of the commission and regional commissions.

Except as provided in Section 18930 of the Health and Safety Code, each regional commission may adopt any regulation or take any action it deems reasonable and necessary to carry out the provisions of this division; provided, however, that no regulation adopted by a regional commission shall take effect until the commission has first reviewed such proposed regulation and found it consistent with this division

Except as provided in Section 18930 of the Health and Safety Code and Section 30501 and subdivision (a) of Section 30620 of this code, such rules and regulations shall be adopted in accordance with the provisions of Chapter 4 5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code. Such rules and regulations shall be consistent with this division and other applicable law.

SEC. 230. Section 30333.2 is added to the Public Resources Code, to read·

30333 2 Notwithstanding any other provision of this code or of law and except as provided in the State Building Standards Law, Part

2.5 (commencing with Section 18900) of Division 13 of the Health and Safety Code, on and after January 1, 1980, the commission or a regional commission shall not adopt nor publish a building standard as defined in Section 18909 of the Health and Safety Code unless the provisions of Sections 18930, 18933, 18938, 18940, 18943, 18944, and 18945 of the Health and Safety Code are expressly excepted in the statute under which the authority to adopt rules, regulations, or orders is delegated. Any building standard adopted in violation of this section shall have no force or effect. Any building standard adopted before January 1, 1980, pursuant to this code and not expressly excepted by statute from such provisions of the State Building Standards Law shall remain in effect only until January 1, 1985, or until adopted, amended, or superseded by provisions published in the State Building Standards Code, whichever occurs sooner. Any building standard expressly required by a provision of federal law specifically requiring such building standard shall be adopted and published in the State Building Standards Code within the time required by federal law.

SEC. 231. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SEC. 232. Section 5 of Assembly Bill 1111 of the 1979–80 Regular Session of the Legislature is repealed.

SEC. 233. Section 11343 of the Government Code as amended by Section 12.2 of this act, Section 11346.1 of the Government Code, as amended by Section 12.4 of this act, Section 11346.2 of the Government Code, as amended by Section 12.6 of this act, Section 11349 1 of the Government Code, as amended by Section 12.8 of this act, and Section 11446 of the Government Code as added by Section 13.5 of this act, and the repeal of Section 5 of Assembly Bill 1111 of the 1979–80 Regular Session, as repealed by Section 232 of this act, shall become operative only in the event that both this bill and Assembly Bill 1111 are chaptered and become effective January 1, 1980, and this bill is chaptered after Assembly Bill 1111, in which event Section 12.2, 12.4, 12 6, 12 8, and 13.5 of this act shall become operative on July 1, 1980.

SEC. 234 Section 18911 of the Health and Safety Code, as added by Section 163 of this act, is amended to read·

18911. "Codification" or "codify" means the transmittal of a building standard, including an emergency standard, to the Office of Administrative Law for filing and publication in the code pursuant to the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For the purposes of this part, "Administrative Procedures Act," as defined in Section 11370 of the Government Code, includes Chapter 3.5 (commencing with Sectin 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

This section shall become operative July 1, 1980

SEC. 235 Section 18913 of the Health and Safety Code, as added by Section 163 of this act, is amended to read:

18913 "Emergency standard" means a building standard or an order of repeal of a building standard filed for publication in the code by the commission pursuant to the provisions of 11346.1 of the Government Code.

This section shall become operative July 1, 1980.

SEC. 236 Section 18936 of the Health and Safety Code, as added by Section 163 of this act, is amended to read:

18936. The commission shall mail notices of hearings prescribed by Section 11346.4 of the Government Code with respect to its proposed action on any building standards to any design profession organizations, chambers of commerce, consumer groups, building and construction industry organizations, governmental agencies, and other parties and organizations that have submitted a written request therefor within the one year period immediately preceding the date of such notices, at least 30 days prior to any hearing thereon, provided that the failure to do so shall not invalidate any such adoption or approval.

This section shall become operative July 1, 1980.

SEC. 237 Section 18937 of the Health and Safety Code, as added by Section 163 of this act, is amended to read.

18937. (a) Emergency standards shall be acted on by the commission within 30 days and only when the adopting agencies have made the finding of emergency required by Sections 11346.1 and 11346.5 of the Government Code and have adopted the emergency standard in compliance with Section 11346 1 of the Government Code, and the commission concurs with such finding. Both such concurrence and the approval of the emergency standards require an affirmative vote of ⅔ of the members of the commission attending a meeting, or not less than six affirmative votes, whichever is greater

(b) Emergency standards approved by the commission pursuant to subdivision (a) shall be filed by the commission pursuant to Section 11346.1 of the Government Code and shall be subject to the provisions of that section.

(c) This section shall become operative July 1, 1980.

SEC 238 Section 18942 of the Health and Safety Code, as added by Section 163 of this act, is amended to read.

18942 (a) The commission shall publish, or cause to be published, bound editions of the code in its entirety once in every three years, such period commencing with January 1, 1980. In each intervening year the commission shall publish, or cause to be published, annual bound supplements In addition, the commission shall publish an emergency standards supplement whenever the commission determines it is necessary

(b) All building standards approved shall be incorporated into the next applicable triennial edition or supplement thereto, and no

building standards, except emergency standards and those approved pursuant to subdivision (b) of Section 142 3 of the Labor Code and published pursuant to subdivision (c) of Section 18943, shall become effective until its required approval by the commission and its publication in such triennial edition or annual supplement.

(c) Except emergency standards, no building standards or regulations shall be published in the triennial edition of the code or annual supplement less than 90 days after approval by the commission.

(d) Emergency standards shall become effective when approved by the commission, transmitted to the Office of Administrative Law, and filed with the Secretary of State, or upon any later date specified therein, and remain in effect as provided by Section 11346 1 of the Government Code and Section 18937 of this code. Emergency standards shall be distributed as soon as practicable after publication to all interested and affected parties Notice of repeal pursuant to the provisions of Section 11346 1 of the Government Code of such emergency standards within the period specified by such section shall also be given to such parties by the affected agencies promptly after the termination of the statutory period pursuant to Section 11346.1 of the Government Code.

(e) The commission may publish, stockpile, and sell at a reasonable price the code and any materials incorporated therein by reference if it deems the latter is insufficiently available to the public, or unavailable at a reasonable price It shall be the duty of each state department concerned and each city and county to have an up-to-date copy of the code available for public inspection.

(f) This section shall become operative July 1, 1980.

SEC 239. It is the intent of the Legislature that if this bill and Assembly Bill 1111 are both chaptered and become effective January 1, 1980, and this bill is chaptered after Assembly Bill 1111, that Sections 18911, 18913, 18936, 18937, and 18942 of the Health and Safety Code, as added by Section 163 of this act, shall remain operative only until the operative date of Assembly Bill 1111, and that on the operative date of Assembly Bill 1111 Section 18911 of the Health and Safety Code as added by Section 163 of this act be amended in the form set forth in Section 234 of this act, Section 18913 of the Health and Safety Code as added by Section 163 of this act be amended in the form set forth in Section 235 of this act, Section 18936 of the Health and Safety Code as added by Section 163 of this act be amended in the form set forth in Section 236 of this act, Section 18937 of the Health and Safety Code as added by Section 163 of this act be amended in the form set forth in Section 237 of this act, and Section 18942 of the Health and Safety Code as added by Section 163 of this act be amended in the form set forth in Section 238 of this act Therefore, Sections 234, 235, 236, 237, and 238 of this act shall become operative only if this bill and Assembly Bill 1111 are both chaptered and become effective January 1, 1980, and this bill is chaptered after Assembly Bill 1111, in which case Sections 234, 235, 236, 237, and 238

of this act shall become operative on the operative date of Assembly Bill 1111.

SEC. 240. It is the intent of the Legislature, that if this bill and Senate Bill 597 are both chaptered and become effective January 1, 1980, and this bill is chaptered after Senate Bill 597, that the amendments to Section 13143.6 of the Health and Safety Code proposed both bills be given effect and incorporated in Section 13143.6 in the form set forth in Section 30.5 of this act. Therefore, Section 30.5 of this act shall become operative only if this bill and Senate Bill 597 are both chaptered and become effective January 1, 1980, both amend Section 13143.6, and this bill is chaptered after Senate Bill 597, in which case Section 30 of this act shall not become operative.

SEC. 241. It is the intent of the Legislature that if this bill and Senate Bill 811 are both chaptered and become effective January 1, 1980, both bills amend Sections 17920, 17920.7, 17951, 17952, 17965, and 17966 of the Health and Safety Code, and this bill is chaptered after Senate Bill 811, that the amendments to Sections 17920, 17920.7, 17951, 17952, 17965, 17966 as proposed by both bills be given effect and incorporated in Sections 17920, 17920.7, 17951, 17952, 17965, and 17966, respectively, in the form set forth in Sections 60.5, 61.5, 76.5, 77 5, 87.5, and 88.5, respectively, of this act Therefore, Sections 60.5, 61 5, 76.5, 77.5, 87.5, and 88.5 of this act shall become operative only if this bill and Senate Bill 811 are both chaptered and become effective January 1, 1980, both amend sections 17920, 17920.7, 17951, 17952, 17965, and 17966, and this bill is chaptered after Senate Bill 811, in which case Sections 60, 61, 76, 77, 87, and 88, respectively, of this act shall not become operative.

SEC. 242. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 243. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because the duties, obligations, or responsibilities imposed on local agencies or school districts by this act are such that related costs are incurred as part of their normal operating procedures It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 1153

An act to add Chapter 1.7 (commencing with Section 175) to Part 1 of Division 1 of the Health and Safety Code, relating to hereditary disorders, and making an appropriation therefor.

[Approved by Governor September 28, 1979 Filed with Secretary of State September 29, 1979]

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

SECTION 1. Chapter 1.7 (commencing with Section 175) is added to Part 1 of Division 1 of the Health and Safety Code, to read:

CHAPTER 1.7 HUNTINGTON'S DISEASE RESEARCH AND WORKSHOP GRANTS

175. The Legislature hereby finds and declares that:

(a) Huntington's disease is a chronic progressive inherited disorder of the central nervous system.

(b) The constellation of mental and physical symptoms, the insidious onset of the disorder, and the torment of those at-risk, waiting throughout their lives to learn if they have been spared, conspire to make "Huntington's disease one of the most diabolical diseases known to man." Each child of a patient with Huntington's disease has a 50/50 chance of getting the disease.

(c) Males, females, and all ethnic groups may be affected and there is no effective treatment or cure. Because so little is known about the disease, many people are misdiagnosed and mistreated.

(d) The suicide rate among Huntington's disease patients is estimated to be seven times the national rate.

(e) The advancement of scientific knowledge about Huntington's disease, which, because of its extraordinary range of symptoms, serves as an excellent prototype for other major chronic genetic, neurologic, and psychiatric illnesses and diseases of aging, such as epilepsy, muscular dystrophy, and Parkinson's disease, will reveal fundamental scientific information that may lead to treatment, prevention, and ultimately a cure for an array of inherited disorders that affect millions

176 The State Director of Health Services shall establish such rules, regulations, and standards for grants under this chapter as the director deems necessary

177 There is hereby created a Scientific Advisory Review Committee. The membership of the committee shall be composed of 11 members who shall be representatives from each of the following:

(a) Two from the University of California.

(b) One from Stanford University.

(c) One from the California Institute of Technology

(d) One from the Hereditary Disease Foundation.

(e) One from the City of Hope.

(f) One from the Health and Welfare Agency appointed by the Secretary of the Health and Welfare Agency.

(g) One appointed by the Speaker of the Assembly.

(h) One appointed by the President pro Tempore of the California Senate.

(i) One from the National Huntington's Disease Association.

(j) One from the Committee to Combat Huntington's Disease.

Except as otherwise provided in this section, members of the committee shall be appointed by the State Director of Health Services, who shall make such appointments based upon recommendations from the entity or organization represented.

The members of the committee shall serve at the pleasure of the appointing power. The members of the committee shall serve without compensation, but shall be reimbursed for necessary and travel expenses incurred in the performance of the duties on the committee.

The Scientific Advisory Review Committee is hereby abolished one year after the grants under this chapter have been made by the director.

178. Pursuant to the regulations of the director, the Scientific Advisory Review Committee shall review and recommend approval of grant applications and monitor programs receiving grants under this chapter.

179 The director may make grants as follows:

(a) Individual research grants to scientists and facilities residing in this state that have research experience with basic and clinical investigations on Huntington's disease and related disorders. Individual research grants shall not exceed twenty thousand dollars ($20,000).

(b) Interdisciplinary workshop grants to scientists and facilities for the purposes of facilitating interchange among an interdisciplinary group of investigators regarding problems in the treatment and care of patients as well as basic research, all of which may be applicable to a variety of genetic or neuro-degenerative disorders in addition to Huntington's disease. Individual workshop grants shall not exceed twelve thousand five hundred dollars ($12,500).

180. Not more than 10 percent of any money appropriated for purposes of this chapter shall be utilized for the administration of this chapter.

SEC 2 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 purposes of Chapter 1.7 (commencing with Section 175) of Part 1 of Division 1 of the Health and Safety Code Such appropriation shall be expended, as follows:

(a) One hundred sixty-two thousand five hundred dollars ($162,500) for individual research grants pursuant to subdivision (a)

of Section 179 of the Health and Safety Code. No more than fifteen thousand dollars ($15,000) of that sum shall be used for administrative costs.

(b) Thirty-seven thousand five hundred dollars ($37,500) for interdisciplinary workshop grants pursuant to subdivision (b) of Section 179 of the Health and Safety Code. No more than five thousand dollars ($5,000) of that sum shall be used for administrative costs.

CHAPTER 1154

An act to add Section 34717 to the Health and Safety Code, relating to housing, and making an appropriation therefor.

[Approved by Governor September 28, 1979. Filed with Secretary of State September 29, 1979]

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

SECTION 1. Section 34717 is added to the Health and Safety Code, to read.

34717. (a) It is the intent of the Legislature in enacting this section to provide housing assistance for the developmentally or physically disabled, and mentally disordered where such assistance is for the purpose of providing a transition from an institutional to an independent setting, and where such assistance is administered in the context of ongoing local programs leading to rehabilitation and independence.

(b) The department shall establish a program for the purpose of housing assistance for the physically or developmentally disabled, or mentally disordered. The department shall contract with local agencies which provide supportive services for such individuals, where such services are designed to provide a transition to independent living. The local agencies shall ensure that recipients of housing assistance are income qualified under guidelines for programs of the federal Department of Housing and Urban Development under Section 8 of the United States Housing Act of 1937, as amended (42 United States Code 1437(f)), and shall not contract for housing which exceeds such guidelines for fair market rents for the Section 8 program. Public and private agencies participating in the program established pursuant to this section shall be those whose program philosophies and activities conform substantially to the principles of community living under Chapter 12 (commencing with Section 4830) of Division 4.5, community residential treatment under Chapter 5 (commencing with Section 5450) of Part 1 of Division 5, and independent living under Chapter 8 (commencing with Section 19800) of Part 2 of Division 10, of the Welfare and Institutions Code.

(c) Any local agency making application for housing assistance payments to the department shall, in its application, explain how such housing assistance payments are part of its ongoing programs to establish independent living for its disabled clientele. The department, in reviewing such applications, may consult with the Department of Developmental Disabilities, the Department of Mental Health, and the Department of Rehabilitation.

(d) In order to receive housing assistance payments for any specific structure pursuant to the provisions of this section, the local agency shall not contract for rental of more than 12 units, or for rental of space for more than 24 persons, in the structure. No individual shall remain in a payment assisted unit for more than 18 months

SEC 2 The sum of two hundred fifty thousand dollars ($250,000) is hereby appropriated from the General Fund to the Department of Housing and Community Development for the purpose of establishing the housing assistance program created pursuant to this act.

CHAPTER 1155

An act to amend Sections 341, 342, 343, and 347 of the Health and Safety Code, relating to health, and making an appropriation therefor

[Approved by Governor September 28, 1979 Filed with Secretary of State September 29, 1979]

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

SECTION 1. The Legislature finds and declares that the health care management problems of individuals suffering from chronic inherited degenerative illnesses have a cataclysmic and shattering emotional and financial impact on the patients and families afflicted.

The Legislature further finds and declares that the health care delivery system in the State of California lacks a full range of services and facilities matched to the needs of the chronically ill at all levels of disability As a consequence, many families unable to afford the high cost of health care are forced to consider bankruptcy or divorce as their only alternatives.

The Legislature, therefore, finds that in order to ease human suffering, maintain the family unit and encourage individuals to remain self-supportive, the state must assist in the provision of such services

SEC. 2 Section 341 of the Health and Safety Code is amended to read

341 The State Director of Health Services shall establish and administer a program for the medical care of persons with genetically handicapping conditions, including cystic fibrosis,

hemophilia, sickle cell disease, Huntington's disease Friedreich's Ataxia, and Joseph's disease

The program shall also provide access to social support services, which may help ameliorate the physical, psychological, and economic problems attendant to genetically handicapping conditions, in order that the genetically handicapped person may function at an optimal level commensurate with the degree of impairment.

Such medical and social support services may be obtained through physicians, genetically handicapped person's program specialized centers, and other providers that qualify pursuant to the regulations of the department to provide such services. "Medical care" as used in this section shall be limited to noncustodial medical and support services

The director, with the guidance of the Advisory Committee on Genetically Handicapped Person's Program may, by regulation, expand the list of genetically handicapping conditions covered under this article. The director shall adopt such rules and regulations as are necessary for the implementation of the provisions of this article. The director, with the approval of the advisory committee, shall establish priorities for the use of funds and provision of services under this article

SEC. 3. Section 342 of the Health and Safety Code is amended to read:

342. The program established under this article shall include any or all of the following medical and social support services:

(a) Initial intake and diagnostic evaluation;

(b) The cost of blood transfusion and use of blood derivatives, or both;

(c) Rehabilitation services, including reconstructive surgery;

(d) Expert diagnosis;

(e) Medical treatment;

(f) Surgical treatment;

(g) Hospital care;

(h) Physical and speech therapy;

(i) Occupational therapy;

(j) Special treatment;

(k) Materials;

(*l*) Appliances and their upkeep, maintenance, and care;

(m) Maintenance, transportation, or care incidental to any other form of services;

(n) Respite care or other existing resources (e g., sheltered workshops);

(o) Genetic and long-term psychological counseling,

(p) Appropriate administrative staff resources to carry out the provisions of this article. Such staff shall include, but not be limited to, at least one case manager per each 350 clients.

SEC 4 Section 343 of the Health and Safety Code is amended to read

343. The State Director of Health Services shall appoint an 11-member Advisory Committee on Genetically Handicapped Person's Program composed of professional and consumer representatives who shall serve without compensation and at the discretion of the director. The director shall seek the advice of the advisory committee with respect to rules and regulations to be adopted pursuant to this article.

SEC. 5. Section 347 of the Health and Safety Code is amended to read:

347 The state department shall establish, with the guidance of the advisory committee, uniform standards of financial eligibility for the services under the Genetically Handicapped Persons' Program funded pursuant to the provisions of Item 266 of the Budget Act of 1979.

SEC. 6 The sum of five hundred thousand dollars ($500,000) is hereby appropriated from the General Fund to the State Department of Health Services for expenditure for purposes of carrying out the Genetically Handicapped Person's Program, Article 3 6 (commencing with Section 340) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code.

The appropriation made by this section shall be included as part of the Genetically Handicapped Person's Program budget and shall not be used as a categorical fund for any single eligible condition.

CHAPTER 1156

An act to add Section 14005.3 to the Welfare and Institutions Code, relating to public social services, and making an appropriation therefor

[Approved by Governor September 29, 1979 Filed with Secretary of State September 29, 1979]

I am reducing the appropriation in Section 2 of Assembly Bill No 378 from $503,000 to $50,000

I believe that this amount is sufficient to pay for the costs associated with this bill With these reductions, I approve Assembly Bill No 378

Edmund G Brown Jr , Governor

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

SECTION 1 Section 14005.3 is added to the Welfare and Institutions Code, to read·

14005.3 (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 pursuant to Section 1614 of Part

A of Title XVI of the Social Security Act (Section 1382c, Title 42, United States Code) 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), shall be considered to be disabled, for the purposes of this chapter, even though such person is engaged in substantial gainful activity Regardless of whether such person has excess income pursuant to Sections 14005.12 and 14005 13, such person shall be eligible to receive health care benefits and services under this chapter if his or her income does not exceed the maximum income eligibility limits for benefits under Part A of Title XVI of the Social Security Act. Any such person whose income exceeds the maximum income eligibility limits for benefits under Part A of Title XVI of the Social Security Act shall be eligible under Sections 14005 4 and 14052 for health care benefits and services under this chapter, provided, that the income levels for maintenance in Section 14005.12 for such person shall be the maximum income eligibility limits for benefits under Part A of Title XVI of the Social Security Act and provided, that his or her nonexempt income in excess of that maximum is used to pay his or her share of costs.

(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 health care benefits and services shall be supported by medical reports when requested Such reports shall be provided at the expense of the department.

SEC 2 The sum of five hundred three thousand dollars ($503,000) is hereby appropriated from the General Fund for transfer to the Health Care Deposit Fund to carry out the provisions of this act

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CHAPTER 1157

An act to amend and repeal Sections 1553 and 1555 of, and to add and repeal Section 1521 to, the Probate Code, and to add and repeal Section 12201 5 of the Welfare and Institutions Code, relating to public assistance recipients, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately

[Approved by Governor September 29, 1979 Filed with Secretary of State September 29, 1979]

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

SECTION 1. Section 1521 is added to the Probate Code, to read:

1521. If the inventory filed pursuant to Section 1550 indicates that a ward has no income or property and is receiving public assistance payments pursuant to Part 3 (commencing with Section 11000) or Part 4 (commencing with Section 16000) of Division 9 of the Welfare and Institutions Code, the court may order that the guardian be the designated payee for such public assistance payments.

SEC. 2. Section 1553 of the Probate Code is amended to read:

1553. At the expiration of a year from the time of his appointment, and as often thereafter as he may be required by the court, but no less frequently than biennially, the guardian must present his account to the court for settlement and allowance. When an account is rendered by two or more joint guardians, the court, in its discretion, may allow the same upon the oath of any of them.

No account shall be required by the court if the inventory filed pursuant to Section 1550 indicates that the ward has no income or property and is receiving public assistance payments pursuant to Part 3 (commencing with Section 11000) or Part 4 (commencing with Section 16000) of Division 9 of the Welfare and Institutions Code. In the event that the ward subsequently receives income or property, the guardian shall be required to report such income or property to the court and the guardian shall present his account to the court as he may be required by the court, but no less frequently than biennially.

SEC 3. Section 1555 of the Probate Code is amended to read:

1555. The termination of the relation of guardian and ward by the death of either guardian or ward or by the ward attaining his majority or being restored to capacity shall not cause the court to lose jurisdiction of the proceeding for the purpose of settling the accounts of the guardian. If the guardian dies or becomes incompetent, his account may be presented by his personal representative and upon petition of the successor of such deceased or incompetent guardian, the court shall compel the personal representative of the deceased or incompetent guardian to render such account and must settle such account as in other cases.

In the event the guardian dies or becomes incompetent and there is no executor, administrator, or personal representative appointed for his estate, or he absconds, then the court may compel the attorney for such absconding, deceased, or incompetent guardian or attorney of record in the guardianship proceeding, to render an account of the guardianship to the extent that the attorney has information or records available to him for the purpose. The account of the attorney need not be verified A fee shall be allowed to the attorney by the court for this extraordinary service. For the purposes of this section, "personal representative" shall include a guardian and conservator

No account shall be required by the court if the inventory filed

pursuant to Section 1550 indicates that the ward has no income or property and is receiving public assistance payments pursuant to Part 3 (commencing with Section 11000) or Part 4 (commencing with Section 16000) of Division 9 of the Welfare and Institutions Code. In the event that the ward subsequently receives income or property, the guardian shall be required to report such income or property to the court and the guardian shall present his account to the court as he may be required by the court, but no less frequently than biennially.

SEC 4 Section 12201.5 is added to the Welfare and Institutions Code, to read

12201.5 Notwithstanding the provisions of Section 12201, the amount applicable under that section to a disabled minor residing in a nonmedical out-of-home facility with a nonrelative guardian shall be the amount specified in subdivision (g) of that section, as adjusted for cost-of-living pursuant to that section. The department shall report to the Legislature by March 1, 1980, on the number of disabled minor children residing with nonrelative guardians who receive payments pursuant to this section.

This section shall remain in effect only until June 30, 1980, and on that date is repealed, unless a later enacted statute, which is chaptered before June 30, 1980, deletes or extends such date. To the extent permitted by federal law, the nonrelative guardians of disabled minors in nonmedical out-of-home care shall be advised that the increase in benefits authorized by this section shall terminate on June 30, 1980, unless a later enacted statute authorizes continuation of the increase

SEC 5 It is the intent of the Legislature, if this bill and Assembly Bill 261 are both chaptered and become effective on or before January 1, 1980, and this bill is chaptered after Assembly Bill 261, that Sections 1, 2, and 3 of this act shall remain operative only until the operative date of Assembly Bill 261, and that on the operative date of Assembly Bill 261, Sections 1, 2, and 3 of this act shall be repealed and shall have no force or effect on or after such date and Sections 2452 and 2628 of the Probate Code, as added by Sections 3.1 and 3 2, respectively, of Assembly Bill 261 shall be operative on the operative date of Assembly Bill 261 and Sections 2452 and 2628 of the Probate Code as added by Section 3 of Assembly Bill 261 shall not become operative

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 to forestall a reduction in public assistance payments to wards who are minors under 18 it is necessary that this act go into effect immediately

CHAPTER 1158

An act to amend Section 44955 of, and to add Section 42239.8 to, the Education Code, relating to school districts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1979. Filed with Secretary of State September 29, 1979.]

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

SECTION 1. Section 42239.8 is added to the Education Code, to read: Territory Transfers: Determination of Declining Enrollment

42239.8 Whenever a school district has transferred a portion of its territory to another school district and no facilities or personnel are transferred by virtue of that transfer, and if the school district continues to provide education to pupils of the transferred territory under tuition contracts as provided for in Section 46304, the school district losing the territory shall not include the average daily attendance transferred in its base year for the purposes of determining the extent of declining enrollment, if any, in the budget year, for purposes of the computations provided pursuant to Section 42239

SEC. 2. Section 44955 of the Education Code is amended to read:

44955. No permanent employee shall be deprived of his position for causes other than those specified in Sections 44892, 44907, and 44923, and Sections 44932 to 44947, inclusive, and no probationary employee shall be deprived of his position for cause other than as specified in Sections 44948 to 44949, inclusive.

Whenever in any school year the average daily attendance in all of the schools of a district for the first six months in which school is in session shall have declined below the corresponding period of either of the previous two school years, whenever the governing board determines that attendance in a district will decline in the following year as a result of the termination of an interdistrict tuition agreement as defined in Section 46304, or whenever a particular kind of service is to be reduced or discontinued not later than the beginning of the following school year, and when in the opinion of the governing board of said district it shall have become necessary by reason of either of such conditions to decrease the number of permanent employees in said district, the said governing board may terminate the services of not more than a corresponding percentage of the certificated employees of said district, permanent as well as probationary, at the close of the school year, provided, that the services of no permanent employee may be terminated under the provisions of this section while any probationary employee, or any other employee with less seniority, is retained to render a service which said permanent employee is certificated and competent to render As between employees who first rendered paid service to the

district on the same date, the governing board shall determine the order of termination solely on the basis of needs of the district and the students thereof. Upon the request of any employee whose order of termination is so determined, the governing board shall furnish in writing no later than five days prior to the commencement of the hearing held in accordance with Section 44949, a statement of the specific criteria used in determining the order of termination and the application of the criteria in ranking each employee relative to the other employees in the group. This requirement that the governing board provide, on request, a written statement of reasons for determining the order of termination shall not be interpreted to give affected employees any legal right or interest that would not exist without such a requirement.

Notice of such termination of services either for a reduction in attendance or reduction or discontinuance of a particular kind of service to take effect not later than the beginning of the following school year, shall be given before the 15th of May in the manner prescribed in Section 44949, and services of such employees shall be terminated in the inverse of the order in which they were employed, as determined by the board in accordance with the provisions of Sections 44844 and 44845. In the event that a permanent or probationary employee is not given the notices and a right to a hearing as provided for in Section 44949, he shall be deemed reemployed for the ensuing school year.

The governing board shall make assignments and reassignments in such a manner that employees shall be retained to render any service which their seniority and qualifications entitle them to render

SEC. 3. The Salinas Union High School Distict shall include the average daily attendance attributable to the transfer of a portion of its attendance area to another school district in its base year for the purposes of determining the extent of declining enrollment, if any, in the budget year, for purposes of the computations provided pursuant to Section 42239 of the Education Code. For purposes of this section, loss of average daily attendance resulting from a school district reorganization shall be considered declining enrollment for making the computations provided pursuant to Section 42239 of the Education Code. However, if the Salinas Union High School District continues to provide education to students of the attendance area subject to deannexation under tuition contracts as provided for in Section 46304 of the Education Code, then the average daily attendance subject to the tuition contract for any year shall be included in the district's attendance for that year for purposes of the computations provided pursuant to Section 42239 of the Education Code

The Salinas Union High School District may adjust its revenue limit pursuant to this section for any prior fiscal year pursuant to the provisions of Section 42245 of the Education Code

SEC. 4. This act shall be deemed operative for the entire 1978–79 fiscal year as though it had been enacted into law and become

operative on July 1, 1978. The Superintendent of Public Instruction and other public officers shall, for such purposes, have authority to take all necessary steps to effect the midfiscal year transition involved, including the authority to adjust allowance computations, apportionments, and disbursements ordered from Section A of the State School Fund.

SEC. 5. If this act is chaptered after June 30, 1979, amounts which the Salinas Union High School District receives pursuant to this act during the 1979–80 fiscal year shall be reduced by the amount allocated to such district pursuant to the operation of Sections 42239 and 42245 of the Education Code during the 1978–79 fiscal year.

SEC. 6. Due to the unique circumstances involved in the Salinas Union High School District's adjustment of its revenue limit in prior fiscal years, the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order that the provisions of this act, which have the effect of revising formulas for calculating state school financial aid, may be effective for the 1978–79 fiscal year and the entire 1979–80 fiscal year, it is necessary that this act take effect immediately

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CHAPTER 1159

An act to amend Section 1904 of, and to add Sections 1905 and 1906 to, the Welfare and Institutions Code, relating to youth service bureaus, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately

[Approved by Governor September 29, 1979 Filed with Secretary of State September 29, 1979]

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

SECTION 1. Section 1904 of the Welfare and Institutions Code is amended to read

1904 From any state moneys made available to it for such purpose, the Department of the Youth Authority shall, in accordance with this article, share in the cost of each youth service bureau meeting the standards prescribed for youth service bureaus by the department at the rate of 50 percent of the actual fiscal year costs of each youth service bureau, or eighty thousand dollars ($80,000) per fiscal year for each youth service bureau, whichever amount is the lesser

SEC 2 Section 1905 is added to the Welfare and Institutions

Code, to read.

1905. Each youth service bureau funded under this article shall maintain accurate and complete case records, reports, statistics and other information necessary for the conduct of its programs; establish appropriate written policies and procedures to protect the confidentiality of individual client records; and submit monthly reports to the Department of the Youth Authority concerning services and activities.

SEC. 3. Section 1906 is added to the Welfare and Institutions Code, to read:

1906. The Department of the Youth Authority shall submit a report to the Legislature by January 1, 1981, describing the youth service bureaus funded by this article. Such report shall include, but not be limited to, the types of services and programs offered by each bureau, the number and characteristics of the clients served, the source of referrals, the services provided to clients and the dispositions of cases.

SEC. 4. The sum of four hundred eighty thousand dollars ($480,000) for the 1979–80 fiscal year is hereby appropriated from the General Fund to the Department of the Youth Authority for allocation pursuant to Sections 1902 and 1904 of the Welfare and Institutions Code. It is the intention of the Legislature that funding in future years shall be through the normal budgetary process.

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:

Youth service bureaus represent an invaluable alternative to the detention of juvenile offenders These bureaus currently service a large portion of the juvenile offender and preoffender population. Office of Criminal Justice Planning funding for youth service bureaus will terminate on September 30, 1979. In order to assure the continuing operation of existing bureaus, it is necessary that this act take effect immediately.

CHAPTER 1160

An act to amend Section 2982 of the Civil Code, to amend Sections 18008, 18064, 18211, and 18550 of, and to add Sections 18550.5 and 18551 to, the Health and Safety Code, to add Sections 109 7, 10784, and 11913 to, and to add, repeal, and add Section 6012.8 of, the Revenue and Taxation Code, and to amend Sections 396 and 5352 of, and to repeal Section 5350.6 of, the Vehicle Code, relating to mobilehomes, and making an appropriation therefor.

[Approved by Governor September 29, 1979 Filed with Secretary of State September 29, 1979]

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

SECTION 1. Section 2982 of the Civil Code, as amended by Chapter 278 of the Statutes of 1979, is amended to read:

2982 (a) Every conditional sale contract for the sale of a motor vehicle, with or without accessories, shall be in writing and, if printed, shall be printed in type no smaller than 6 point, and shall contain in a single document all of the agreements of the buyer and seller with respect to the total cost and the terms of payment for the motor vehicle, including any promissory notes or any other evidences of indebtedness. The conditional sale contract or a purchase order shall be signed by the buyer or his authorized representative and by the seller or its authorized representative, and an exact copy thereof shall be furnished the buyer by the seller at the time the buyer and the seller have signed the contract or purchase order. No motor vehicle shall be delivered under this chapter until the seller delivers to the buyer a fully executed copy of the conditional sale contract or purchase order and any vehicle purchase proposal and any credit statement which the seller has required or requested the buyer to sign, and which he has signed, during the contract negotiations. The seller shall not obtain the signature of the buyer to a contract when it contains blank spaces to be filled in after it has been signed Every conditional sale contract shall contain, although not necessarily in the sequence or order set forth below, the following separate items:

1 The cash price of the motor vehicle described in the conditional sale contract

2 The amount of the buyer's downpayment, and whether made in cash or represented by the net agreed value of described property traded in, or both, together with a statement of the respective amounts credited for cash and for such property.

3 The unpaid balance of cash price, which is the difference between items 1 and 2.

4. The cost to the buyer of any insurance, the premium for which is included in the contract balance. Any such cost for credit life or disability insurance may be included in the finance charge if the amount thereof is separately stated on the face of the contract.

5 The amounts, if any, paid or to be paid to any public officer in connection with the transaction and for license, certificate of title, and registration fees imposed by law

6 The amount of any city, county, or city and county imposed fee or tax for a mobilehome

7 The amount of any mobilehome escrow fee.

8 The amount of the state fee for issuance of a certificate of compliance or certificate of waiver pursuant to Section 9889 56 of the Business and Professions Code

9. The amount, if any, charged by the dealer for documentary preparation If a dealer charges a buyer a documentary preparation charge, then the contract shall contain a notice advising the buyer that such charge is not a governmental fee.

10. The amount of the unpaid balance, which is the sum of items 3, 4, 5, 6, 7, 8, and 9.

11 The amount of the finance charge, and the annual percentage rate as defined in the Federal Truth-In-Lending Act (15 U.S.C. 1601 et seq.)

12. The total of payments, which is the sum of items 6 and 7, payable by the buyer to the seller, the number of installments required, the amount of each installment, and the date for payment of the installments.

13 The names and addresses of all persons to whom the notice required under Section 2983.2 and permitted under Sections 2983 5 and 2984 of this code is to be sent.

14. A notice, in at least 8-point bold type if the contract is printed, reading as follows: "Notice to the buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement (3) Under the law, you have the right to pay off in advance the full amount due and under certain conditions to obtain a partial refund of the finance charge. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement."

15. A notice to the buyer, in writing, and, if printed, in type no smaller than 8-point, that complaints concerning unfair or deceptive practices or methods by the seller shall be referred to the seller and, if the complaint is not resolved, may be referred to the Department of Motor Vehicles, Division of Compliance, 2570 24th Street, Sacramento, 95818

(b) If any charge for insurance (other than for credit life or disability) is included in the contract balance and disbursement of any part thereof be made more than one year after the date of the conditional sale contract, any finance charge on the amount to be disbursed after one year shall be computed from the month the disbursement is to be made to the due date of the last installment under the conditional sale contract

(c) The amount of the finance charge in any conditional sale contract for the sale of a motor vehicle, with or without accessories, shall not exceed 1 percent of the unpaid balance multiplied by the number of months (computed on the basis of a full month for any fractional month period in excess of 15 days) elapsing between the date of the contract and the due date of the last installment, or twenty-five dollars ($25), whichever is greater The contract may provide for a delinquency charge or charges on any installment in default for a period of not less than 10 days in an amount not to exceed in the aggregate 5 percent of the installment, which amount

may be collected only once on any installment regardless of the period during which it remains in default. The contract may provide for reasonable collection costs and fees in the event of delinquency.

(d) Any provision in any conditional sale contract for the sale of a motor vehicle to the contrary notwithstanding, the buyer shall have the privilege of paying at any time in full the indebtedness evidenced by the contract. Whenever an indebtedness is liquidated prior to maturity by prepayment or refinancing, or upon surrender or repossession and disposition of the motor vehicle, the holder shall thereupon refund to the buyer the unearned portion of the finance charge. The refund may be made in cash or credited to the amount due on the obligation of the buyer. The amount of the refund shall represent at least as great a proportion of the finance charge as the sum of the periodic time balances payable more than 15 days after the date of prepaying (or other event entitling the buyer to the refund) bears to the sum of all of the periodic time balances under the schedule of installments in the contract. The provisions of this subdivision shall not impair the right of the seller or his assignee to receive delinquency charges on delinquent installments and reasonable costs and fees as provided in subdivision (c) of this section Where the amount of such refund is less than one dollar ($1), no refund need be made. Where the finance charge, after computing the refund, amounts to less than twenty-five dollars ($25), there may be retained an amount equal to twenty-five dollars ($25).

(e) Notwithstanding any other provision of this chapter to the contrary, in the event any required downpayment on which no finance charge is imposed is to be made by the buyer to the seller on a conditional sale contract after the date of such contract but prior to the date of the second payment otherwise scheduled, the amount of such payment may be shown in such contract as a deferred portion of the cash downpayment or as a deduction from the amount of the unpaid balance, and shall be included in the total of payments.

(f) Notwithstanding any other provision of this chapter to the contrary, in any instance in which vendor's single-interest insurance is to be written in connection with a conditional sale contract, a conditional sale contract complying with the applicable disclosure requirements of Regulation Z, as in effect on the date of such contract, shall be deemed to comply with the requirements of paragraphs 1 to 9, inclusive, of subdivision (a), irrespective of any difference between the provisions of that regulation and this chapter with respect to any information to be disclosed, the terminology, form or content of such disclosures, the amounts to be included in or manner of determining the unpaid balance, the finance charge or any other item of information to be disclosed, or otherwise This subdivision shall have no application to the determination of the amount of the unpaid balance, the finance charge, or any other amount for the purpose of computing the maximum permissible finance charge or the refund of any unearned portion of the finance charge under subdivisions (c) and (d), respectively, or for the

purpose of computing any penalty under Section 2983 1.

(g) Notwithstanding any other provision of this chapter to the contrary, any information required to be disclosed in a conditional sale contract under this chapter may be set forth in terminology required or permitted under Regulation Z, as in effect at the time such disclosure is made. Nothing contained in this chapter shall be deemed to prohibit the disclosure in such contract of additional information required or permitted under Regulation Z, as in effect at the time such disclosure is made

(h) If the requirements of this section are otherwise met, the preparation and use of a separate document for agreements governing the ownership of the towbar, wheels, wheel hubs, and axles and for escrow instructions under Section 11950 of the Vehicle Code, relating to the sale of mobilehomes, shall not violate the single-document requirement of subdivision (a).

Without such an agreement governing the ownership of the towbar, wheels, wheel hubs, and axles, no dealer or transporter shall remove or cause to be removed any towbar, wheel, wheel hub, or axle from any mobilehome. Any price quoted for any mobilehome in a conditional sale contract, purchase order, or security agreement pursuant to this section shall state whether such price includes or excludes the cost of the towbar, wheels, wheel hubs, and axles. If such price does not include the towbar, wheels, wheel hubs, or axles, it shall show a deduction for the cost of such parts not included.

SEC. 1.5 Section 2982 of the Civil Code, as amended in Chapter 278 of the Statutes of 1979, is amended to read:

2982. (a) Every conditional sale contract for the sale of a motor vehicle, with or without accessories, shall be in writing and, if printed, shall be printed in type no smaller than 6-point, and shall contain in a single document all of the agreements of the buyer and seller with respect to the total cost and the terms of payment for the motor vehicle, including any promissory notes or any other evidences of indebtedness The conditional sale contract or a purchase order shall be signed by the buyer or his authorized representative and by the seller or its authorized representative, and an exact copy thereof shall be furnished the buyer by the seller at the time the buyer and the seller have signed the contract or purchase order. No motor vehicle shall be delivered under this chapter until the seller delivers to the buyer a fully executed copy of the conditional sale contract or purchase order and any vehicle purchase proposal and any credit statement which the seller has required or requested the buyer to sign, and which he has signed, during the contract negotiations The seller shall not obtain the signature of the buyer to a contract when it contains blank spaces to be filled in after it has been signed Every conditional sale contract shall contain, although not necessarily in the sequence or order set forth below, the following separate items

1 The cash price of the motor vehicle described in the conditional sale contract

2 The amount of the buyer's downpayment, and whether made in cash or represented by the net agreed value of described property traded in, or both, together with a statement of the respective amounts credited for cash and for such property.

3 The unpaid balance of cash price, which is the difference between items 1 and 2.

4. The cost to the buyer of any insurance, the premium for which is included in the contract balance. Any such cost for credit life or disability insurance may be included in the finance charge if the amount thereof is separately stated on the face of the contract.

5. The amounts, if any, paid or to be paid to any public officer in connection with the transaction and for license, certificate of title, and registration fees imposed by law.

6 The amount of any city, county, or city and county imposed fee or tax for a mobilehome.

7 The amount of any mobilehome escrow fee.

8. The amount of the state fee for issuance of a certificate of compliance or certificate of waiver pursuant to Section 9889 56 of the Business and Professions Code.

9. The amount, if any, charged by the dealer for documentary preparation If a dealer charges a buyer a documentary preparation charge, then the contract shall contain a notice advising the buyer that such charge is not a governmental fee

10 The amount of the unpaid balance, which is the sum of items 3, 4, 5, 6, 7, 8, and 9.

11. The amount, if any, of an administrative finance charge

12 The amount financed, which is the difference between items 10 and 11

13. The finance charge (i) expressed as the annual percentage rate as defined in Regulation Z and (ii) expressed in dollars.

14. The number, amount, and due dates or periods of payments scheduled to repay the indebtedness and the sum of such payments.

15 The names and addresses of all persons to whom the notice required under Section 2983.2 and permitted under Sections 2983.5 and 2984 of this code is to be sent.

16. (A) Where the contract includes a finance charge determined on the precomputed basis, an identification of the method of computing the unearned portion of the finance charge in the event of prepayment in full of the buyer's obligation and a statement of the amount or method of computation of any charge that may be deducted from the amount of any rebate of such unearned finance charge that will be credited to the obligation or refunded to the buyer Reference to the Rule of 78's, the sum of the digits, the sum of the periodic time balances or the actuarial method shall constitute a sufficient identification of the method of computing the unearned portion of the finance charge

(B) Where the contract includes a finance charge which is determined on the simple-interest basis but provides for a minimum finance charge in the event of prepayment in full, a statement of that

fact and the amount of the minimum finance charge or its method of calculation

17 (A) Where the contract includes a finance charge which is determined on the precomputed basis, a notice as set forth in either item (i) or (ii) in at least 8-point bold type if the contract is printed.

(i) "Notice to the buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) Under the law, you have the right to pay off in advance the full amount due and under certain conditions to obtain a partial refund of the finance charge. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement."

(ii) "Notice to the buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time and under certain conditions obtain a partial refund of the finance charge. Because the refund will be figured by the Rule of 78's, the time when you prepay may affect the ultimate cost of credit under this agreement. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement."

(B) Where the contract includes a finance charge which is determined on the simple-interest basis, a notice, in at least 8-point bold type if the contract is printed, reading as follows: "Notice to the buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement "

18. A notice to the buyer, in writing, and, if printed, in type no smaller than 8-point, that complaints concerning unfair or deceptive practices or methods by the seller shall be referred to the seller and, if the complaint is not resolved, may be referred to the Department of Motor Vehicles, Division of Compliance, 2570 24th Street, Sacramento, 95818

Additional items may be included to explain the computations made in determining the amount to be paid by the buyer. If the finance charge or any portion thereof is calculated on the 365-day basis, the amount of the finance charge shown pursuant to item 13 shall be the amount which will be incurred by the buyer if all payments are received by the seller on their respective due dates.

(b) If any charge for insurance (other than for credit life or disability) is included in the contract balance and disbursement of

any part thereof be made more than one year after the date of the conditional sale contract, any finance charge on the amount to be disbursed after one year shall be computed from the month the disbursement is to be made to the due date of the last installment under the conditional sale contract.

(c) (1) If the finance charge is determined by the precomputed basis, the dollar amount of the finance charge shown pursuant to item 13 of subdivision (a) shall not exceed the greater of.

(A) One percent of the unpaid balance multiplied by the number of months (computed on the basis of a full month for any fractional month period in excess of 15 days) elapsing between the date of the contract and the due date of the last installment; or

(B) Twenty-five dollars ($25)

(2) If the finance charge or a portion thereof is determined by the simple-interest basis, the dollar amount of the finance charge shown pursuant to item 13 of subdivision (a) shall not exceed the greater of:

(A) The product of the unpaid balance multiplied by the maximum annual percentage rate (as defined in Regulation Z) which would be permitted if subparagraph (A) of paragraph (1) were applicable to the contract, or

(B) (i) Twenty-five dollars ($25) if the unpaid balance does not exceed one thousand dollars ($1,000), (ii) fifty dollars ($50) if the unpaid balance exceeds one thousand dollars ($1,000) but does not exceed two thousand dollars ($2,000), or (iii) seventy-five dollars ($75) if the unpaid balance exceeds two thousand dollars ($2,000).

(3) The holder of the contract shall not charge, collect or receive a finance charge which exceeds the dollar amount shown pursuant to item 13 of subdivision (a), except to the extent caused by (A) the holder's receipt of one or more payments under a contract which provides for determination of the finance charge or a portion thereof on the 365-day basis at a time or times other than as originally scheduled, (B) the use of estimations in the providing of the disclosures required by this chapter to the extent permitted by Regulation Z, or (C) as permitted by subdivision (c) of Section 2982.8

(4) If the finance charge or a portion thereof is determined by the simple-interest basis and the amount of the unpaid balance exceeds five thousand dollars ($5,000), the holder of the contract may, in lieu of its right to a minimum finance charge under subparagraph (B) of paragraph (2), charge, receive or collect on the date of the contract an administrative finance charge not to exceed seventy-five dollars ($75) provided that the sum of any such administrative finance charge and the portion of the finance charge determined by the simple-interest basis shall not exceed the maximum total finance charge permitted by subparagraph (A) of paragraph (2). Any administrative finance charge which is charged, received or collected by a holder shall be deemed a finance charge earned on the date of the contract

(d) The contract may provide for a delinquency charge or charges on any installment in default for a period of not less than 10 days in an amount not to exceed in the aggregate 5 percent of the installment, which amount may be collected only once on any installment regardless of the period during which it remains in default. The contract may provide for reasonable collection costs and fees in the event of delinquency

(e) Notwithstanding any provision of a contract to the contrary, the buyer may pay at any time before maturity the entire indebtedness evidenced by the contract without penalty. In the event of prepayment in full.

(1) If the finance charge was determined on the precomputed basis, the amount required to prepay the contract shall be the outstanding contract balance as of that date, provided, however, that the buyer shall be entitled to a refund credit in the amount of the unearned portion of the finance charge, except as provided in paragraphs (3) and (4). The amount of the unearned portion of the finance charge shall be at least as great a proportion of the finance charge, or if the contract has been extended, deferred or refinanced, of the additional charge therefor, as the sum of the periodic monthly time balances payable more than 15 days after the date of prepayment bears to the sum of all the periodic monthly time balances under the schedule of installments in the contract or, if the contract has been extended, deferred or refinanced, as so extended, deferred or refinanced. Where the amount of the refund credit is less than one dollar ($1), no refund credit need be made by the holder. Any refund credit in the amount of one dollar ($1) or more may be made in cash or credited to the outstanding obligations of the buyer under the contract.

(2) If the finance charge or a portion thereof was determined on the simple-interest basis, the amount required to prepay the contract shall be the outstanding contract balance as of that date, including any earned finance charges which are unpaid as of that date and, if applicable, the amount provided in paragraph (3), and provided further that in cases where a finance charge is determined on the 360-day basis, the payments theretofore received will be assumed to have been received on their respective due dates regardless of the actual dates on which such payments were received

(3) Where the minimum finance charge provided by subparagraph (B) of paragraph (1) of subdivision (c) or subparagraph (B) of paragraph (2) of subdivision (c), if either is applicable, is greater than the earned finance charge as of the date of prepayment, the holder shall be additionally entitled to the difference

(4) The provisions of this subdivision shall not impair the right of the seller or his assignee to receive delinquency charges on delinquent installments and reasonable costs and fees as provided in subdivision (d) of this section

(f) Notwithstanding any other provision of this chapter to the

contrary, in the event any required downpayment on which no finance charge is imposed is to be made by the buyer to the seller on a conditional sale contract after the date of such contract but prior to the date of the second payment otherwise scheduled, the amount of such payment may be shown in such contract as a deferred portion of the cash downpayment or, if the finance charge is determined on the precomputed basis, as a deduction from the amount of the unpaid balance, and shall be included in the total of payments.

(g) Notwithstanding any other provision of this chapter to the contrary, any information required to be disclosed in a conditional sale contract under this chapter may be disclosed in any manner, method, or terminology required or permitted under Regulation Z, as in effect at the time such disclosure is made. Nothing contained in this chapter shall be deemed to prohibit the disclosure in such contract of additional information required or permitted under Regulation Z, as in effect at the time such disclosure is made.

(h) If the requirements of this section are otherwise met, the preparation and use of a separate document for agreements governing the ownership of the towbar, wheels, wheel hubs, and axles and for escrow instructions under Section 11950 of the Vehicle Code, relating to the sale of mobilehomes, shall not violate the single-document requirement of subdivision (a).

Without such an agreement governing the ownership of the towbar, wheels, wheel hubs, and axles, no dealer or transporter shall remove or cause to be removed any towbar, wheel, wheel hub, or axle from any mobilehome Any price quoted for any mobilehome in a conditional sale contract, purchase order, or security agreement pursuant to this section shall state whether such price includes or excludes the cost of the towbar, wheels, wheel hubs, and axles. If such price does not include the towbar, wheels, wheel hubs, or axles, it shall show a deduction for the cost of such parts not included.

(i) This section shall remain in effect only until January 1, 1981, and as of such date is repealed

SEC 1.6. Section 2982 is added to the Civil Code, to read:

2982 (a) Every conditional sale contract for the sale of a motor vehicle, with or without accessories, shall be in writing and, if printed, shall be printed in type no smaller than 6-point, and shall contain in a single document all of the agreements of the buyer and seller with respect to the total cost and the terms of payment for the motor vehicle, including any promissory notes or any other evidences of indebtedness The conditional sale contract or a purchase order shall be signed by the buyer or his authorized representative and by the seller or its authorized representative, and an exact copy thereof shall be furnished the buyer by the seller at the time the buyer and the seller have signed the contract or purchase order. No motor vehicle shall be delivered under this chapter until the seller delivers to the buyer a fully executed copy of the conditional sale contract or purchase order and any vehicle purchase proposal and any credit statement which the seller has required or

requested the buyer to sign, and which he has signed, during the contract negotiations. The seller shall not obtain the signature of the buyer to a contract when it contains blank spaces to be filled in after it has been signed. Every conditional sale contract shall contain, although not necessarily in the sequence or order set forth below, the following separate items:

1 The cash price of the motor vehicle described in the conditional sale contract.

2. The amount of the buyer's downpayment, and whether made in cash or represented by the net agreed value of described property traded in, or both, together with a statement of the respective amounts credited for cash and for such property.

3. The unpaid balance of cash price, which is the difference between items 1 and 2.

4. The cost to the buyer of any insurance, the premium for which is included in the contract balance. Any such cost for credit life or disability insurance may be included in the finance charge if the amount thereof is separately stated on the face of the contract.

5. The amounts, if any, paid or to be paid to any public officer in connection with the transaction and for license, certificate of title, and registration fees imposed by law.

6. The amount of any city, county, or city and county imposed fee or tax for a mobilehome.

7 The amount of any mobilehome escrow fee.

8. The amount of the state fee for issuance of a certificate of compliance or certificate of waiver pursuant to Section 9889.56 of the Business and Professions Code.

9 The amount, if any, charged by the dealer for documentary preparation. If a dealer charges a buyer a documentary preparation charge, then the contract shall contain a notice advising the buyer that such charge is not a governmental fee.

10 The amount of the unpaid balance, which is the sum of items 3, 4, 5, 6, 7, 8, and 9.

11. The amount, if any, of an administrative finance charge.

12. The amount financed, which is the difference between items 10 and 11

13. The finance charge (i) expressed as the annual percentage rate as defined in Regulation Z and (ii) expressed in dollars.

14. The number, amount and due dates or periods of payments scheduled to repay the indebtedness and the sum of such payments.

15. The names and addresses of all persons to whom the notice required under Section 2983.2 and permitted under Sections 2983.5 and 2984 of this code is to be sent

16. (A) Where the contract includes a finance charge determined on the precomputed basis, an identification of the method of computing the unearned portion of the finance charge in the event of prepayment in full of the buyer's obligation and a statement of the amount or method of computation of any charge that may be deducted from the amount of any rebate of such

unearned finance charge that will be credited to the obligation or refunded to the buyer. Reference to the Rule of 78's, the sum of the digits, the sum of the periodic time balances or the actuarial method shall constitute a sufficient identification of the method of computing the unearned portion of the finance charge.

(B) Where the contract includes a finance charge which is determined on the simple-interest basis but provides for a minimum finance charge in the event of prepayment in full, a statement of that fact and the amount of the minimum finance charge or its method of calculation.

17. (A) Where the contract includes a finance charge which is determined on the precomputed basis, a notice, in at least 8-point bold type if the contract is printed, reading as follows: "Notice to the buyer· (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time and under certain conditions obtain a partial refund of the finance charge. Because the refund will be figured by the Rule of 78's, the time when you prepay may affect the ultimate cost of credit under this agreement. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement."

(B) Where the contract includes a finance charge which is determined on the simple-interest basis, a notice, in a least 8-point bold type if the contract is printed, reading as follows: "Notice to the buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement."

18. A notice to the buyer, in writing, and, if printed, in type no smaller than 8-point, that complaints concerning unfair or deceptive practices or methods by the seller shall be referred to the seller and, if the complaint is not resolved, may be referred to the Department of Motor Vehicles, Division of Compliance, 2570 24th Street, Sacramento, 95818

Additional items may be included to explain the computations made in determining the amount to be paid by the buyer. If the finance charge or any portion thereof is calculated on the 365-day basis, the amount of the finance charge shown pursuant to item 13 shall be the amount which will be incurred by the buyer if all payments are received by the seller on their respective due dates.

(b) If any charge for insurance (other than for credit life or disability) is included in the contract balance and disbursement of any part thereof be made more than one year after the date of the

conditional sale contract, any finance charge on the amount to be disbursed after one year shall be computed from the month the disbursement is to be made to the due date of the last installment under the conditional sale contract.

(c) (1) If the finance charge is determined by the precomputed basis, the dollar amount of the finance charge shown pursuant to item 13 of subdivision (a) shall not exceed the greater of:

(A) One percent of the unpaid balance multiplied by the number of months (computed on the basis of a full month for any fractional month period in excess of 15 days) elapsing between the date of the contract and the due date of the last installment; or

(B) Twenty-five dollars ($25).

(2) If the finance charge or a portion thereof is determined by the simple-interest basis, the dollar amount of the finance charge shown pursuant to item 13 of subdivision (a) shall not exceed the greater of

(A) The product of the unpaid balance multiplied by the maximum annual percentage rate (as defined in Regulation Z) which would be permitted if subparagraph (A) of paragraph (1) were applicable to the contract; or

(B) (i) Twenty-five dollars ($25) if the unpaid balance does not exceed one thousand dollars ($1,000), (ii) fifty dollars ($50) if the unpaid balance exceeds one thousand dollars ($1,000) but does not exceed two thousand dollars ($2,000), or (iii) seventy-five dollars ($75) if the unpaid balance exceeds two thousand dollars ($2,000).

(3) The holder of the contract shall not charge, collect or receive a finance charge which exceeds the dollar amount shown pursuant to item 13 of subdivision (a), except to the extent caused by (A) the holder's receipt of one or more payments under a contract which provides for determination of the finance charge or a portion thereof on the 365-day basis at a time or times other than as originally scheduled, (B) the use of estimations in the providing of the disclosures required by this chapter to the extent permitted by Regulation Z, or (C) as permitted by subdivision (c) of Section 2982 8

(4) If the finance charge or a portion thereof is determined by the simple-interest basis and the amount of the unpaid balance exceeds five thousand dollars ($5,000), the holder of the contract may, in lieu of its right to a minimum finance charge under subparagraph (B) of paragraph (2), charge, receive or collect on the date of the contract an administrative finance charge not to exceed seventy-five dollars ($75) provided that the sum of any such administrative finance charge and the portion of the finance charge determined by the simple-interest basis shall not exceed the maximum total finance charge permitted by subparagraph (A) of paragraph (2). Any administrative finance charge which is charged, received or collected by a holder shall be deemed a finance charge earned on the date of the contract

(d) The contract may provide for a delinquency charge or

charges on any installment in default for a period of not less than 10 days in an amount not to exceed in the aggregate 5 percent of the installment, which amount may be collected only once on any installment regardless of the period during which it remains in default The contract may provide for reasonable collection costs and fees in the event of delinquency.

(e) Notwithstanding any provision of a contract to the contrary, the buyer may pay at any time before maturity the entire indebtedness evidenced by the contract without penalty. In the event of prepayment in full:

(1) If the finance charge was determined on the precomputed basis, the amount required to prepay the contract shall be the outstanding contract balance as of that date, provided, however, that the buyer shall be entitled to a refund credit in the amount of the unearned portion of the finance charge, except as provided in paragraphs (3) and (4) The amount of the unearned portion of the finance charge shall be at least as great a proportion of the finance charge, or if the contract has been extended, deferred or refinanced, of the additional charge therefor, as the sum of the periodic monthly time balances payable more than 15 days after the date of prepayment bears to the sum of all the periodic monthly time balances under the schedule of installments in the contract or, if the contract has been extended, deferred or refinanced, as so extended, deferred or refinanced. Where the amount of the refund credit is less than one dollar ($1), no refund credit need be made by the holder. Any refund credit in the amount of one dollar ($1) or more may be made in cash or credited to the outstanding obligations of the buyer under the contract

(2) If the finance charge or a portion thereof was determined on the simple-interest basis, the amount required to prepay the contract shall be the outstanding contract balance as of that date, including any earned finance charges which are unpaid as of that date and, if applicable, the amount provided in paragraph (3), and provided further that in cases where a finance charge is determined on the 360-day basis, the payments theretofore received will be assumed to have been received on their respective due dates regardless of the actual dates on which such payments were received.

(3) Where the minimum finance charge provided by subparagraph (B) of paragraph (1) of subdivision (c) or subparagraph (B) of paragraph (2) of subdivision (c), if either is applicable, is greater than the earned finance charge as of the date of prepayment, the holder shall be additionally entitled to the difference.

(4) The provisions of this subdivision shall not impair the right of the seller or his assignee to receive delinquency charges on delinquent installments and reasonable costs and fees as provided in subdivision (d) of this section.

(f) Notwithstanding any other provision of this chapter to the contrary, in the event any required downpayment on which no

finance charge is imposed is to be made by the buyer to the seller on a conditional sale contract after the date of such contract but prior to the date of the second payment otherwise scheduled, the amount of such payment may be shown in such contract as a deferred portion of the cash downpayment or, if the finance charge is determined on the precomputed basis, as a deduction from the amount of the unpaid balance, and shall be included in the total of payments.

(g) Notwithstanding any other provision of this chapter to the contrary, any information required to be disclosed in a conditional sale contract under this chapter may be disclosed in any manner, method, or terminology required or permitted under Regulation Z, as in effect at the time such disclosure is made. Nothing contained in this chapter shall be deemed to prohibit the disclosure in such contract of additional information required or permitted under Regulation Z, as in effect at the time such disclosure is made.

(h) If the requirements of this section are otherwise met, the preparation and use of a separate document for agreements governing the ownership of the towbar, wheels, wheel hubs, and axles and for escrow instructions under Section 11950 of the Vehicle Code, relating to the sale of mobilehomes, shall not violate the single-document requirement of subdivision (a).

Without such an agreement governing the ownership of the towbar, wheels, wheel hubs, and axles, no dealer or transporter shall remove or cause to be removed any towbar, wheel, wheel hub, or axle from any mobilehome. Any price quoted for any mobilehome in a conditional sale contract, purchase order, or security agreement pursuant to this section shall state whether such price includes or excludes the cost of the towbar, wheels, wheel hubs, and axles. If such price does not include the towbar, wheels, wheel hubs, or axles, it shall show a deduction for the cost of such parts not included.

(i) This section shall become operative on January 1, 1981.

SEC. 2. Section 18008 of the Health and Safety Code is amended to read:

18008. "Mobilehome", for the purposes of this chapter, is a structure transportable in one or more sections, designed and equipped to contain not more than two dwelling units to be used with or without a foundation system Mobilehome does not include a recreational vehicle, commercial coach, or factory-built housing, as defined in Section 19971

SEC. 3 Section 18064 of the Health and Safety Code is amended to read.

18064 (a) The manufacturer of any new mobilehome manufactured on or after January 1, 1977, which is required to be moved under a permit, shall affix a label to the mobilehome, if it is to be displayed for retail sale in the State of California, which contains the following information about the mobilehome·

(1) Make, model, and serial or identification number.

(2) Final assembly point.

(3) Name and location of dealer to whom delivered.

(4) Name of city or town at which delivered.

(5) Manufacturer's suggested retail price which shall include the price of the following.

(A) The basic mobilehome unit.

(B) Extra construction features and materials.

(C) Total price of the mobilehome.

(D) A statement of whether the price includes or excludes the towbar, wheels, wheel hubs, and axles.

(b) The removal or alteration of any label required by this section from the mobilehome by anyone except the retail purchaser shall be a misdemeanor.

SEC. 4. Section 18211 of the Health and Safety Code is amended to read:

18211 "Mobilehome", for the purposes of this part, is a structure transportable in one or more sections, designed and equipped to contain not more than two dwelling units, as defined in Section 18005.5, to be used with or without a foundation system. Mobilehome does not include a recreational vehicle, commercial coach, or factory-built housing, as defined in Section 19971.

SEC. 5 Section 18550 of the Health and Safety Code is amended to read:

18550. It shall be unlawful for any person to use or cause, or permit to be used for occupancy, any of the following mobilehomes, wherever such mobilehomes are located:

(a) Any mobilehome supplied with fuel, gas, water, electricity, or sewage connections, unless such connections and installations conform to regulations of the commission.

(b) Any mobilehome which is permanently attached with underpinning or foundation to the ground, except for mobilehomes which bear a department insignia or federal label, and which are installed on a foundation system, pursuant to Section 18551, on real property owned by the owner of the mobilehome under a building permit issued pursuant to the provisions of subdivision (a) of Section 18551

(c) Any mobilehome which does not conform to the registration requirements of the Vehicle Code, except for a mobilehome which has been placed on a foundation system, pursuant to Section 18551, and is subject to local property taxation, pursuant to Section 109.7 of the Revenue and Taxation Code. A mobilehome which may be moved under permit as provided for in Sections 35780 and 35790 of the Vehicle Code shall be deemed to conform to the requirements of such code within the meaning of this section.

(d) Any mobilehome in an unsanitary condition.

(e) Any mobilehome which is structurally unsound and does not protect its occupants against the elements.

(f) Any mobilehome which does not have a current annual vehicle license, except for a mobilehome which has been placed on a foundation system pursuant to Section 18551, and is subject to local property taxation, pursuant to Section 109 7 of the Revenue and

Taxation Code.

SEC. 6. Section 18550 5 is added to the Health and Safety Code, to read.

18550 5 (a) An owner of a mobilehome may remove or cause to be removed the towbar, wheels, wheel hubs, or axles from a mobilehome.

(b) A dealer may remove the towbar, wheels, wheel hubs, or axles from a mobilehome prior to sale if such dealer complies with subdivision (h) of Section 2982 of the Civil Code.

(c) A manufacturer may deliver a mobilehome to a dealer without the towbar, wheels, wheel hubs, or axles if such manufacturer complies with the provisions of Section 18064.

SEC. 7. Section 18551 is added to the Health and Safety Code, to read.

18551 The department shall establish regulations for mobilehome foundation systems which shall be applicable throughout the state. When established, these regulations supersede any ordinance enacted by any city, county, or city and county applicable to mobilehome foundation systems. The department may approve alternate foundations systems to those provided by regulation where the department is satisfied of equivalent performance. The department shall document approval of such alternate systems by its stamp of approval on the plans and specifications for the alternate foundation system.

(a) Prior to installation of a mobilehome on a foundation system, the mobilehome owner or a licensed contractor shall obtain a building permit from the appropriate local agency. To obtain such a permit, the owner or contractor shall provide the following:

(1) Written evidence acceptable to the local agency that the mobilehome owner owns or holds title to the real property where the mobilehome is to be installed on a foundation system.

(2) Written consent from any person that holds legal title to the mobilehome to install the mobilehome on a foundation system.

(3) Plans and specifications required by department regulations or a department-approved alternate for the mobilehome foundation system

(4) The mobilehome manufacturer's installation instructions, or plans and specifications signed by a California licensed architect or engineer covering the installation of an individual mobilehome in the absence of the mobilehome manufacturer's instructions

(5) Building permit fees established by ordinance of the city, county, or city and county of the appropriate local agency.

(6) A fee payable to the department in the amount of eleven dollars ($11) for each transportable section of the mobilehome, which shall be immediately transmitted to the department with a copy of the building permit and such other information concerning the mobilehome as the department may prescribe on forms provided by the department.

At the time the certificate of occupancy for the mobilehome is

issued by the appropriate local agency, such local agency shall record with the county recorder in the county in which the real property is located, a document particularly describing the real property upon which the mobilehome is installed on a foundation system, and the fact that a mobilehome has been affixed to the property.

Fees received by the department pursuant to this subdivision shall be deposited in the Mobilehome Revolving Fund established under Section 18060.2 and shall be designated for enforcement of consumer protections provided in Part 2 (commencing with Section 18000) of this division, relating to mobilehomes. To the extent these fees are utilized for enforcement of consumer protections, the provisions of Section 18060.3 shall not apply

The director, through contract or interagency agreement with the Department of Motor Vehicles, may utilize the fees collected pursuant to this subdivision to ensure the enforcement of consumer protections otherwise provided by provisions of the Vehicle Code.

(b) The Department of Motor Vehicles shall adopt regulations providing for the cancellation of registration of a mobilehome which is permanently affixed to a foundation system. The regulations shall provide for the surrender to the Department of Motor Vehicles of (1) the certificate of ownership and other indicia of registration, and (2) a certification from the enforcement agency that a certificate of occupancy has been issued with respect to the mobilehome which has been permanently affixed to a foundations system.

(c) Notwithstanding any other provisions of law, any mobilehome installed on a foundation system, attached, or otherwise permanently affixed to real property without compliance with the provisions of subdivisions (a) and (b), shall not be deemed a fixture or improvement to such real property

(d) Once installed on a foundation system, a mobilehome shall be subject to state enforced health and safety standards for mobilehomes, enforced pursuant to Section 18040.

(e) No local agency shall require that any mobilehome currently on private property be placed on a foundation system.

SEC. 8. Section 109.7 is added to the Revenue and Taxation Code, to read:

109 7 Any mobilehome which is installed for occupancy as a residence and is subject to taxation, shall be subject to local property taxation, and shall no longer be considered a vehicle for purposes of registration or any other purpose.

(b) For the purposes of this section, a "mobilehome" is as defined in Sections 18008 and 18211 of the Health and Safety Code

(c) For purposes of this section, "installed" means installation on a foundation system pursuant to Section 18551 of the Health and Safety Code.

SEC 9 Section 6012 8 is added to the Revenue and Taxation Code, to read

6012.8 (a) For the purposes of this part, "gross receipts" from the sale of a mobilehome, and the "sales price" of a mobilehome sold

or stored, used or otherwise consumed in this state for installation on a foundation system, pursuant to Section 18551 of the Health and Safety Code, for occupancy as a residence shall be 40 percent of the sales price of the mobilehome to the consumer.

(b) For purposes of this section, "mobilehome" is as defined in Sections 18008 and 18211 of the Health and Safety Code

(c) If a purchaser certifies in writing to a retailer that the mobilehome purchased will be consumed in a manner or for a purpose entitling the retailer to exclude 60 percent of the gross receipts or sales price from the measure of tax, and uses the mobilehome in some other manner or for some other purpose, the purchaser shall be liable to the state for payment of tax measured by 100 percent of the sales price.

(d) Any subsequent sale of a mobilehome, for which the provisions of this section apply, after the initial sale shall be exempt from the provisions of this part.

(e) If Senate Bill No. 1004 of the 1979–80 Regular Session is chaptered, whether prior or subsequent to the act by which this section is enacted, and becomes effective on or before January 1, 1980, and as chaptered adds a Section 6012.9 to the Revenue and Taxation Code, this section shall remain effective only until July 1, 1980, and as of such date is repealed, unless a later enacted statute which is chaptered prior to July 1, 1980, deletes or extends such date.

SEC. 9.5. Section 6012 8 is added to the Revenue and Taxation Code, to read:

6012 8 (a) For the purposes of this part, "gross receipts" from the sale of a mobilehome, and the "sale price" of a mobilehome sold or stored, used or otherwise consumed in this state shall be 60 percent of the sales price of the mobilehome to the retailer, if such mobilehome is sold by the retailer to the purchaser for installation on a foundation system pursuant to Section 18551 of the Health and Safety Code for occupancy as a residence, and is thereafter subject to property taxation, and the retailer shall be considered to be the consumer for purposes of this part.

(b) For purposes of this section, a "mobilehome" is defined in Sections 18008 and 18211 of the Health and Safety Code.

(c) If a purchaser certifies in writing to a retailer that the mobilehome purchased will be consumed in a manner or for a purpose entitling the retailer to exclude 40 percent of the gross receipts or sales price to the retailer from the measure of tax, and uses the property in some other manner or for some other purpose which would not be subject to any other exclusion or exemption under this part, the purchaser shall be liable for payment of tax measured by the amount of the sales price to the purchaser minus an amount equal to the sales price of the mobilehome to the retailer.

(d) Any subsequent sale of a mobilehome, for which the provisions of this section apply, after the initial sale shall be exempt from the taxes imposed by this part.

(e) This section shall only become operative if Senate Bill No 1004

of the 1979–80 Regular Session is chaptered, whether prior or subsequent to the act by which this section is enacted, and becomes effective on or before January 1, 1980, and as chaptered adds a Section 6012.9 to the Revenue and Taxation Code, and in such case this section shall become operative July 1, 1980.

SEC 10. Section 10784 is added to the Revenue and Taxation Code, to read:

10784. (a) The license fee imposed by this part does not apply to any mobilehome as defined in Sections 18008 and 18211 of the Health and Safety Code which is sold and installed on a foundation system, pursuant to Section 18551 of the Health and Safety Code, for occupancy as a residence.

(b) Any mobilehome exempted from the provisions of this part shall be subject to local property taxation.

SEC. 11. Section 11913 is added to the Revenue and Taxation Code, to read·

11913. The transfer of any mobilehome installed on a foundation system, pursuant to Section 18551 of the Health and Safety Code, and subject to local property taxation shall be subject to this part.

SEC. 12. Section 396 of the Vehicle Code is amended to read:

396. "Mobilehome" is a trailer coach designed and equipped to contain one or more dwelling units, as defined in Section 18005.5 of the Health and Safety Code, to be used with or without a foundation system and which is in excess of 8 feet in width or in excess of 40 feet in length.

SEC. 13 Section 5350.6 of the Vehicle Code is repealed.

SEC 14. Section 5352 of the Vehicle Code is amended to read:

5352. Subject to the exemptions stated in Section 5353 of this code and Section 109.7 of the Revenue and Taxation Code, registration of any trailer coach in this state is required annually.

SEC. 15 The sum of two hundred thousand dollars ($200,000) is hereby appropriated from the General Fund to the State Controller for allocation and disbursement to local agencies and school districts pursuant to Section 2231 of the Revenue and Taxation Code to reimburse the agencies for costs incurred by them pursuant to this act during the 1979–80 fiscal year.

SEC 16 Notwithstanding Section 2231 or 2234 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 to reimburse local agencies and school districts for costs incurred by them in the 1980–81 fiscal year, or any subsequent fiscal year, because there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs. It is recognized, however, that such agency or district may pursue any other remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC 17 It is the intent of the Legislature, if this bill and Assembly Bill 258 are both chaptered and become effective January 1, 1980, both bills amend Section 2982 of the Civil Code, and this bill

is chaptered after Assembly Bill 258, that the amendments to Section 2982 proposed by both bills be given effect and incorporated in Section 2982 in the form set forth in Sections 1 5 and 1.6 of this act. Therefore, Sections 1.5 and 1.6 of this act shall become operative only if this bill and Assembly Bill 258 are both chaptered and become effective January 1, 1980, both amend Section 2982, and this bill is chaptered after Assembly Bill 258, in which case Section 1 of this act shall not become operative.

CHAPTER 1161

An act to add Section 53292 to, and to repeal Sections 26912.3 and 53898 of, the Government Code, to amend Sections 13882 and 13948 of the Health and Safety Code, to amend Sections 61, 62, 64, 65, 96, 97, 98, 98.6, 99, 100, 100.5, 170, 205.1, 480, 482, 4844, 6368, 6368.1, and 38502 of, and to add Sections 214.10, 6092.1 and 6243.1 to, the Revenue and Taxation Code, and to amend Section 102 of Chapter 282 of the Statutes of 1979, relating to taxation for the support of an integrated system of government finance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1979 Filed with Secretary of State September 29, 1979]

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

SECTION 1. Section 26912.3 of the Government Code, as added by Chapter 282 of the Statutes of 1979, is repealed.

SEC. 2. 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, annexation, or contract, 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, annexation, or contract, 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.

SEC. 2.5. Section 53898 of the Government Code, as added by Chapter 282 of the Statutes of 1979, is repealed.

SEC. 2.7. Section 13882 of the Health and Safety Code is amended to read:

13882. If the civil service commission or body performing the functions thereof for the district finds that any person has been employed by a city which has, or any portion of which has, been annexed to, included within, or contracts with, a district for all fire protection and rescue services, in a position the duties of which, and the qualifications for which are substantially the same as those of any position in the district, at the request of the governing body of the district, the civil service commission or such other body, may certify, without examination, such person as eligible to hold such district position. If a person is employed by a district after certification without examination by the civil service commission or similar body because of his employment in a position of similar duties by a city, all time employed in such city position shall be considered as time employed by the district, for the purpose of determining seniority rights and salary rates.

SEC. 2.8. Section 13948 of the Health and Safety Code is amended to read:

13948. Any city, or portion thereof, may be included within a district upon the adoption of an ordinance by the city governing body requesting the inclusion which is approved by the district board The district board may require as a condition to the inclusion that the legislative body within the district agree to (a) remain part of the district for a period of at least 10 years; and (b) pay annually from the city's municipal funds, on a schedule specified by the district board, the actual adjusted cost of the services provided by the district Upon the expiration of the period of time set forth in the conditions or, if none, at any time, the legislative body of the city may provide by ordinance for the withdrawal of the territory of the city from the district. The withdrawal shall be effective upon the date fixed by the legislative body of the city in the ordinance, which date is on or after the date of the adoption of the ordinance. Where the withdrawal is effective on or before January 1st of the fiscal year the district shall furnish fire protection services to the territory withdrawn until the first day of July next succeeding. Where the withdrawal is effective subsequent to January 1st of the fiscal year and the territory is subject to district taxation for the succeeding fiscal year the district shall furnish fire protection services to the territory until the 30th day of June of the fiscal year next succeeding.

Immediately after the approval by the district board of an ordinance of a city governing body including the city or portion thereof, within the district, the clerk of the legislative body of the city shall file a copy of the ordinance, describing the territory included and the date of its inclusion, with the governing body of the district. Immediately after the adoption of an ordinance withdrawing the

territory of a city from the district, the clerk of the legislative body of the city shall file a copy of the ordinance, describing the territory withdrawn and the date of its withdrawal, with the governing body of the district and with the tax levying authority of the district. Whenever a copy of an ordinance including a city or portion thereof, within the district, or a copy of an ordinance withdrawing the territory of a city from a district, pursuant to this section is filed with the district board, the tax levying authority of the district shall comply with the requirements of Chapter 8 (commencing with Section 54900) of Part 1 of Division 2 of Title 5 of the Government Code.

SEC. 2 9 Section 61 of the Revenue and Taxation Code, as added by Chapter 242 of the Statutes of 1979, is amended to read:

61. Except as otherwise provided in Section 62, change in ownership, as defined in Section 60, includes, but is not limited to:

(a) The creation, renewal, sublease, assignment, or other transfer of the right to produce or extract oil, gas, or other minerals for so long as they can be produced or extracted in paying quantities. The balance of the property, other than the mineral rights, shall not be reappraised pursuant to this section

(b) The creation, renewal, sublease, or assignment of a taxable possessory interest in tax exempt real property for any term.

(c) (1) The creation of a leasehold interest in taxable real property for a term of 35 years or more (including renewal options), the termination of a leasehold interest in taxable real property which had an original term of 35 years or more (including renewal options), and any transfer of a leasehold interest having a remaining term of 35 years or more (including renewal options); or (2) any transfer of a lessor's interest in taxable real property subject to a lease with a remaining term (including renewal options) of less than 35 years.

Only that portion of a property subject to such lease or transfer shall be considered to have undergone a change of ownership.

For the purpose of this subdivision, for 1979–80 and each year thereafter, it shall be conclusively presumed that all homes eligible for the homeowners' exemption which are on leased land have a renewal option of at least 35 years on the lease of such land, whether or not in fact such renewal option exists in any contract or agreement

(d) The creation, transfer, or termination of any joint tenancy interest, except as provided in subdivision (f) of Section 62 and in Section 63

(e) The creation, transfer, or termination of any tenancy-in-common interest, except as provided in subdivision (a) of Section 62 and in Section 63

(f) Any vesting of the right to possession or enjoyment of a remainder or reversionary interest which occurs upon the termination of a life estate or other similar precedent property interest, except as provided in subdivision (d) of Section 62 and in Section 63

(g) Any interests in real property which vest in persons other than the trustor (or, pursuant to Section 63, his spouse) when a revocable trust becomes irrevocable.

(h) The transfer of stock of a cooperative housing corporation, as defined in Section 17265, vested with legal title to real property which conveys to the transferee the exclusive right to occupancy and possession of such property, or a portion thereof

(i) The transfer of any interest in real property between a corporation, partnership, or other legal entity and a shareholder, partner, or any other person.

SEC 3. Section 62 of the Revenue and Taxation Code, as added by Chapter 242 of the Statutes of 1979, is amended to read:

62 Change in ownership shall not include.

(a) Any transfer between coowners which results in a change in the method of holding title to the real property without changing the proportional interests of the coowners, such as a partition of a tenancy in common

(b) Any transfer for the purpose of perfecting title to the property.

(c) (1) The creation, assignment, termination, or reconveyance of a security interest, or (2) the substitution of a trustee under a security instrument.

(d) Any transfer into a trust for so long as (1) the transferor is the present beneficiary of the trust, or (2) the trust is revocable, or any transfer by a trustee of such a trust described in either clause (1) or (2) back to the trustor; or, any creation or termination of a trust in which the trustor retains the reversion and in which the interest of others does not exceed 12 years duration.

(e) Any transfer by an instrument whose terms reserve to the transferor an estate for years or an estate for life; however, the termination of such an estate for years or estate for life shall constitute a change in ownership, except as provided in subdivision (d) of Section 62 and in Section 63.

(f) The creation or transfer of a joint tenancy interest if the transferor, after such creation or transfer, is one of the joint tenants

(g) Any transfer of a lessor's interest in taxable real property subject to a lease with a remaining term (including renewal options) of 35 years or more. For the purpose of this subdivision, for 1979–80 and each year thereafter, it shall be conclusively presumed that all homes eligible for the homeowners' exemption which are on leased land have a renewal option of at least 35 years on the lease of such land, whether or not in fact such renewal option exists in any contract or agreement

(h) Any purchase, redemption or other transfer of the shares or units of participation of a group trust, pooled fund, common trust fund, or other collective investment fund established by a financial institution

(i) Any transfer of stock or membership certificate in a housing cooperative which was financed under one mortgage provided such

mortgage was insured under Section 213, 221(d)(3), 221(d)(4), or 236 of the National Housing Act, as amended, or such housing cooperative was financed or assisted pursuant to Section 514, 515, or 516 of the Housing Act of 1949 or Section 202 of the Housing Act of 1959, or the housing cooperative was financed by a direct loan from the California Housing Finance Agency, and provided that the regulatory and occupancy agreements were approved by the governmental lender or insurer, and provided that the transfer is to the housing cooperative or to a person or family qualifying for purchase by reason of limited income. Any subsequent transfer from the housing cooperative to a person or family not eligible for state or federal assistance in reduction of monthly carrying charges or interest reduction assistance by reason of the income level of such person or family shall constitute a change of ownership.

SEC. 4. Section 64 of the Revenue and Taxation Code, as added by Chapter 242 of the Statutes of 1979, is amended to read:

64. (a) Except as provided in subdivision (h) of Section 61 and subdivision (c) of this section, the purchase or transfer of ownership interests in legal entities, such as corporate stock or partnership interests, shall not be deemed to constitute a transfer of the real property of the legal entity.

(b) Any corporate reorganization, by merger or consolidation, where all of the corporations involved are members of an affiliated group, and which qualifies as a reorganization under Section 368 of the United States Internal Revenue Code and which is accepted as a nontaxable event by similar California statutes or any transfer of real property among members of an affiliated group, shall not be a change of ownership. The taxpayer shall furnish proof, under penalty of perjury, to the assessor that the transfer meets the requirements of this subdivision.

For purposes of this subdivision "affiliated group" means one or more chains of corporations connected through stock ownership with a common parent corporation if.

(1) One hundred percent of the voting stock, exclusive of any share owned by directors, of each of the corporations, except the parent corporation, is owned by one or more of the other corporations; and

(2) The common parent corporation owns, directly, 100 percent of the voting stock, exclusive of any shares owned by directors, of at least one of the other corporations.

(c) When a corporation, partnership, other legal entity or any other person obtains control, as defined in Section 25105, in any corporation through the purchase or transfer of corporate stock, exclusive of any shares owned by directors, such purchase or transfer of such stock shall be a change of ownership of property owned by the corporation in which the controlling interest is obtained.

SEC 5 Section 65 of the Revenue and Taxation Code, as added by Chapter 242 of the Statutes of 1979, is amended to read·

65 Whenever real property is purchased or a change in

ownership of real property occurs, the assessor shall reappraise such real property at its full cash value.

(a) Upon the termination of a joint tenancy interest, only the interest or portion which is thereby transferred from one owner to another owner shall be reappraised, except that:

(1) Upon the termination of an original transferor's interest in any joint tenancy interest described in subdivision (f) of Section 62, the entire portion of the property held by the original transferor prior to the creation of the joint tenancy shall be reappraised unless it vests by operation of law, in whole or in part, in the remaining original transferor, in which case there shall be no reappraisal.

(2) Upon the termination of an interest in any joint tenancy interest described in subdivision (f) of Section 62, other than an original transferor's interest, there shall be no reappraisal if the interest is transferred either to an original transferor or else to all remaining joint tenants.

For the purpose of this subdivision, spouses of original transferors shall be considered to be original transferors.

For purposes of this subdivision, for joint tenancies created on or before March 1, 1975, it shall be rebuttably presumed that each joint tenant holding an interest in property as of March 1, 1975, shall be an "original transferor." This presumption is not applicable to joint tenancies created after March 1, 1975.

At such time as the joint tenancy interests of the remaining original transferor of a property are finally transferred or terminated, the person(s), if any, who next hold joint tenancy interests in said property immediately following such final transfer or termination shall become the new original transferor.

(b) Except as provided in subdivision (a), if a 5 percent or more undivided interest in or a portion of real property is purchased or changes ownership, then only the interest or portion transferred shall be reappraised A purchase or change in ownership of an undivided interest of less than 5 percent shall not be reappraised, provided, however, that transfers to affiliated transferees during any assessment year shall be cumulated for the purpose of determining the percentage transferred.

(c) If a unit or lot within a cooperative housing corporation, community apartment project, condominium, planned unit development, shopping center, industrial park, or other residential, commercial, or industrial land subdivision complex with common areas or facilities is purchased or changes ownership, then only the unit or lot transferred and the share in the common area reserved as an appurtenance of such unit or lot shall be reappraised.

Notwithstanding any other provision of law, the increase in property taxes resulting from such reappraisal shall be applied by the owner of such property to the tenant-shareholder, lessee, or occupant of such individual unit or lot only, and shall not be prorated among all other units or lots of such property.

SEC 6 2 Section 96 of the Revenue and Taxation Code, as added

by Chapter 282 of the Statutes of 1979, is amended to read:

96 For the 1979–80 fiscal year only, property tax revenues shall be allocated by the county auditor, subject to the allocation and payment of funds as provided for in subdivision (b) of Section 33670 of the Health and Safety Code, to each jurisdiction as follows:

(a) Each local agency shall be allocated an amount of property tax revenue equal to the sum of the amount of property tax revenue allocated pursuant to Section 26912 of the Government Code to each local agency for the 1978–79 fiscal year, modified by any adjustments required by Section 99, and increased by the amount of state assistance payments allocated to each local agency

(b) The auditor shall determine the school entities' share of the 1979–80 property tax revenue by subtracting the state assistance payments allocated to local agencies within the county for the 1978–79 fiscal year from the aggregate amount of property tax revenue allocated pursuant to Section 26912 of the Government Code to all school entities within the county for the 1978–79 fiscal year The amount of the difference shall be the 1979–80 school entities' share of property taxes for fiscal year 1979–80, and shall be allocated to the school entities in the same proportion as the allocation made to such jurisdictions for the 1978–79 fiscal year.

(c) The difference between the total amount of property tax revenue and the amounts allocated pursuant to subdivisions (a) and (b) shall be allocated pursuant to Section 98

(d) For the purposes of computing property tax allocations for the 1978–79 fiscal year and each year thereafter, the county auditor shall recompute the 1978–79 property tax allocation for any city which levied a utility users' tax prior to 1978 but repealed such tax prior to December 31, 1977. For such cities, the term "property tax revenues for the 1975–76, 1976–77 and 1977–78 fiscal years" shall be deemed to include the aggregate of property tax and utility users' tax for those respective years

SEC 6 3 Section 97 of the Revenue and Taxation Code, as added by Chapter 282 of the Statutes of 1979, is amended to read.

97 For the 1980–81 fiscal year and each fiscal year thereafter, property tax revenues shall be allocated by the county auditor, subject to allocation and payment of funds as provided for in subdivision (b) of Section 33670 of the Health and Safety Code, to each jurisdiction in the following manner.

(a) Except as provided in subdivision (b), each jurisdiction shall be allocated an amount of property tax revenue equal to the amount of property tax revenue allocated pursuant to this chapter to each jurisdiction in the prior fiscal year, modified by any adjustments required by Section 99

(b) Each special district shall be allocated an amount of property tax revenue equal to the amount of property tax revenue which would have been allocated pursuant to this chapter to such district in the prior fiscal year if no adjustment had been made pursuant to Section 98 6 This amount shall then be adjusted for the current year

pursuant to Section 98.6.

(c) The difference between the total amount of property tax revenue and the amounts allocated pursuant to subdivision (a) shall be allocated pursuant to Section 98, and shall be known as the "annual tax increment".

SEC. 6.4. Section 98 of the Revenue and Taxation Code, as added by Chapter 282 of the Statutes of 1979, is amended to read.

98. The difference between the total amount of property tax revenue and the amounts allocated pursuant to subdivisions (a) and (b) of Section 96 or subdivision (a) of Section 97, shall be allocated, subject to allocation and payment of funds as provided for in subdivision (b) of Section 33670 of the Health and Safety Code, as follows·

(a) Within each tax rate area, the auditor shall determine an amount of property tax revenue by multiplying the value of the change in taxable assessed value from the prior to the current fiscal year by a tax rate of four dollars ($4) per one hundred dollars ($100) of assessed value

(b) Each amount determined pursuant to subdivision (a) shall be divided by the total of all such amounts computed for tax rate areas within the county.

(c) The difference between the total amount of property tax revenue for the county and the sum of the amounts allocated pursuant to subdivisions (a) and (b) of Section 96 or subdivision (a) of Section 97 shall be computed.

(d) The amount determined pursuant to subdivision (c) shall be multiplied by the quotients determined pursuant to subdivision (b) to derive, for each tax rate area, the amount of property tax revenue attributable to changes in assessed valuation.

(e) The amount of property tax revenue determined pursuant to subdivision (d) shall be distributed to the various jurisdictions whose boundaries include the tax rate area in the same proportion that the total property tax revenue allocated to the jurisdiction with respect to the tax rate area in the prior year bears to the total property tax revenue allocated to all jurisdictions in the tax rate area in the prior year.

(f) For the 1979–80 fiscal year only·

(1) The amount of property tax revenue, attributable to the tax rate area, for each jurisdiction for the prior fiscal year shall be considered to be the total property tax revenue for such jurisdiction for fiscal year 1978–79 allocated among tax rate areas in the same proportion which the taxable assessed valuation for fiscal year 1978–79 in each tax rate area bears to the total taxable assessed valuation of all tax rate areas in which the jurisdiction was located in fiscal year 1978–79

(2) Property tax revenue received by local agencies in the prior fiscal year shall include the amount of state assistance payments allocated to each local agency, allocated among tax rate areas in proportion to the jurisdiction's taxable assessed valuation within each

tax rate area for the 1978–79 fiscal year.

(3) Property tax revenue received by school entities in the prior fiscal year shall be reduced by the adjustments required by subdivision (b) of Section 96, allocated among tax rate areas, in proportion to the school entity's taxable assessed valuation within each tax rate area for the 1978–79 fiscal year

(m) Any agency which has not filed a map of its boundaries by January 1, shall not receive any allocation pursuant to this section for the following fiscal year

SEC 6 5. Section 98 6 of the Revenue and Taxation Code, as added by Chapter 282 of the Statutes of 1979, is amended to read.

98 6 (a) Notwithstanding any other provision of this chapter, the amount allocated pursuant to Sections 96 or 97, and 98, to a special district, as defined in Article 1 (commencing with Section 2201) of Chapter 3 of Part 4, excluding multicounty districts, shall be reduced by an amount computed as follows:

(1) A ratio shall be computed for each such special district equal to the amount of state assistance payment for such special district for the 1978–79 fiscal year divided by the sum of such state assistance payment for the special district plus the amount of property tax revenue allocated to the special district for the 1978–79 fiscal year pursuant to Section 26912 of the Government Code

(2) The amount by which the allocation pursuant to Sections 96 or 97, and 98, shall be reduced shall be equal to such allocation multiplied by the factor computed for the district pursuant to paragraph (1)

(3) The total of all amounts computed for special districts within each county shall be deposited in the Special District Augmentation Fund which shall specify amounts for each governing body as defined in Section 16271 of the Government Code and which shall be allocated pursuant to subdivision (b)

(b) There is hereby created a Special District Augmentation Fund in each county to augment the revenues of special districts The auditor shall, on or before September 30 of each year, notify each governing body, as defined in Section 16271 of the Government Code, of the amount allocated to it pursuant to this section

Within 15 days of such notice, the governing body shall hold a public hearing for the purpose of determining the distribution of such funds. The governing body shall send written notice to the legislative body of each special district which is not governed by the board of supervisors or the city council and shall publish such notice in a newspaper of general circulation in the county not less than three days prior to the hearing The notice shall include the following: (1) the amount of funds available to special districts, and (2) the time and place of the hearing

Within 30 days of the notice of allocation, the governing body shall determine the amount of funds to be disbursed to each special district The funds provided for by this shall be used exclusively for special districts and shall not be used for any general county or

municipal expenses.

The county auditor shall disburse funds to the special district in the same manner as disbursements which are made from the county treasurers property tax trust fund.

SEC. 6.6. Section 99 of the Revenue and Taxation Code, as added by Chapter 282 of the Statutes of 1979, is amended to read:

99. (a) For the purposes of the computations required by this chapter.

(1) In the case of a jurisdictional change, other than a city incorporation or a formation of a district as defined in Section 2215 of the Revenue and Taxation Code, the auditor shall adjust the amount of property tax revenue determined pursuant to Section 96 or 97, for each local agency whose service area or service responsibility would be altered by such jurisdictional change, as determined pursuant to subdivision (b).

(2) In the case of a city incorporation or a formation of a district as defined in Section 2215 of the Revenue and Taxation Code, the auditor shall assign the amount of property tax revenues determined pursuant to Section 54790 3 of the Government Code to the newly formed city or district and shall make the adjustment as determined by Section 54790.3 in the amount of property tax revenue determined pursuant to Section 96 or 97 for each local agency whose service area or service responsibilities would be altered by such incorporation or formation.

(b) Prior to the effective date of any jurisdictional change, other than a city incorporation or a formation of a district as defined in Section 2215 of the Revenue and Taxation Code, the governing bodies of all agencies whose service areas or service responsibilities would be altered by such change shall determine the amount of property tax revenues to be exchanged between and among such affected agencies. Notwithstanding any other provision of law, no such jurisdictional change shall become effective until each county and city included in such negotiation agrees, by resolution, to accept the negotiated exchange of property tax revenues.

In the event that such a jurisdictional change would affect the service area or service responsibility of one or more special districts, the board of supervisors of the county or counties in which such district or districts are located shall, on behalf of the district or districts, negotiate any exchange of property tax revenues

During any negotiation period, all revenue from the annual tax increment attributable to the tax-rate area or areas within the territory subject to the jurisdictional change for the affected agencies and which has not yet been distributed to such affected agencies for the fiscal year or years in which negotiations take place shall be impounded The auditor shall determine the amount of revenue to be impounded based on the statement received from the executive officer pursuant to subdivision (c) The auditor shall not allocate any such revenue until he or she receives notice that an agreement has been reached pursuant to this subdivision

Upon adoption of any resolution pursuant to this paragraph, the adopting agencies shall notify the county auditor who shall make the appropriate adjustments as provided in subdivision (a).

(c) In addition to the filings required pursuant to Chapter 8 (commencing with Section 54900) of Part 1 of Division 2 of Title 5 of the Government Code, a copy of the statement as provided by Section 54901 of the Government Code shall be forwarded to the auditor of each county within which any affected agency is located.

(d) Except as otherwise provided in sudivision (e), for the purpose of determining the amount of property tax to be allocated in 1979–80 and thereafter for those local agencies which were affected by a jurisdictional change which was effective during fiscal year 1978–79, the auditor shall impound all revenue from the annual tax increment attributable to the tax rate area or areas within the territory subject to the jurisdictional change for such affected local agencies, until such local agencies determine by resolution the amount of property tax revenues to be exchanged between and among such affected agencies and notify the auditor of such determination

(e) For purposes of the computations made pursuant to this section, in the case of a city incorporation, which became effective, or which was approved by the voters during the 1978–79 fiscal year, the amount of property tax revenue considered to have been received by such jurisdiction for the 1978–79 fiscal year shall be equal to two-thirds of the amount of property tax revenue projected in the final local agency formation commission staff report pertaining to such incorporation multiplied by the proportion that the total amount of property tax revenue received by all jurisdictions within the county for the 1978–79 fiscal year bears to the total amount of property tax revenue received by all jurisdictions within the county for the 1977–78 fiscal year. Except, however, in the event that the final commission report did not specify the amount of property tax revenue projected for such incorporation, the commission shall by October 10, determine pursuant to Section 54790 3 of the Government Code the amount of property tax to be transferred to the city

SEC. 6.7. Section 100 of the Revenue and Taxation Code, as added by Chapter 282 of the Statutes of 1979, is amended to read·

100 (a) On or before August 31, 1979, and on or before August 31 of each year thereafter, any jurisdiction may request that the amount computed for it pursuant to this chapter be reduced for the current fiscal year by a specified amount. Upon such request, the county auditor shall compute an effective tax rate reduction by dividing the amount of property tax revenue to be reduced by the taxable assessed value on the secured roll of the jurisdiction and multiplying the quotient by 100. The effective tax rate reduction shall be applied to the taxable assessed value on each secured roll tax bill for property within the jurisdiction, and the resulting amount shall be subtracted from the property tax owed by the taxpayer

which is attributable to the tax rate provided by subdivision (b) of Section 2237. This subtracted amount shall be shown on each such tax bill with a notation reading: "Tax reduction by (name of jurisdiction)." The same effective tax rate reduction shall be applied in a comparable manner to the taxable assessed value on the next succeeding unsecured roll tax bill for property within the jurisdiction.

(b) Notwithstanding any other provision of law, if a school entity acts pursuant to subdivision (a), the state shall not increase school apportionments to such school entity to make up the reduction in property tax revenues.

(c) Effective tax rate reductions made pursuant to this section shall not be taken into account in computing property tax allocations pursuant to Sections 95 to 99, inclusive, of this chapter.

SEC. 7 Section 100.5 of the Revenue and Taxation Code, as added by Chapter 282 of the Statutes of 1979, is amended to read:

100 5. (a) For the 1980–81 fiscal year, if the total of General Fund revenues and transfers for fiscal year 1980–81 plus the amount of General Fund surplus available for appropriation as of June 30, 1980, as estimated on June 10, 1980, by the organization responsible for accurate and comprehensive long-range estimates, is more than one hundred million dollars ($100,000,000) less than twenty billion six hundred million dollars ($20,600,000,000), the amount of local assistance for fiscal year 1980–81 shall be reduced as provided in subdivision (d).

(b) For the 1981-82 fiscal year and each fiscal year thereafter, the Governor's Budget for the prior fiscal year shall contain a base amount for the next succeeding fiscal year determined pursuant to subdivision (f). This amount may be changed by the Legislature in the Budget Act for the prior fiscal year, in which case this revised amount shall become the base amount for purposes of this section.

(c) Commencing in 1981, the organization shall, on June 10 of each year, determine the difference between the base amount, as determined pursuant to subdivision (b), and the total of General Fund revenues and transfers for the next fiscal year plus the amount of General Fund surplus available at the end of the current fiscal year. If the total of General Fund revenues and transfers for the succeeding fiscal year plus the amount of General Fund surplus available at the end of the current fiscal year, as determined on June 10 by the organization, is more than one hundred million dollars ($100,000,000) less than the base amount, then the amount of local assistance for the next fiscal year shall be reduced as provided in subdivision (d) by the amount of such difference.

(d) The reductions provided in subdivision (a) or (c) shall be made in the following manner:

(1) Fifty percent of the reduced amount, to the extent of available funds, shall be deducted from the county, city and county, city and special district share of the funds allocated by the state pursuant to Chapter 1 5 (commencing with Section 16110), Chapter 2

(commencing with Section 16120), and Chapter 3 (commencing with Section 16140) of Part 1 of Division 4 of Title 2 of the Government Code, and Chapter 5 (commencing with Section 11001) of Part 5, and Chapter 9 (commencing with Section 30461) of Part 13, of Division 2 of the Revenue and Taxation Code. The reduction in these reimbursement payments shall be made in proportion to the amount of "state assistance payments" as defined in subdivision (h) of Section 95 of the Revenue and Taxation Code for each county, city and special district. For purposes of this section, "state assistance payments" for counties and cities and counties shall not be adjusted by the amount specified in Section 94 of Chapter 282 of the Statutes of 1979.

(2) Notwithstanding the provisions of Sections 41970 to 41972, inclusive, of the Education Code, 50 percent of the reduced amount, to the extent of available funds, shall be deducted by the Superintendent of Public Instruction from the amounts allowed pursuant to subdivision (f) of Section 41301 of the Education Code to all elementary, high school and unified school districts, and county offices of education, and by the Chancellor's Office of the California Community Colleges from the amounts allowed pursuant to subdivision (a) of Section 84301 of the Education Code to all community college districts. The reduction in these state school fund apportionments shall be made in proportion to the amount each local educational agency's apportionment pursuant to subdivision (f) of Section 41301 or subdivision (a) of Section 84301 of the Education Code bears to 50 percent of the reduced amount provided for in subdivision (a) or (b); except that no educational agency shall receive less than one hundred twenty dollars ($120) per unit of average daily attendance from all state sources.

(e) The reductions provided by this section shall be effective for any fiscal year unless a concurrent resolution stating a contrary finding is enacted by the Legislature on or before June 30 of each year.

(f) For fiscal year 1980–81, the base amount shall be twenty billion six hundred million dollars ($20,600,000,000) For each fiscal year thereafter, the base amount shall be the base amount for the prior year, as determined pursuant to subdivision (b), adjusted annually by the estimated percentage change in the California Consumer Price Index plus the estimated percentage change in California population from the prior year.

(g) For purposes of this section, "organization responsible for accurate and comprehensive long-range estimates" and "organization" means the Commission on State Revenues, if Senate Bill 165 of the 1979–80 Regular Session is enacted or, if such legislation is not enacted, the Joint Legislative Budget Committee, assisted by the Department of Finance and the Legislative Analyst.

SEC 9 Section 170 of the Revenue and Taxation Code, as added by Section 242 of the Statutes of 1979, is amended to read

170 (a) Notwithstanding any provision of law to the contrary,

the board of supervisors may, by ordinance, provide that every assessee of any taxable property, or any person liable for the taxes thereon, whose property was damaged or destroyed without his fault, may apply for reassessment of such property as provided herein

To be eligible for reassessment the damage or destruction to the property must have been caused by any of the following:

(1) A major misfortune or calamity, in an area or region subsequently proclaimed by the Governor to be in a state of disaster, if such property was damaged or destroyed by the major misfortune or calamity which caused the Governor to proclaim the area or region to be in a state of disaster. As used in this paragraph "damage" includes a diminution in the value of property as a result of restricted access to the property where such restricted access was caused by the major misfortune or calamity

(2) A misfortune or calamity.

(3) A misfortune or calamity which, with respect to a possessory interest in land owned by the state or federal government has caused the permit or other right to enter upon the land to be suspended or restricted. As used in this paragraph, "misfortune or calamity" includes a drought condition such as existed in this state in 1976 and 1977

The application for reassessment may be filed within the time specified in the ordinance, or, if no time is specified, within 60 days of such misfortune or calamity, by delivering to the assessor a written application requesting reassessment showing the condition and value, if any, of the property immediately after the damage or destruction, and the dollar amount of the damage. The application shall be executed under penalty of perjury, or if executed outside the State of California, verified by affidavit

An ordinance may be made applicable to a major misfortune or calamity specified in paragraph (1) or to any misfortune or calamity specified in paragraph (2), or to both, as the board of supervisors determines An ordinance may not be made applicable to a misfortune or calamity specified in paragraph (3), unless an ordinance making paragraph (2) applicable is operative in the county The ordinance may specify a period of time within which the ordinance shall be effective, and, if no period of time is specified, it shall remain in effect until repealed

(b) Upon receiving a proper application, the assessor shall appraise the property and determine separately the full cash value of land, improvements and personalty immediately before and after the damage or destruction. If the sum of the full cash values of the land, improvements and personalty before the damage or destruction exceeds the sum of the values after the damage by five thousand dollars ($5,000) or more, the assessor shall also separately determine the percentage reductions in value of land, improvements and personalty due to the damage or destruction The assessor shall reduce the values appearing on the assessment roll by

the percentages of damage or destruction computed pursuant to this subdivision, and the taxes due on the property shall be adjusted as provided in subdivision (e); provided, however, that the amount of the reduction shall not exceed the actual loss

(c) The assessor shall notify the applicant in writing of the amount of the proposed reassessment. The notice shall state that the applicant may appeal the proposed reassessment to the local board of equalization within 14 days of the date of mailing the notice. If an appeal is requested within the 14-day period, the board shall hear and decide the matter as if the proposed reassessment had been entered on the roll as an assessment made outside the regular assessment period. The decision of the board regarding the damaged value of the property shall be final, provided that a decision of the local board of equalization regarding any reassessment made pursuant to this section shall create no presumption as regards the value of the affected property subsequent to the date of the damage.

Those reassessed values resulting from reductions in full cash value of amounts, as determined above, shall be forwarded to the auditor by the assessor or the clerk of the local equalization board, as the case may be. The auditor shall enter the reassessed values on the roll. After being entered on the roll, such reassessed values shall not be subject to review, except by a court of competent jurisdiction.

(d) If no such application is made and the assessor determines that a property has suffered damage caused by misfortune or calamity, which may qualify the property owner for relief under an ordinance adopted under this section, the assessor shall provide the last known owner of the property with an application for reassessment. The property owner shall file the completed application within 30 days of notification by the assessor. Upon receipt of a properly completed, timely filed application, the property shall be reassessed in the same manner as required in subdivision (b)

(e) The tax rate fixed for property on the roll on which the property so reassessed appeared at the time of the misfortune or calamity, shall be applied to the amount of the reassessment as determined in accordance with this section and the assessee shall be liable for. (1) a prorated portion of the taxes that would have been due on the property for the current fiscal year had the misfortune or calamity not occurred, such proration to be determined on the basis of the number of months in the current fiscal year prior to the misfortune or calamity; plus, (2) a proration of the tax due on the property as reassessed in its damaged or destroyed condition, such proration to be determined on the basis of the number of months in the fiscal year after the damage or destruction, including the month in which the damage was incurred. If the damage or destruction occurred after March 1 and before the beginning of the next fiscal year, the reassessment shall be utilized to determine the tax liability for the next fiscal year provided, however, if the property is fully restored during the next fiscal year, taxes due for that year shall be prorated based on the number of months in the year before and after

the completion of restoration.

(f) Any tax paid in excess of the total tax due shall be refunded to the taxpayer pursuant to Chapter 5 (commencing with Section 5096) of Part 9, as an erroneously collected tax or by order of the board of supervisors without the necessity of a claim being filed pursuant to Chapter 5

(g) The assessment of the property, in its damaged condition, as determined by this section, shall be reviewed at the lien date next following the date of the misfortune or calamity and shall be assessed in the same manner as prescribed by law for any other assessable property.

(h) This section applies to all counties, whether operating under a charter or under the general laws of this state.

(i) Any ordinance in effect pursuant to Section 155.1, 155.13, or 155 14 shall remain in effect according to its terms as if such ordinances were adopted pursuant to this section, subject to the limitations of subdivision (b).

SEC 10 Section 205.1 of the Revenue and Taxation Code, as amended by Chapter 260 of the Statutes of 1979, is amended 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, if the assessment ratio is increased from 25 percent to 100 percent the amount of assessed value subject to the exemption shall be increased from one thousand dollars ($1,000) to four thousand dollars ($4,000) in order to maintain the same proportionate value of the exemption Whenever assessed value is used to determine eligibility for such exemption based on the limitations on the value of property owned, 25 percent of the assessed value shall be used when the assessment ratio is increased to 100 percent to maintain the same proportionate values of such property and such limitations.

SEC. 10.5. Section 214.10 is added to the Revenue and Taxation Code, to read·

214 10 For purposes of Section 214, any nonprofit corporation organized and operated for the advancement of education, improvement of social conditions, and improvement of the job opportunities of low-income, unemployed and underemployed citizens of the communities in which they operate, and otherwise meeting all the requirements of Section 214, shall not be disqualified from receiving the welfare exemption solely because such organization receives all its funds from governmental agencies

SEC 11 Section 480 of the Revenue and Taxation Code is amended to read:

480 Whenever any change in ownership of real property occurs, the transferee shall file a signed change in ownership statement in the county where the real property is located, as provided for in subdivision (b)

(a) The change in ownership statement shall be declared to be

true under penalty of perjury and shall give such information relative to the real property acquisition transaction as the board shall prescribe after consultation with the assessor's association. Such information shall include, but not be limited to, a description of the property, the parties to the transaction, the date of acquisition, the amount, if any, of the consideration paid for the property, whether paid in money or otherwise, and the terms of the transaction. The change in ownership statement shall not include any question which is not germane to the assessment function. The statement shall contain a notice that is printed, with the title in at least 14-point boldface type and the body in at least 10-point boldface type, in the following form:

"Important Notice"

"The law requires any person acquiring an interest in real property to file a change in ownership statement with the county recorder or assessor. The change in ownership statement must be filed within 45 days of the date of recording or, if the transfer is not recorded, within 45 days of the date of the change in ownership. The failure to file a change in ownership statement within 45 days after receipt of a written request by the assessor results in a penalty of one hundred dollars ($100) or 10 percent of the current year's taxes on the real property, whichever is greater. This penalty will be added to the roll and shall be treated and collected like, and shall be subject to the same penalties for delinquency as, all other taxes on the roll on which it is entered."

(b) If the document evidencing a change in ownership is recorded in the county recorder's office, then the statement shall be filed either with the recorder at the time of recordation or with the assessor within 45 days from the date of recordation. If the document evidencing a change in ownership is not recorded, then the statement shall be filed with the assessor no later than 45 days from the date the change in ownership occurs

(c) Whenever a change in ownership statement is filed with the county recorder's office, the recorder shall transmit, as soon as possible, the original statement or a true copy thereof to the assessor along with a copy of every recorded document as required by Section 255.7

(d) The change in ownership statement may be filed with the assessor through the United States mail, properly addressed with the postage prepaid

(e) Upon receipt of a change in ownership statement which has either been transmitted by the county recorder's office or been filed directly by the transferee, the assessor shall enter the prior assessment year value and an indication as to whether a change in ownership, as defined in Section 60, has occurred on the statement.

(f) In the case of a corporate transferee of property, the change in ownership statement shall be signed either by an officer of the

corporation or an employee or agent who has been designated in writing by the board of directors to sign such statements on behalf of the corporation

SEC. 12. Section 482 of the Revenue and Taxation Code is amended to read:

482. If any person who is requested by the assessor to make a change in ownership statement fails to file such statement within 45 days from the date of request, a penalty of the greater of one hundred dollars ($100) or 10 percent of the current year's taxes on the real property shall be added to the assessment made on the current roll. The penalty shall be added to the roll in the same manner prescribed in Article 4 (commencing with Section 531) of Chapter 3 of Part 2 of Division 1 of the Revenue and Taxation Code for the addition of escaped assessments, and shall be treated and collected like, and shall be subject to the same penalties for delinquency as, all other taxes on the roll in which it is entered.

Notice of any penalty added to the roll pursuant to this section shall be mailed by the assessor to the assessee at his address as contained in any recorded instrument or document evidencing a change in ownership or at any address reasonably known to the assessor.

SEC 13. Section 4844 of the Revenue and Taxation Code, as added by Chapter 242 of the Statutes of 1979, is amended to read:

4844. For the 1979–80 fiscal year only, notwithstanding any other provisions of this division, the assessor may make corrections to the 1979–80 roll during such fiscal year without a prior hearing by, or the prior approval of, the board of supervisors. If the assessment change results in a reduction of taxes which have been paid, the amount of the overpayment resulting from such reduction of taxes may be refunded to the current assessee, unless there was a change in the assessee or assessees of record between July 1, 1979, and June 30, 1980, in which case a refund of such reduced taxes shall be prorated between such assessees of record in the same proportion as they participated in the payment of such taxes.

SEC. 14. Section 6092.1 is added to the Revenue and Taxation Code, to read.

6092 1 Notwithstanding any other provision of law, any person, other than a person exempt from payment of use tax in accordance with Section 6352, who leases mobile transportation equipment and who cannot otherwise properly issue a resale certificate may issue such a certificate for the limited purpose of reporting his use tax liability based on fair rental value as provided in subdivision (d) of Section 6094 and subdivision (d) of Section 6244 With respect to matters arising out of mergers or acquisitions, the provisions of this section shall apply to any matters pending before the board on the effective date of this section.

SEC 15. Section 6243 1 is added to the Revenue and Taxation Code, to read

6243.1. Notwithstanding any other provision of law, any person, other than a person exempt from payment of use tax in accordance

with Section 6352, who leases mobile transportation equipment and who cannot otherwise properly issue a resale certificate may issue such a certificate for the limited purpose of reporting his use tax liability based on fair rental value as provided in subdivision (d) of Section 6094 and subdivision (d) of Section 6244.

With respect to matters arising out of mergers or acquisitions, the provisions of this section shall apply to any matters pending before the board on the effective date of this section.

SEC 16. Section 6368 of the Revenue and Taxation Code is amended to read:

6368. (a) There are exempted from the taxes imposed by this part the gross receipts from the sale of and the storage, use, or other consumption in this state of watercraft for use in interstate or foreign commerce involving the transportation of property or persons for hire or for use in commercial deep sea fishing operations outside the territorial waters of this state by persons who are regularly engaged in commercial deep sea fishing, and any sales of tangible personal property becoming a component part of such watercraft in the course of constructing, repairing, cleaning, altering, or improving the same, and charges made for labor and services rendered in respect to such constructing, repairing, cleaning, altering, or improving

(b) For purposes of this section, it shall be rebuttably presumed that a person is not regularly engaged in the business of commercial deep sea fishing if the person has gross receipts from commercial fishing operations of less than five thousand dollars ($5,000) a year.

SEC. 17. Section 6368.1 of the Revenue and Taxation Code is amended to read:

6368.1. (a) There are exempted from the taxes imposed by this part, the gross receipts from the sale of and the storage, use, or other consumption in this state of watercraft which are leased, or are sold to persons for the purpose of leasing, to lessees using such watercraft in interstate and foreign commerce involving the transportation of property of persons for hire or for use in commercial deep sea fishing operations outside the territorial waters of this state by persons who are regularly engaged in commercial deep sea fishing, and any sales of tangible personal property becoming a component part of such watercraft in the course of constructing, repairing, cleaning, altering, or improving the same, and charges made for labor and services rendered in respect to such constructing, repairing, cleaning, altering, or improving

(b) For purposes of this section, it shall be rebuttably presumed that a person is not regularly engaged in the business of commercial deep sea fishing if the person has gross receipts from commercial fishing operations of less than five thousand dollars ($5,000) a year.

SEC 18 Section 38502 of the Revenue and Taxation Code is amended to read·

38502 If any person is delinquent in the payment of the amount required to be paid by him or in the event a determination has been

made against him which remains unpaid, the board may, not later than three years after the payment became delinquent, or within 10 years after the last recording of an abstract under Section 38523 or of a certificate under Section 38532, give notice thereof personally or by first-class mail to all persons, including any officer or department of the state or any political subdivision or agency of the state, having in their possession or under their control any credits or other personal property belonging to the delinquent, or person against whom a determination has been made which remains unpaid, or owing any debts to the delinquent or such person. In the case of any state officer, department or agency, the notice shall be given to such officer, department or agency prior to the time it presents the claim of the delinquent taxpayer to the State Controller. After receiving the notice the persons so notified shall neither transfer nor make any other disposition of the credits, other personal property, or debts in their possession or under their control at the time they receive the notice until the board consents to a transfer or disposition or until 60 days elapse after the receipt of the notice, whichever period expires the earlier. All persons so notified shall forthwith after receipt of the notice advise the board of all such credits, other personal property, or debts in their possession, under their control, or owing by them. If such notice seeks to prevent the transfer or other disposition of a deposit in a bank or other credits or personal property in the possession or under the control of a bank, the notice to be effective shall state the amount, interest and penalty due from the person and shall be delivered or mailed to the branch or office of such bank at which such deposit is carried or at which such credits or personal property is held. Notwithstanding any other provision, with respect to a deposit in a bank or other credits or personal property in the possession or under the control of a bank, the notice shall only be effective with respect to an amount not in excess of two times the amount, interest and penalty due from the person. If, during the effective period of the notice to withhold, any person so notified makes any transfer or disposition of the property or debts required to be withheld hereunder, to the extent of the value of the property or the amount of the debts thus transferred or paid he shall be liable to the state for any indebtedness due under this part from the person with respect to whose obligation the notice was given if solely by reason of such transfer or disposition the state is unable to recover the indebtedness of the person with respect to whose obligation the notice was given

SEC 18 5 Section 102 of Chapter 282 of the Statutes of 1979 is amended to read

Sec. 102 Notwithstanding any other provision of law for the 1979–80 fiscal year, any local agency required by law to adopt a budget shall adopt such budget no later than September 30, 1979 Any other deadlines required for the development of the budget may be delayed 30 days. Following the adoption of its 1979–80 budget, a special district may review and revise its budget until

November 31, 1979, if it is not otherwise authorized to do so.

SEC. 19. (a) Notwithstanding the provisions of Sections 110.1 and 110.6, as added to the Revenue and Taxation Code by Chapter 292 of the Statutes of 1978, and amended by Chapters 332 and 576 of the Statutes of 1978, the provisions of this act shall be effective for the 1979–80 assessment year and thereafter.

It is the intent of the Legislature that the provisions of this act shall apply to the determination of base year values for the 1979–80 assessment year and thereafter, including, but not limited to, any change in ownership occurring on or after March 1, 1975.

SEC. 20. Section 10 of this act shall not become operative unless Resolution Chapter 85 of the Statutes of 1978 is approved by the voters.

SEC. 21. Section 14, 15, 16 and 17 of this act shall become operative on the first day of the first calendar quarter commencing more than 90 days after the elective date of this act

SEC. 22. (a) Notwithstanding Section 2229 of the Revenue and Taxation Code, there shall be no reimbursement pursusant to that section nor shall there be an appropriation made by this act because any property tax revenue loss imposed on local government has been expressly approved by a majority of the voters of this state through the initiative process

(b) No appropriation is made by this act, nor is any obligation created thereby under Section 2231 or 2234 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, because the Legislature finds and declares that the duties imposed by this act were expressly included in a ballot measure approved by the voters in a statewide election.

SEC 23. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SEC 24. 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 as follows·

In order for the provisions of this act to apply to the 1979–80 fiscal year, it is necessary that this act take effect immediately

CHAPTER 1162

An act to add and repeal Part 3.2 (commencing with Section 13885) of Division 3 of Title 2 of the Government Code, relating to the Commission on State Finance, and making an appropriation therefor

[Approved by Governor September 28, 1979 Filed with Secretary of State September 30, 1979]

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

SECTION 1. Part 3.2 (commencing with Section 13885) is added to Division 3 of Title 2 of the Government Code, to read:

PART 3 2 COMMISSION ON STATE FINANCE

CHAPTER 1 GENERAL

13885. There is hereby established a Commission on State Finance which is hereafter referred to in this part as the commission. The commission shall comprise the following members:

(a) Four members of the Legislature or their designees: the President pro Tempore of the Senate or, at the option of the President pro Tempore, the chairman of the Senate Finance Committee; the Speaker of the Assembly or, at the option of the Speaker, the chairman of the Assembly Ways and Means Committee, the Senate Minority Floor Leader; and the Assembly Minority Floor Leader

(b) The Director of Finance or his designee.

(c) The State Controller or his designee.

(d) The State Treasurer or his designee

13886 (a) The members of the commission shall elect a chairman and a vice chairman of the commission.

(b) The commission shall not conduct any meeting unless at least one legislative member from each house is present.

(c) The commission shall hold its first meeting no later than 30 days after the effective date of this part and shall meet at the call of the chairman or at the request of a majority of the members

(d) For the purposes of this part, Members of the Legislature serving as members of the commission shall be considered a joint committee of the two houses of the Legislature constituting and acting as an investigating committee, and as such shall have the powers and duties imposed on such committees by the Joint Rules of the Senate and Assembly. Members of the commission who are legislators shall meet with and participate in the work of the commission to the extent that such participation is not incompatible with their positions as Members of the Legislature.

(e) For the purposes of this part, designees shall not be authorized

to vote on the reports required pursuant to Section 13887.

13886 5. The Commission on State Finance shall maintain its principal office in Sacramento.

CHAPTER 2 DUTIES

13887. In order for the Legislature and the Governor to establish an appropriate, timely, and coordinated fiscal policy for the state, the commission shall provide the Legislature, the Governor, and the public with forecasts of state revenues, current year expenditures, and the surplus or deficit at least 4 times a year.

13888. All meetings of the commission shall be open to the public, except that the commission may meet in executive session to consider the appointment or dismissal of officers or employees of the commission or to hear complaints or charges brought against a member or employee of the commission.

CHAPTER 3. POWERS

13889. In carrying out its duties and responsibilities, the commission shall have the following powers:

(a) To examine any document, report, or data, including computer programs and data files, held by any state agency, as defined by Section 11000, which agencies are hereby required to cooperate with the commission and its employees in any such examination;

(b) To meet at such times and places as it may deem proper;

(c) As a body, or, on the authorization of the commission, as a committee composed of two or more members, at least one of which shall be a legislative member, to hold hearings at such times and places as it may deem proper;

(d) Upon a vote of the commission, to issue subpoenas to compel the attendance of witnesses and the production of books, records, papers, accounts, reports, and documents;

(e) To administer oaths;

(f) To employ an executive secretary, who shall be exempt from civil service, and such staff as may be necessary,

(g) To contract with such other agencies or individuals, public or private, as it deems necessary, to provide or prepare such services, facilities, studies, and reports to the commission as will assist it in carrying out its duties and responsibilities;

(h) To authorize its agents and employees to absent themselves from the state where necessary for the performance of their duties;

(i) To do any and all other things necessary or convenient to enable it fully and adequately to perform its duties and to exercise the powers expressly granted to it.

CHAPTER 4. FUNDING

13892. (a) There is hereby appropriated the sum of ninety-seven thousand five hundred dollars ($97,500) from the General Fund for the 1979–80 fiscal year to the commission for carrying out the provisions of this part (b) There are hereby transferred to the Commission on State Finance eight positions from the Department of Finance, and other state departments, the positions to be selected by the Department of Finance in consultation with the commission, to assist the commission in carrying out its duties The positions transferred shall be of such skill levels as the commission deems necessary for the accomplishment of its duties. Out of the amounts appropriated by the Budget Act of 1979, for the support of the departments from which positions are transferred pursuant to this subdivision, sufficient funds are hereby reappropriated for the 1979–80 fiscal year to the commission for support of the positions transferred by this subdivision

CHAPTER 6. TERM

13894. This part shall remain in effect only until July 1, 1984, and as of such date is repealed, unless a later enacted statute chaptered before July 1, 1984, deletes or extends such date.

CHAPTER 1163

An act to add and repeal Section 14499 to the Welfare and Institutions Code, relating to Medi-Cal, and making an appropriation therefor.

[Approved by Governor September 29, 1979 Filed with Secretary of State September 30, 1979]

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

SECTION 1 Section 14499 is added to the Welfare and Institutions Code, to read.

14499. (a) It is the intent of the Legislature in enacting this section to determine if there are ways that the current expenditures for drugs for skilled nursing facility patients in the Medi-Cal program can be reduced. For that purpose the Legislature authorizes one pilot project to determine whether providing Medi-Cal reimbursements to pharmacists on a capitated basis for pharmacy services provided in skilled nursing facilities will identify ways which, if applied in the future, would reduce costs to the state while maintaining the quality of care provided for patients in skilled nursing facilities.

It is further the intent of the Legislature that the pilot project shall

include elements designed to increase the validity of the evaluation.

Further, nothing in this section shall be construed as impairing a physician's or other prescriber's right to prescribe the drug of choice for his or her patient subject to the Medi-Cal schedule of benefits.

(b) In addition to other pilot programs established pursuant to this article, the State Department of Health Services shall establish a pilot program to determine the feasibility of providing Medi-Cal reimbursements on a capitated basis for pharmacy services provided in skilled nursing facilities.

(c) The pilot program shall contain the following elements:

(1) Capitation rates that replace the ingredient costs and dispensing fee

(2) Capitation rates that vary by facility and, if appropriate, by aid category within a facility.

(3) Capitation rates that are set at the 100 percent level of the prior year's ingredient costs and dispensing fees, adjusted by an inflation factor designed to achieve parity in Medi-Cal reimbursements between pharmacies participating in the pilot project and those not participating

(4) Pharmacist assumption of the risk of costs above the capitation rates up to a level determined by the State Department of Health Services and state assumption of the risk of costs above that level.

(5) Pharmacist responsibility for approval, but not denial, of nonformulary drug treatment authorization requests. Denials shall be made only by a State Department of Health Services Medi-Cal consultant.

(6) Pharmacist responsibility for completing individual billing claims for the purposes of data collection

(d) Pharmacies and facilities selected for inclusion in the pilot program shall meet criteria established in advance by the State Department of Health Services after consultation with appropriate professional groups. Pharmacies selected for inclusion in the pilot program shall enter into a contract with the State Department of Health Services which outlines requirements for participation The number of skilled nursing facilities participating in the pilot program shall be no greater than 30.

(e) The evaluation of the pilot project shall contain two parts. The State Department of Health Services shall conduct an evaluation of potential costs savings and of changes in drug utilization This evaluation shall include at least the following:

(1) An analysis of potential costs savings resulting from decreased drug utilization and change in the treatment authorization request process

(2) An analysis of changes in drug utilization patterns by facility, by pharmacy, and by patient types.

(f) An evaluation of changes in the quality of patient care shall be conducted by an independent contractor. This evaluation shall include at least the following:

(1) A computer analysis of the drug records of all the patients for

a sample time period before and during the pilot using a standardized screen procedure for identifying inappropriate or unusual prescribing practices.

(2) A review and analysis of a sample of medical records of patients, including those for whom drug utilization was reduced or significantly modified, to assess the appropriateness of the drug regimen. This review should be conducted by a multidisciplinary team of six members, including a physician with expertise in psychiatry and clinical experience in treating patients in skilled nursing facilities, a physician with expertise in gerontology and clinical experience in treating patients in skilled nursing facilities, a clinical pharmacist with experience in skilled nursing facilities, a clinical pharmacologist, an academic pharmacologist, and a nurse with experience in treating patients in skilled nursing facilities.

(3) An analysis of a sample of pharmacist approvals of treatment authorization requests.

(4) An analysis of the quality and effectiveness of drug regimen reviews performed by the pharmacists participating in the study.

(g) The pilot program shall cover a two-year period to include six months for startup, a one-year period for the actual capitation payments, and six months following for data analysis and completion of the evaluations. With due regard for patient confidentiality, the department shall make the collected data available on request for review and independent analysis by interested parties. A report containing the two evaluations and recommendations for future state actions shall be submitted by the State Department of Health Services to the Legislature by January 1, 1982. This section shall remain in effect only until January 1, 1983, and on such date is repealed.

(h) During the period that this pilot program is in effect, participating pharmacies shall be exempt from the provisions of the Knox-Keene Act relative to their services provided to Medi-Cal beneficiaries under the terms and provisions of the pilot program.

SEC. 2. The sum of one hundred thirty thousand dollars ($130,000) is hereby appropriated from the General Fund to the State Department of Health Services for expenditure for the purpose of this act without regard to fiscal year.

CHAPTER 1164

An act to amend Sections 31468 and 31630 of the Government Code, relating to retirement, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1979 Filed with Secretary of State September 30, 1979]

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

SECTION 1. Section 31468 of the Government Code is amended to read:

31468. (a) "District" means a district, formed under the laws of the state, located wholly or partially within the county other than a school district.

(b) "District" also includes any institution operated by two or more counties, in one of which there has been adopted an ordinance placing this chapter in operation.

(c) "District" also includes any organization or association authorized by Chapter 26, Statutes of 1935, as amended by Chapter 30, Statutes of 1941, or by Section 50024 of this code, which organization or association is maintained and supported entirely from funds derived from counties, and the board of any retirement system is authorized to receive the officers and employees of such organization or association into the retirement system managed by the board.

(d) "District" also includes, but is not limited to, any sanitary district formed under Part 1 (commencing at Section 6400), Division 6 of the Health and Safety Code.

(e) "District" also includes any city, public authority, public agency, and any other political subdivision or public corporation formed or created under the Constitution or laws of this state and located or having jurisdiction wholly or partially within the county.

(f) "District" also includes any nonprofit corporation or association conducting an agricultural fair for the county pursuant to a contract between the corporation or association and the board of supervisors under the authority of Section 25905 of the Government Code.

(g) "District" also includes the Regents of the University of California, but with respect only to employees who were employees of a county in a county hospital, who became university employees pursuant to an agreement for transfer to the regents of such hospital, and who under such agreement had the right and did elect to continue membership in the county's retirement system established under this chapter

(h) "District" also includes the South Coast Air Quality Management District, a new public agency created on February 1, 1977, pursuant to Chapter 5.5 (commencing with Section 40400), Part 3, Division 26 of the Health and Safety Code.

(1) Employees of the South Coast Air Quality Management District shall be deemed to be employees of a new public agency occupying new positions on February 1, 1977. On that date, such new positions are deemed not to have been covered by any retirement system.

(2) No retirement system coverage shall be effected for an employee of the South Coast Air Quality Management District who commenced employment with the district during the period

commencing on February 1, 1977 and ending on December 31, 1978, unless and until the employee shall have elected whether to become a member of the retirement association established in accordance with this chapter for employees of Los Angeles County or the retirement association established in accordance with this chapter for employees of San Bernardino County. Such election shall occur before January 1, 1980. Any such employee who fails to make the election provided for herein shall be deemed to have elected to become a member of the retirement association established in accordance with this chapter for the County of Los Angeles.

(3) The South Coast Air Quality Management District shall make application to the retirement associations established in accordance with this chapter for employees of Los Angeles County and San Bernardino County for coverage of employees of the South Coast Air Quality Management District.

(4) An employee of the South Coast Air Quality Management District who commenced employment with the district during the period commencing on February 1, 1977, and ending on December 31, 1978, and who has not terminated employment before January 1, 1980, shall be covered by the retirement association elected by such employee pursuant to paragraph (2). Such coverage shall be effected no later than the first day of the first month following the date of the election provided for in paragraph (2)

(5) Each electing employee shall receive credit for all service with the South Coast Air Quality Management District; provided, however, that the elected retirement association may require, as a prerequisite to granting such credit, the payment of an appropriate sum of money or the transfer of funds from another retirement association in an amount determined by an enrolled actuary and approved by the elected retirement association's board. The amount to be paid shall include all administrative and actuarial costs of making such determination The amount to be paid shall be shared by the South Coast Air Quality Management District and the employee. The share to be paid by the employee shall be determined by good faith bargaining between the district and the recognized employee organization, but in no event shall the employee be required to contribute more than 25 percent of the total amount required to be paid. The elected retirement association's board shall not grant such credit for such prior service unless the request for such credit is made to, and the required payment deposited with, the elected retirement association's board no earlier than January 1, 1980, and no later than June 30, 1980. The foregoing shall have no effect on any such employee's rights to reciprocal benefits under Article 15 (commencing with Section 31830) of this chapter.

(6) An employee of the South Coast Air Quality Management District who commenced employment with the district after December 31, 1978, shall be covered by the retirement association established in accordance with this chapter for employees of San Bernardino County Such coverage shall be effected as of the first day

of the first month following such employee's commencement date.

(7) Notwithstanding paragraphs (2) and (4) above, employees of the South Coast Air Quality Management District who were employed between February 1, 1977, and December 31, 1978, and who terminate their employment between February 1, 1977 and January 1, 1980, shall be deemed to be members of the retirement association established in accordance with this chapter for the employees of Los Angeles County commencing on the date of their employment with the South Coast Air Quality Management District

SEC 2. Section 31630 of the Government Code is amended to read

31630. Notwithstanding any other provisions in this chapter, the South Coast Air Quality Management District and in any county which has adopted Section 31676.1, 31676.11, 31676.12, 31676.13, 31676 14, or 31676.15, the board of supervisors or district board, as the case may be, may, on recommendation of the board of retirement, agree to pay any portion of the members' normal contributions to the system. All such contributions paid by the county or district, as the case may be, shall remain its contributions, and no right therein shall accrue to any employee prior to such employee's election to take a regular, deferred, or disability retirement.

Any such contributions paid by the board of supervisors or the district board on behalf of such members shall be as determined by upon actuarial advice, and approved by the board of retirement.

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 the changes in the retirement systems involved in this act may take effect prior to January 1, 1980, it is necessary that this act take effect immediately.

CHAPTER 1165

An act to add Section 2057 to the Insurance Code, relating to fire insurance.

[Approved by Governor September 29, 1979 Filed with Secretary of State September 30, 1979]

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

SECTION 1. Section 2057 is added to the Insurance Code, to read:

2057. Under a contract of fire insurance, payment to the insured shall be made within 30 days after the amount of the loss and the liability of the company have been agreed upon or settled by the insured and the company in writing.

If the company fails to pay within the 30 days, the payment shall bear interest, beginning the 31st day, at the prevailing legal rate. The company also shall be liable for all costs of collection, including reasonable attorneys' fees, if legal action is necessary to obtain payment after the company has willfully failed to pay within the 30 days

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CHAPTER 1166

An act to amend Sections 5621, 5626, and 5627 of, and to add Section 5625 5 to, 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 29, 1979 Filed with Secretary of State September 30, 1979]

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

SECTION 1. Section 5621 of the Public Resources Code is amended to read·

5621. As used in this chapter:

(a) "City" includes the City and County of San Francisco; "county" does not include the City and County of San Francisco.

(b) "Districts" means regional park districts formed under Article 3 (commencing with Section 5500) of Chapter 3, and recreation and park districts formed under Chapter 4 (commencing with Section 5780), of this division; and any public utility district formed under Division 7 (commencing with Section 15501) of the Public Utilities Code in a nonurbanized area that employs a full-time park and recreation director and offers year-round park and recreation services on lands and facilities owned by the district, and the Malaga County Water District exercising powers authorized under Section 31133 of the Water Code.

(c) "Urbanized area" consists of a central city or cities and surrounding closely settled territory, as determined by the Department of Parks and Recreation in cooperation with the Department of Finance on the basis of the most recent verifiable census data. "Urbanized county" means any county, except the City and County of San Francisco, with a population of 200,000 or more, as determined by the Department of Parks and Recreation in cooperation with the Department of Finance on the basis of the most recent verifiable census data

(d) "Heavily urbanized area" means a large city with a population of 300,000 or more and a large county or regional park district with a population of 1,000,000 or more, as determined by the Department of Parks and Recreation in cooperation with the Department of

Finance on the basis of the most recent verifiable census data.

(e) "Nonurbanized area" means any city, county, or district which does not qualify as an urbanized area or urbanized county under the definitions set forth in subdivision (c) of this section.

(f) "Block grant" means the allocation of moneys for one or more projects for the acquisition or development of recreational lands and facilities.

(g) "Need basis grant" means the allocation of moneys for one or more projects for the acquisition or development of recreational lands and facilities in nonurbanized areas on a project-by-project basis, based upon need.

SEC. 1.5 Section 5625.5 is added to the Public Resources Code, to read·

5625.5 Grants made to cities, counties, and districts for each fiscal year pursuant to subdivision (a) of Section 5625 shall be based on the jurisdictional boundaries of recipients as of July 1st.

SEC. 2. 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 each act appropriating grant moneys to apply for such grant moneys. Such moneys that are not applied for during the one-year period shall be allocated by the department pursuant to subdivision (b) of Section 5630 during the succeeding fiscal year as grants to cities and recreation and park districts in urbanized areas on a project-by-project basis and on the basis of need.

(c) Grant moneys shall be encumbered by the recipient of such moneys within three years of the date of approval by the director of the application for such moneys. Any part of grant moneys not encumbered within the three-year period shall revert to the General Fund

(d) 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 3 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, 2 percent of need basis and block grant moneys appropriated by Item 222 of the Budget Act of 1978 and any act enacted subsequent thereto may be expended by the recipient for innovative recreational programs for the handicapped and up to 23 percent of such moneys 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 or for innovative recreational programs. Such moneys may be expended only for operation and maintenance costs not fully compensated for by revenues generated by such lands or facilities Recipients of grant moneys that are to be used for operation and maintenance shall examine alternative methods to finance the operation and maintenance of recreational lands and facilities.

For the purposes of this section, "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.

For the purposes of this section, "innovative recreational programs" means projects which involve new and imaginative techniques for meeting special recreational needs or that appear to be particularly promising in terms of promoting self-sufficiency, personal development, and leadership skills of the elderly, handicapped, mentally retarded, and others who have special recreational requirements. The expenditure of grant funds for innovative recreation programs is not limited to public recreational lands and facilities previously funded under this program.

(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 the expenditure of grant moneys for operation and maintenance costs or for innovative recreational programs shall be established by the director after a public hearing. Such criteria, rules, and procedures shall ensure that

grant moneys shall be used to supplement rather than to supplant local revenues that are generated by recreational facilities and lands.

SEC 4. (a) Notwithstanding Section 5624 of the Public Resources Code, the sum of twenty million dollars ($20,000,000) is hereby appropriated from the General Fund to the Department of Parks and Recreation for allocation by the Director of Parks and Recreation during the 1980–81 and 1981–82 fiscal years, in two equal amounts of ten million dollars ($10,000,000) each, as local assistance grants for open-space and recreation programs pursuant to the Roberti-Z'berg Urban Open-Space and Recreation Program Act and the criteria approved in Section 2 of Chapter 6 of the Statutes of 1977 and criteria, rules, and procedures established pursuant to subdivision (e) of Section 5627 of the Public Resources Code.

(b) The Department of Finance may authorize the Department of Parks and Recreation to retain from the sum appropriated in this section an amount necessary for the administration of the program. None of the moneys appropriated in this section may be expended for any analysis or study of park and recreation needs.

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:

The adoption of Article XIII A of the California Constitution (Proposition 13) has had, and will continue to have, a serious effect on the ability of local public agencies to provide park and recreational facilities and services. In order that the Roberti-Z'berg Urban Open-Space and Recreation Program may be continued beyond the 1978–79 fiscal year without interruption, it is necessary that this act take effect immediately.

CHAPTER 1167

An act to amend Sections 17337, 17338, 18031, 18046, 18047, 18052, 18104, and 18172 of the Revenue and Taxation Code, and to amend Section 157 of Chapter 1079 of the Statutes of 1977, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 29, 1979. Filed with Secretary of State September 30, 1979.]

The people of the State of California do enact as follows

SECTION 1. Section 17337 of the Revenue and Taxation Code is amended to read:

17337. If a shareholder sells or otherwise disposes of "Sections 17337 to 17344 stock" (as defined in Section 17339)—

(a) If such disposition is not a redemption (within the meaning of Section 17383(b))

(1) The amount realized shall be treated as gain from the sale of property which is not a capital asset. This subsection shall not apply to the extent that—

(A) The amount realized, exceeds

(B) Such stock's ratable share of the amount which would have been a dividend at the time of distribution if (in lieu of "Sections 17337 to 17344 stock") the corporation had distributed money in an amount equal to the fair market value of the stock at the time of distribution.

(2) Any excess of the amount realized over the sum of—

(A) The amount treated under paragraph (1) as gain from the sale of property which is not a capital asset; plus

(B) The adjusted basis of the stock;

shall be treated as gain from the sale of such stock.

(3) No loss shall be recognized.

(b) If the disposition is a redemption, the amount realized shall be treated as a distribution of property to which Sections 17321 to 17324, inclusive, apply.

(c) If any such stock was distributed before January 1, 1977, and if the adjusted basis of such stock in the hands of the person disposing of it is determined under Section 18047 (relating to carryover basis), then the amount treated as ordinary income under paragraph (1) of subdivision (a) (or the amount treated as a dividend under subdivision (a) of Section 17323) shall not exceed the excess of the amount realized over the sum of—

(A) The adjusted basis of such stock on December 31, 1976, and

(B) Any increase in basis under subdivision (h) of Section 18047.

This subdivision shall apply to a redemption only if such redemption is described in subdivision (a), (b) or (d) of Section 17326

SEC. 2. Section 17338 of the Revenue and Taxation Code is amended to read·

17338. Section 17337 shall not apply—

(a) (1) If the disposition—

(A) Is not a redemption;

(B) Is not, directly or indirectly to a person the ownership of whose stock would (under Section 17384) be attributable to the shareholder; and

(C) Terminates the entire stock interest of the shareholder in the corporation (and for purposes of this clause, Section 17384 shall apply)

(2) If the disposition is a redemption and Section 17326(c) applies.

(b) If the "Sections 17337 to 17344 stock" is redeemed in a distribution in partial or complete liquidation to which Articles 4 and 5 (Sections 17401 and following) apply.

(c) To the extent that, under any provision of this part, gain or loss to the shareholder is not recognized with respect to the disposition of the "Sections 17337 to 17344 stock."

(d) If it is established to the satisfaction of the Franchise Tax

Board—

(1) That the distribution, and the disposition or redemption, or

(2) In the case of a prior or simultaneous disposition (or redemption) of the stock with respect to which the "Sections 17337 to 17344 stock" disposed of (or redeemed) was issued, that the disposition (or redemption) of the "Sections 17337 to 17344 stock," was not in pursuance of a plan having as one of its principal purposes the avoidance of income tax.

(e) To the extent that Section 17329 applies to a distribution in redemption of "Sections 17337 to 17344 stock "

SEC 3. Section 18031 of the Revenue and Taxation Code is amended to read:

18031. (a) The gain from the sale or other disposition of property shall be the excess of the amount realized therefrom over the adjusted basis provided in Section 18041 for determining gain, and the loss shall be the excess of the adjusted basis provided in such section for determining loss over the amount realized.

(b) The amount realized from the sale or other disposition of property shall be the sum of any money received plus the fair market value of the property (other than money) received.

In determining the amount realized—

(1) There shall not be taken into account any amount received as reimbursement for real property taxes which are treated under Section 17205 as imposed on the purchaser; and

(2) There shall be taken into account amounts representing real property taxes which are treated under Section 17205 as imposed on the taxpayer if such taxes are to be paid by the purchaser.

(c) In the case of a sale or exchange of property, the extent to which the gain or loss determined under this section shall be recognized for purposes of this part shall be determined under Section 18032.

(d) Nothing in this section shall be construed to prevent (in the case of property sold under contract providing for payment in installments) the taxation of that portion of any installment payment representing gain or profit in the year in which such payment is received.

(e) (1) In determining gain or loss from the sale or other disposition of a term interest in property, that portion of the adjusted basis of such interest which is determined pursuant to Sections 18044 to 18046, inclusive, 18047, or 18049 to 18051.1, inclusive (to the extent that such adjusted basis is a portion of the entire adjusted basis of the property), shall be disregarded.

(2) For purposes of paragraph (1), the term "term interest in property" meansroperty for a term of years, or

(C) An income interest in a trust

(3) Paragraph (1) shall not apply to a sale or other disposition which is a part of a transaction in which the entire interest in property is transferred to any person or persons.

SEC. 4 Section 18046 of the Revenue and Taxation Code is

amended to read

18046 (a) Sections 18044 and 18045 shall not apply to property which constitutes a right to receive an item of income in respect of a decedent under Sections 17831 to 17837, inclusive.

(b) In the case of a decedent dying after December 31, 1979, Sections 18044, 18045, and subdivision (a) of this section shall not apply to any property for which a carryover basis is provided by Section 18047

SEC 5 Section 18047 of the Revenue and Taxation Code is amended to read:

18047 (a) (1) Except as otherwise provided in this section, the basis of carryover basis property acquired from a decedent dying after December 31, 1979, in the hands of the person so acquiring it shall be the adjusted basis of the property immediately before the death of the decedent, further adjusted as provided in this section.

(2) In the case of any carryover basis property which, in the hands of the decedent, was a personal or household effect, for purposes of determining loss, the basis of such property in the hands of the person acquiring such property from the decedent shall not exceed its fair market value

(b) (1) For purposes of this section, the term "carryover basis property" means any property which is acquired from or passed from a decedent (within the meaning of Section 1014(b) of the Internal Revenue Code of 1954) and which is not excluded pursuant to paragraph (2) or (3).

(2) The term "carryover basis property" does not include—

(A) Any item of gross income in respect of a decedent described in Sections 17831 to 17837, inclusive,

(B) Property described in Section 2042 of the Internal Revenue Code of 1954 (relating to proceeds of life insurance);

(C) A joint and survivor annuity under which the surviving annuitant is taxable under Sections 17101 to 17112, inclusive, and payments and distributions under a deferred compensation plan described in Sections 17501 to 17530.4, inclusive, to the extent such payments and distributions are taxable to the decedent's beneficiary under this part,

(D) Property included in the decedent's gross estate by reason of Section 2035, 2038, or 2041 of the Internal Revenue Code of 1954 which has been disposed of before the decedent's death in a transaction in which gain or loss is recognizable for purposes of this part

(E) Stock or a stock option passing from the decedent to the extent income in respect of such stock or stock option is includible in gross income under Section 17532(c) (1), 17533(c), or 17534(c) (1); and

(F) Property described in Section 1014(b) (5) of the Internal Revenue Code of 1954

(3) (A) The term "carryover basis property" does not include any asset—

(i) Which, in the hands of the decedent, was a personal or household effect, and

(ii) With respect to which the executor has made an election under this paragraph.

(B) The fair market value of all assets designated under this subdivision with respect to any decedent shall not exceed ten thousand dollars ($10,000).

(C) An election under this paragraph with respect to any asset shall be made by the executor in such manner as the Franchise Tax Board shall by regulation prescribe.

(c) The basis of appreciated carryover basis property (determined after any adjustment under subdivision (h)) which is subject to the tax imposed by Part 8 (commencing with Section 13301) of this division in the hands of the person acquiring it from the decedent shall be increased by an amount which bears the same ratio to the taxes imposed by Part 8 (commencing with Section 13301) of this division as—

(1) The net appreciation in value of such property, bears to

(2) The fair market value of all property which is subject to the taxes imposed by Part 8 (commencing with Section 13301) of this division.

(d) (1) If sixty thousand dollars ($60,000) exceeds the aggregate bases (as determined after any adjustment under subdivision (h) or (c)) of all carryover basis property, the basis of each appreciated carryover basis property (after any adjustment under subdivision (h) or (c)) shall be increased by an amount which bears the same ratio to the amount of such excess as—

(A) The net appreciation in value of such property, bears to

(B) The net appreciation in value of all such property.

(2) For purposes of paragraph (1), the basis of any property which is a personal or household effect shall be treated as not greater than the fair market value of such property.

(3) This subdivision shall not apply to any carryover basis property acquired from any decedent who was (at the time of his death) a nonresident not a citizen of the United States.

(e) If—

(1) Any such person acquires appreciated carryover basis property from a decedent, and

(2) Such person actually pays an amount of the taxes imposed by Part 8 (commencing with Section 13301) of this division with respect to such property,

then the basis of such property (after any adjustment under subdivision (h), (c) or (d)) shall be increased by an amount which bears the same ratio to the aggregate amount of all such taxes paid by such person as—

(A) The net appreciation in value of such property, bears to

(B) The fair market value of all property acquired by such person which is subject to such taxes.

(f) (1) The adjustments under subdivisions (c), (d), and (e) shall

not increase the basis of property above its fair market value

(2) For purposes of this section, the net appreciation in value of any property is the amount by which the fair market value of such property exceeds the adjusted basis of such property immediately before the death of the decedent (as determined after any adjustment under subdivision (h)). For purposes of subdivision (d) such adjusted basis shall be increased by the amount of any adjustment under subdivision (c), and, for purposes of subdivision (e), such adjusted basis shall be increased by the amount of any adjustment under subdivision (c) or (d)

(3) For purposes of subdivisions (c) and (e), property shall be treated as not subject to a tax with respect to the taxes imposed by Part 8 of this code, to the extent that a deduction is allowable with respect to such property under Section 13841, 13842 or 13805 of Part 8 (commencing with Section 13301) of this division.

(4) For purposes of this section, the term "appreciated carryover basis property" means any carryover basis property if the fair market value of such property exceeds the adjusted basis of such property immediately before the death of the decedent.

(g) (1) For purposes of this section, when not otherwise distinctly expressed, the term "fair market value" means value as determined under Section 13311 (without regard to whether or not there is a mortgage on, or indebtedness in respect of, the property).

(2) For purposes of this section, property passing from the decedent shall be treated as property acquired from the decedent.

(3) If the facts necessary to determine the basis (unadjusted) of carryover basis property immediately before the death of the decedent are unknown and cannot be reasonably ascertained, such basis shall be treated as being the fair market value of such property as of the date (or approximate date) at which such property was acquired by the decedent or by the last preceding owner in whose hands it did not have a basis determined in whole or in part by reference to its basis in the hands of a prior holder.

(h) (1) If the adjusted basis immediately before the death of the decedent of any property which is carryover basis property reflects the adjusted basis of any marketable bond or security on December 31, 1976, and if the fair market value of such bond or security on December 31, 1976, exceeded its adjusted basis on such date, then for purposes of determining gain and applying this section, the adjusted basis of such property shall be increased by the amount of such excess

(2) (A) If—

(i) The adjusted basis immediately before the death of the decedent of any property which is carryover basis property reflects the adjusted basis on December 31, 1976, of any property other than a marketable bond or security, and

(ii) The value of such carryover basis property exceeds the adjusted basis of such property immediately before the death of the decedent (determined without regard to this subdivision),

then, for purposes of determining gain and applying this section, the adjusted basis of such property immediately before the death of the decedent (determined without regard to this subdivision) shall be increased by the amount determined under subparagraph (B)

(B) The amount of the increase under this subparagraph for any property is the sum of—

(i) The excess referred to in clause (ii) of subparagraph (A), reduced by an amount equal to all adjustments for depreciation, amortization, or depletion for the holding period of such property, and then multiplied by the applicable fraction determined under subparagraph (C), and

(ii) The adjustments to basis for depreciation, amortization, or depletion which are attributable to that portion of the holding period for such property which occurs before January 1, 1977

(C) For purposes of clause (i) of subparagraph (B), the term "applicable fraction" means, with respect to any property, a fraction—

(i) The numerator of which is the number of days in the holding period with respect to such property which occurs before January 1, 1977, and

(ii) The denominator of which is the total number of days in such holding period

(D) Under regulations prescribed by the Franchise Tax Board, if there is a substantial improvement of any property, such substantial improvement shall be treated as a separate property for purposes of this paragraph.

(E) For purposes of this paragraph—

(i) The term "marketable bond or security" means any security for which, as of December 1976, there was a market on a stock exchange, in an over-the-counter market, or otherwise

(ii) The term "holding period" means, with respect to any carryover basis property, the period during which the decedent (or, if any other person held such property immediately before the death of the decedent, such other person) held such property as determined under Sections 18163 to 18172, inclusive, except that such period shall end on the date of the decedent's death

(3) If—

(A) the holding period for any carryover basis property which is tangible personal property includes December 31, 1976, then, for purposes of determining gain and applying this section, the adjusted basis of such property immediately before the death of the decedent shall be treated as being not less than the amount determined under subparagraph (B)

(B) The amount determined under this subparagraph for any property is—

(i) the value of such property (as determined with respect to the estate of the decedent), divided by

(ii) 1 0066 to the nth power where n equals the number of full calendar months which have elapsed between December 31, 1976,

and the date of the decedent's death.

(4) There shall be no increase in basis under this subdivision by reason of the death of any decedent if the adjusted basis of the property in the hands of such decedent reflects the adjusted basis of property which was carryover basis property with respect to a prior decedent.

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

(j) References to the Internal Revenue Code of 1954 in this section mean said code as it read on January 1, 1979.

SEC. 6. Section 18052 of the Revenue and Taxation Code is amended to read·

18052 Proper adjustment in respect of the property shall in all cases be made—

(a) For expenditures, receipts, losses, or other items, properly chargeable to capital account, but no such adjustment shall be made—

(1) For taxes or other carrying charges described in Section 17286, or

(2) For expenditures described in Section 17222 (relating to circulation expenditures), for which deductions have been taken by the taxpayer in determining taxable income for the taxable year or prior taxable years;

(b) To the extent sustained prior to January 1, 1935, and for periods thereafter, for exhaustion, wear and tear, obsolescence, amortization, and depletion, to the extent of the amount—

(1) Allowed as deductions in computing taxable income under this part or prior income tax laws, and

(2) Resulting (by reason of the deductions so allowed) in a reduction for any taxable year of the taxpayer's taxes under this part, but not less than the amount allowable under this part or prior income tax laws. Where no method has been adopted under Sections 17208 to 17211.7, inclusive (relating to depreciation deduction), the amount allowable shall be determined under paragraph (1) of subdivision (b) of Section 17208

(c) In respect of any period—

(1) Before January 1, 1935, and

(2) Since December 31, 1934, during which such property was held by a person or an organization not subject to income taxation under this part or prior income tax laws, for exhaustion, wear and tear, obsolescence, amortization, and depletion, to the extent sustained

(d) In the case of stock (to the extent not provided for in the foregoing subdivisions) for the amount of distributions previously made which, under the law applicable to the year in which the distribution was made, either were tax free or were applicable in reduction of basis (not including distributions made by a corporation which was classified as a personal service corporation under the provisions of the Revenue Act of 1918 (40 Stat 1057), or the Revenue

Act of 1921 (42 Stat 227), out of its earnings or profits which were taxable in accordance with the provisions of Section 218 of the Revenue Act of 1918 or 1921);

(e) In the case of any bond (as defined in Section 17220) the interest on which is wholly exempt from the tax imposed by this part, to the extent of the amortizable bond premium disallowable as a deduction pursuant to subdivision (b) of Section 17217, and in the case of any other bond (as defined in Section 17220) to the extent of the deductions allowable pursuant to subdivision (a) of Section 17217 with respect thereto;

(f) In the case of any municipal bond (as defined in Section 17116), to the extent provided in subdivision (b) of Section 17115,

(g) In the case of a residence the acquisition of which resulted under Sections 18091 to 18100, inclusive, in the nonrecognition of any part of the gain realized on the sale, exchange, or involuntary conversion of another residence, to the extent provided in Section 18095,

(h) In the case of property pledged to the Commodity Credit Corporation, to the extent of the amount received as a loan from the Commodity Credit Corporation and treated by the taxpayer as income for the year in which received pursuant to Section 17117, and to the extent of any deficiency on such loan with respect to which the taxpayer has been relieved from liability;

(i) For amounts allowed as deductions as deferred expenses under subdivision (b) of Section 17690 (relating to certain expenditures in the development of mines) and resulting in a reduction of the taxpayer's taxes under this part, but not less than the amounts allowable under such section for the taxable year and prior years,

(j) For amounts allowed as deductions as deferred expenses under subdivision (b) of Section 17689 or Section 17689.5 (relating to certain exploration expenditures) and resulting in a reduction of the taxpayer's taxes under this part, but not less than the amounts allowable under such section for the taxable year and prior years,

(k) For deductions to the extent disallowed under Section 17291 (relating to sale of land with unharvested crops), notwithstanding the provisions of any other subdivision of this section,

(*l*) For amounts allowed as deductions as deferred expenses under paragraph (1) of subdivision (b) of Section 17223 (relating to research and experimental expenditures) and resulting in a reduction of the taxpayer's taxes under this part, but not less than the amounts allowable under such section for the taxable year and prior years,

(m) For amounts allowed as deductions for expenditures treated as deferred expenses under Section 17227 (relating to trademark and trade name expenditures) and resulting in a reduction of the taxpayer's taxes under this part, but not less than the amounts allowable under such section for the taxable year and prior years,

(n) For amounts allowed as deductions for payments made on account of transfers of franchises, trademarks, or trade names under

paragraph (2) of subdivision (d) of Section 18218 5;

(o) To the extent provided in Section 18047, relating to carryover basis for certain property acquired from a decedent dying after December 31, 1979.

SEC. 7. Section 18104 of the Revenue and Taxation Code is amended to read:

18104. (a) If the executor of the estate of any decedent satisfies the right of any person to receive a pecuniary bequest with appreciated carryover basis property (as defined in Section 18047 (f) (5)), then gain on such exchange shall be recognized to the estate only to the extent that, on the date of such exchange, the fair market value of such property exceeds the value of such property for purposes of Chapter 11 of the Internal Revenue Code of 1954, as it read on January 1, 1979.

(b) To the extent provided in regulations prescribed by the Franchise Tax Board, a rule similar to the rule provided in subdivision (a) shall apply where—

(1) By reason of the death of the decedent, a person has a right to receive from a trust a specific dollar amount which is the equivalent of a pecuniary bequest, and

(2) The trustee of the trust satisfies such right with carryover basis property to which Section 18047 applies.

(c) The basis of property acquired in an exchange with respect to which gain realized is not recognized by reason of subdivision (a) or (b) shall be the basis of such property immediately before the exchange, increased by the amount of the gain recognized to the estate or trust on the exchange.

SEC 8. Section 18172 of the Revenue and Taxation Code is amended to read:

18172 (a) In the case of a person acquiring property from a decedent or to whom property passed from a decedent (within the meaning of Section 18045), if—

(1) The basis of such property in the hands of such person is determined under Section 18044 or 18047, and

(2) Such property is sold or otherwise disposed of by such person within five years after the decedent's death,

then such person shall be considered to have held such property for more than one year but not more than five years

(b) This section shall apply with respect to decedent's dying after December 31, 1970.

SEC. 9 Section 157 of Chapter 1079 of the Statutes of 1977 is amended to read·

157 (a) All sections of this act affecting changes to the Personal Income Tax Law, unless otherwise specified in such sections, shall be applied in the computation of taxes for taxable years beginning after December 31, 1976

(b) Sections 95 and 96 of this act shall apply to taxable years beginning after December 31, 1979

SEC 10 The Legislature finds and declares that Sections 1

through 9, inclusive, of this act shall serve a public purpose by providing the California State Legislature time to reconsider the impact of revising the basis of property acquired from decedents on the state economy and to relieve taxpayers of the burden of such provisions, which were amended by the provisions of Chapter 1079 of the Statutes of 1977 for the purpose of conforming to the federal income tax law. The operative effect of the federal income tax law has now been delayed until December 31, 1979, by the Congress of the United States, which has determined that such delay in applying such amendments to the method of determining basis has been made necessary due to the need to reconsider the effect of such change in the income tax laws.

SEC. 11. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 1168

An act to amend Sections 14105, 14121, 14143, 14143.5, 14211, 17052.6, 17052.9, 17054, 17063, 17063.2, 17139, 17159, 17211.4, 17211.7, 17229.5, 17237, 17240, 17241, 17253, 17265, 17283, 17299.2, 17299.3, 17299.4, 17337, 17338, 17461, 17501, 17503, 17511, 17512, 17515, 17521, 17530, 17530.1, 17530.2, 17530.3, 17530.4, 17599, 17599.1, 17686, 17686.5, 17688, 17690, 17747, 17771, 17775, 17858, 18031, 18046, 18047, 18052, 18093, 18094, 18104, 18172, 18182, 18207, 18209, 18211, 18213, 18221, 18802, 23401, 24353.1, 24354.2, 24381, 24442, 24443, 24514, 24540, 24541, 24562, 24609, 24652, 24832, 24834, 24835, and 24835.5 of, to amend and renumber Sections 17228, 17237.5, and 24380 of, to add Sections 17064.7, 17150.5, 17150.6, 17155, 17160, 17161, 17211.8, 17211.9, 17299.5, 17299.6, 17502.10, 17522.5, 17525.5, 17530.5, 17585, 17586, 17599.2, 17599.3, 18090.3, 18568.6, 18802.6, 19053.8, 24354.3, 24354.4, 24382, 24444, 24445, 24610.5, 24653, 24676.5, 24687, and 24949.3 of, to repeal Sections 17154, 17155, 17523, and 24611 of, and to repeal and add Section 18208 of, the Revenue and Taxation Code, and to amend Section 157 of Chapter 1079 of the Statutes of 1977, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 29, 1979 Filed with Secretary of State September 30, 1979]

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

SECTION 1 Section 14105 of the Revenue and Taxation Code is amended to read

14105. (a) Notwithstanding any other provision of this chapter, any tax imposed on the transfer of property which results in undue hardship as defined in Section 14143.5 may, at the option of the taxpayer and with the written agreement of the Controller, where such written agreement is incorporated into the decree of

distribution, be paid in 10 annual installments. The first installment, together with any interest due, computed on the tax imposed from the delinquency date to the date of payment pursuant to Section 14103, shall be paid on or before the delinquency date or a date specified in a written agreement with the Controller pursuant to Section 14143 5, whichever is later Each subsequent installment shall be in an amount of not less than 10 percent of the tax imposed and shall be paid, together with interest computed on the unpaid balance, on or before the anniversary date of the first installment payment. The entire unpaid balance and interest shall become due and payable if payment of any such installment and interest is not made in a timely manner, provided, however, that solely for purposes of this sentence any payment of any such installment and interest which is due and payable prior to the expiration of 90 days after the final determination of the amount of such taxes shall be deemed to be timely made if made prior to the expiration of the 90-day period.

(b) Any tax paid under this section shall bear interest, at the rate imposed by Section 14211, from the date it became delinquent and until it is paid.

(c) Except as to any transferred property released from the lien of the tax pursuant to Section 14308, the extension provided by this section shall be authorized only so long as the transferees, or their heirs who would qualify under this section for an extension, shall own the transferred property. Except as to property released from the lien of the tax pursuant to Section 14308, upon transfer of such property to any person, all deferred taxes and interest thereon shall immediately become due and payable

SEC. 2 Section 14121 of the Revenue and Taxation Code is amended to read·

14121. Except as otherwise provided in this article, every executor, administrator, or trustee in charge of or holding in trust any property the transfer of which is subject to the tax imposed by this part, shall deduct the tax from the property, if the property is money, or, if the property is not money, shall collect the tax from the transferee, and he shall not deliver or be compelled to deliver the property to any person until he deducts or collects the tax unless a written agreement for payment of the tax has been executed by the Controller.

SEC 3 Section 14143 of the Revenue and Taxation Code is amended to read

14143 No executor, administrator, or trustee liable for the payment of any tax imposed by this part is entitled to credits in his accounts or to a discharge from liability for payment, nor shall the estate of the person who made the transfer on which the tax is imposed be distributed, unless a receipt countersigned and sealed by the Controller pursuant to this article, or a copy of such a receipt certified by the Controller, or evidence of a written agreement for the payment of any tax imposed by this part, is filed with the superior

court having jurisdiction; provided, however, that where a transferee has filed with the court a written election pursuant to the provisions of Section 14213, the estate may be distributed notwithstanding the fact that the tax imposed upon the transferee filing the written election has not been paid in full

SEC. 4 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.

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 or class B 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 subdivision (b) of Section 14211 or less or the necessity for selling an interest in a family business to unrelated persons.

Notwithstanding the foregoing provisions of this section, the executor, administrator, trustee or transferee liable for the payment of any taxes imposed pursuant to the provisions of this part on class A or class B beneficiaries on a qualified family property may elect to pay such taxes in equal annual installments, together with interest on the unpaid balance at the rate imposed by Section 14211, the first such installment payment to be due on the delinquency date pursuant to Section 14103, and the last such installment payment to be due not later than the tenth anniversary of such delinquency date The entire unpaid balance of such taxes and interest shall become due and payable if payment of any such installment and interest is not timely made, provided, however, that solely for purposes of this sentence any payment of any such installment and interest which is due and payable prior to the expiration of 90 days after the final determination of the amount of such taxes shall be deemed to be timely made if made prior to the expiration of said 90-day period If such election is made, the Controller and the executor, administrator, trustee, or transferee liable for the payment of such taxes shall enter into a written agreement providing for the payment of such taxes in installments in such manner and also providing that, except as to any property released from the lien of such taxes pursuant to Section 14308, upon any transfer of such qualified family property which has the effect of terminating the lien provided for in Section 14301, all deferred taxes and interest thereon attributable to such transferred property and not previously paid shall immediately become due and payable

Upon filing an agreement, as provided in the preceding

paragraphs of this section, with the Controller and the 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

Qualified family property is defined as property or an interest therein 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) Twenty percent or more of the total capital interest in such partnership was owned, directly or indirectly, by the transferor and his or her spouse, lineal ancestor, lineal issue, mutually acknowledged child, brother or sister, or lineal ancestor or lineal issue of his or her brother or sister, or

(2) Such partnership had 10 or fewer partners.

(c) Stock in a corporation carrying on a trade or business if:

(1) Twenty percent or more in value of the voting stock of such corporation was owned, directly or indirectly, by the decedent and his or her spouse, lineal ancestor, lineal issue, mutually acknowledged child, brother or sister, or lineal ancestor or lineal issue of his or her brother or sister, or

(2) Such corporation had 10 or fewer shareholders.

(d) Determinations shall be made as of the time immediately before the decedent's death Property (including stock or a partnership interest) owned, directly or indirectly, by or for a corporation, partnership, estate or trust shall be considered as being owned proportionately by its shareholders, partners, or beneficiaries, both for purposes of determining the percentage of ownership thereof by any individual under paragraph 1 of subdivision (b) and paragraph (1) of subdivision (c) and for purposes of determining the number of partners or shareholders under paragraph 2 of subdivision (b) and paragraph (2) of subdivision (c)

SEC 5. Section 14211 of the Revenue and Taxation Code is amended to read:

14211 (a) The tax does not bear interest if it is paid prior to the date on which it otherwise becomes delinquent. However, if it is paid after that date it bears interest at the rate of 12 percent per annum from the date it became delinquent and until it is paid or, in the case of any tax being paid in installments pursuant to Section 14105 or Section 14143.5, at the adjusted rate of interest provided in subdivision (b) of this section or at 12 percent per annum, whichever is lower, until the date prescribed for payment of such installment, and thereafter at the rate of 12 percent per annum

(b) The initial adjusted rate of interest shall be 11 percent per annum The Controller shall establish an adjusted rate of interest for the purpose of this section not later than October 15 of any year if

the adjusted prime rate charged by banks (that being 90 percent of the average predominate rate quoted by commercial banks to large businesses, as determined by the Board of Governors of the Federal Reserve System) during September of that year, rounded to the nearest full percent, is at least a full percentage point more or less than the adjusted rate of interest which is then in effect Any such adjusted rate of interest shall be equal to the adjusted prime rate charged by banks, rounded to the nearest full percent, and shall become effective on February 1 of the immediately succeeding year. Any adjustment provided for under this subsection may not be made prior to the expiration of 23 months following the date of any preceding adjustment under this subsection which changes the rate of interest.

SEC. 6. Section 17052.6 of the Revenue and Taxation Code, as amended by Section 30 of Chapter 123 of the Statutes of 1978, is amended to read:

17052.6. (a) (1) In the case of an individual who maintains a household which includes as a member one or more qualifying individuals (as defined in subdivision (b) (1)), there shall be allowed as a credit against the "net tax" (as defined in paragraph (2)) imposed by this part for the taxable year an amount equal to 3 percent of the employment-related expenses (as defined in subdivision (b) (2)) paid by such individual during the taxable year

(2) For the purposes of this section, the term "net tax" means the tax imposed under either Section 17041 or 17048 minus the credits for personal exemption provided for in Section 17054 and the credits for taxes paid other states provided for in Chapter 12 (commencing with Section 18001).

(3) The credit provided by paragraph (1) shall be reduced by 2 percent for each one hundred dollars ($100) of adjusted gross income in excess of fifteen thousand dollars ($15,000).

(b) For purposes of this section—

(1) The term "qualifying individual" means—

(A) A dependent of the taxpayer who is under the age of 15 and with respect to whom the taxpayer is entitled to a credit under Section 17054(c),

(B) A dependent of the taxpayer who is physically or mentally incapable of caring for himself.

(C) The spouse of the taxpayer, if he is physically or mentally incapable of caring for himself.

(2) (A) The term "employment-related expenses" means amounts paid for the following expenses, but only if such expenses are incurred to enable the taxpayer to be gainfully employed for any period for which there are one or more qualifying individuals with respect to the taxpayer.

(i) Expenses for household services, and

(ii) Expenses for the care of a qualifying individual

(B) Employment-related expenses described in subparagraph (A) which are incurred for services outside the taxpayer's household

shall be taken into account only if incurred for the care of a qualifying individual described in paragraph (1) (A).

(c) The amount of the employment-related expenses incurred during any taxable year which may be taken into account under subdivision (a) shall not exceed—

(1) Two thousand dollars ($2,000) if there is one qualifying individual with respect to the taxpayer for such taxable year, or

(2) Four thousand dollars ($4,000) if there are two or more qualifying individuals with respect to the taxpayer for such taxable year.

(d) (1) Except as otherwise provided in this subdivision, the amount of the employment-related expenses incurred during any taxable year which may be taken into account under subdivision (a) shall not exceed—

(A) In the case of an individual who is not married at the close of such year, such individual's earned income for such year, or

(B) In the case of an individual who is married at the close of such year, the lesser of such individual's earned income or the earned income of his spouse for such year

(2) In the case of a spouse who is a student or a qualified individual described in subparagraph (C) of paragraph (1) of subdivision (b), for purposes of paragraph (1), such spouse shall be deemed for each month during which such spouse is a full-time student at an educational institution, or is such a qualifying individual, to be gainfully employed and to have earned income of not less than—

(A) One hundred sixty-six dollars ($166) if subdivision (c) (1) applies for the taxable year, or

(B) Three hundred thirty-three dollars ($333) if subdivision (c) (2) applies for the taxable year. In the case of any husband and wife, this paragraph shall apply with respect to only one spouse for any one month.

(e) For purposes of this section—

(1) An individual shall be treated as maintaining a household for any period only if over half the cost of maintaining the household for such period is furnished by such individual (or, if such individual is married during such period, is furnished by such individual and his spouse).

(2) If the taxpayer is married at the close of the taxable year, the credit shall be allowed under subdivision (a) only if the taxpayer and his spouse file a joint return for the taxable year.

(3) An individual legally separated from his spouse under a decree of divorce or of separate maintenance shall not be considered as married

(4) If—

(A) An individual who is married and who files a separate return—

(i) Maintains as his home a household which constitutes for more than one-half of the taxable year the principal place of abode of a qualifying individual, and

(ii) Furnishes over half of the cost of maintaining such household during the taxable year, and

(B) During the last six months of such taxable year such individual's spouse is not a member of such household, such individual shall not be considered as married.

(5) If—

(A) A child (as defined in Section 17054(c)(4)) who is under the age of 15 or who is physically or mentally incapable of caring for himself receives over half of his support during the calendar year from his parents who are divorced or legally separated under a decree of divorce or separate maintenance or who are separated under a written separation agreement, and

(B) Such child is in the custody of one or both of his parents for more than one-half of the calendar year,

in the case of any taxable year beginning in such calendar year such child shall be treated as being a qualifying individual described in subparagraph (A) or (B) of subdivision (b)(1), as the case may be, with respect to that parent who has custody for a longer period during such calendar year than the other parent, and shall not be treated as being a qualifying individual with respect to such other parent.

(6) No credit shall be allowed under subdivision (a) for any amount paid by the taxpayer to an individual—

(A) With respect to whom, for the taxable year, a credit under subdivision (c) of Section 17054 (relating to credit for personal exemptions for dependents) is allowable either to the taxpayer or his spouse, or

(B) Who is a child of the taxpayer (within the meaning of paragraph (4) of subdivision (c) of Section 17054) who has not attained the age of 19 at the close of the taxable year.

For purposes of this paragraph, the term "taxable year" means the taxable year of the taxpayer in which the service is performed.

(7) The term "student" means an individual who during each of five calendar months during the taxable year is a full-time student at an educational organization

(8) The term "educational organization" means an educational organization described in Section 17215.1(b)(2).

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

SEC 7 Section 17052.9 of the Revenue and Taxation Code is amended to read.

17052.9 (a) In the case of an individual who has attained age 65 before the close of the taxable year, there shall be allowed as a credit against the tax imposed under either Section 17041 or 17048, minus the credits for personal exemptions provided in Section 17054 for the taxable year an amount equal to 15 percent of such individual's designated maximum amount for such taxable year.

(b) For purposes of subdivision (a):

(1) An individual's designated maximum amount for the taxable

year is the applicable initial amount determined under paragraph (2), reduced as provided in paragraph (3) and in subdivision (c).

(2) The initial amount is:

(A) Two thousand five hundred dollars ($2,500) in the case of a single individual;

(B) Two thousand five hundred dollars ($2,500) in the case of a joint return where only one spouse is eligible for the credit under subdivision (a);

(C) Three thousand seven hundred fifty dollars ($3,750) in the case of a joint return where both spouses are eligible for the credit under subdivision (a); or

(D) One thousand eight hundred seventy-five dollars ($1,875) in the case of a married individual filing a separate return.

(3) The reduction under this paragraph is an amount equal to the sum of the amounts received by the individual (or, in the case of a joint return, by either spouse) as a pension or annuity:

(A) Under Title II of the Social Security Act;

(B) Under the Railroad Retirement Act of 1935 or 1937; or

(C) Otherwise excluded from gross income.

No reduction shall be made under this paragraph for any amount otherwise excluded from gross income.

(c) For purposes of this section:

(1) If the adjusted gross income of the taxpayer exceeds:

(A) Seven thousand five hundred dollars ($7,500) in the case of a single individual,

(B) Ten thousand dollars ($10,000) in the case of a joint return, or

(C) Five thousand dollars ($5,000) in the case of a married individual filing a separate return,

the designated maximum amount shall be reduced by one-half of the excess of the adjusted gross income over seven thousand five hundred dollars ($7,500), ten thousand dollars ($10,000), or five thousand dollars ($5,000), as the case may be.

(2) The amount of the credit allowed by this section for the taxable year shall not exceed the amount of the tax imposed under either Section 17041 or 17048, minus the credits for personal exemptions provided in Section 17054 for such taxable year.

(d) For purposes of this section, except in the case of a husband and wife who live apart at all times during the taxable year, if the taxpayer is married at the close of the taxable year, the credit provided by this section shall be allowed only if the taxpayer and his spouse file a joint return for the taxable year.

(e) For purposes of this section·

(1) In the case of a taxpayer who has not attained age 65 before the close of the taxable year (other than a married individual whose spouse has attained age 65 before the close of the taxable year), his credit (if any) under this section shall be determined under this subdivision

(2) In the case of a married individual who has not attained age

65 before the close of the taxable year (and whose gross income includes income described in subparagraph (B) of paragraph (4)) but whose spouse has attained such age, this paragraph shall apply for the taxable year only if both spouses elect, at such time and in such manner as the Franchise Tax Board shall by regulations prescribe, to have this paragraph apply. If this paragraph applies for the taxable year, the credit (if any) of each spouse under this section shall be determined under this subdivision.

(3) In the case of an individual whose credit under this section for the taxable year is determined under this subdivision, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 15 percent of the amount received by such individual as retirement income (as defined in paragraph (4) and as limited by paragraph (5)).

(4) For purposes of this subdivision, the term "retirement income" means·

(A) In the case of an individual who has attained age 65 before the close of the taxable year, income from:

(i) Pensions and annuities,

(ii) Interest,

(iii) Rents,

(iv) Dividends,

(v) Bonds which are received under a qualified bond purchase plan or in a distribution from a trust which is exempt from tax or retirement bonds, and

(vi) An individual retirement account or an individual retirement annuity; or

(B) In the case of an individual who has not attained age 65 before the close of the taxable year and who performed the services giving rise to the pension or annuity (or is the spouse of the individual who performed the services), income from pensions and annuities under a public retirement system,

to the extent included in gross income without reference to this subdivision, but only to the extent such income does not represent compensation for personal services rendered during the taxable year.

(5) For purposes of this subdivision, the amount of retirement income shall not exceed two thousand five hundred dollars ($2,500) less—

(A) The reduction provided by subdivision (b) (3), and

(B) In the case of any individual who has not attained age 72 before the close of the taxable year.

(i) If such individual has not attained age 62 before the close of the taxable year, any amount of earned income (as defined in paragraph (8) (B) in excess of nine hundred dollars ($900) received by such individual in the taxable year, or

(ii) If such individual has attained age 62 before the close of the taxable year, the sum of one-half the amount of earned income received by such individual in the taxable year in excess of one

thousand two hundred dollars ($1,200) but not in excess of one thousand seven hundred dollars ($1,700), and the amount of earned income so received in excess of one thousand seven hundred dollars ($1,700)

(6) In the case of a joint return, paragraph (5) shall be applied by substituting "three thousand seven hundred fifty dollars ($3,750)" for "two thousand five hundred dollars ($2,500)." The three thousand seven hundred fifty dollars ($3,750) provided by the preceding sentence shall be divided between the spouses in such amounts as may be agreed on by them, except that not more than two thousand five hundred dollars ($2,500) may be assigned to either spouse.

(7) In the case of a married individual filing a separate return, paragraph (5) shall be applied by substituting "one thousand eight hundred seventy-five dollars ($1,875)" for "two thousand five hundred dollars ($2,500)."

(8) For purposes of this subdivision.

(A) The term "public retirement system" means a pension, annuity, retirement, or similar fund or system established by the United States, a state, a possession of the United States, any political subdivision of any of the foregoing, or the District of Columbia.

(B) The term "earned income" does not include any amount received as a pension or annuity

(f) No credit shall be allowed under this section to any nonresident

(g) For the purpose of Section 17052.6 (relating to child care credit), such credit shall be computed by including the credit provided by this section after the personal exemption credits provided in Section 17054 in paragraph (2) of subdivision (a) of such section For the purpose of Section 17052.7 (relating to agricultural irrigation credit), such credit shall be computed by including the credit provided by this section after the child care credit in paragraph (1) of subdivision (d) of such section.

SEC 7.5 Section 17054 of the Revenue and Taxation Code is amended to read

17054. In the case of individuals computing their tax under Section 17041 or Section 17048, the following credits for personal exemption may be deducted from the tax imposed.

(a) In the case of a single individual, or a married individual making a separate return a credit of twenty-five dollars ($25).

(b) In the case of a head of household, a surviving spouse (as defined in Section 17046), or a husband and wife making a joint return, a credit of fifty dollars ($50). If one spouse was a resident for the entire taxable year and the other spouse was a nonresident for all or any portion of the taxable year, the personal exemption shall be divided equally and the portion deductible by the nonresident shall be determined under Section 17055 The preceding sentence shall not apply to a nonresident active member of the armed forces of the United States or any auxiliary branch thereof and his or her

spouse.

(c) Except as provided in subdivision (e) of Section 17057, a credit of eight dollars ($8) for each dependent (as defined in Section 17056)—

(1) Whose gross income for the calendar year in which the taxable year of the taxpayer begins is less than one thousand dollars ($1,000), or

(2) Who is a child of the taxpayer and who (A) has not attained the age of 19 at the close of the calendar year in which the taxable year of the taxpayer begins, or (B) is a student

(3) No exemption shall be allowed under this subdivision for any dependent who has made a joint return with his spouse under Section 18402 for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins.

(4) For purposes of paragraph (2), the term "child" means an individual who (within the meaning of Section 17056) is a son, stepson, daughter or stepdaughter of the taxpayer.

(5) For purposes of subparagraph (B) of paragraph (2) of this subdivision and Section 17059, the term "student" means an individual who during each of five calendar months during the calendar year in which the taxable year of the taxpayer begins—

(A) Is a full-time student at an educational institution; or

(B) Is pursuing a full-time course of institutional on-farm training under the supervision of an accredited agent of an educational institution or of a state or political subdivision of a state

For purposes of this paragraph, the term "educational institution" means only an educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on

(d) A credit for personal exemption of eight dollars ($8) for the taxpayer if he is blind at the close of his taxable year.

(e) A credit for personal exemption of eight dollars ($8) for the spouse of the taxpayer if a separate return is made by the taxpayer, and if the spouse is blind and, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer

(f) For the purposes of this section, an individual is blind only if either: his central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or his visual acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees

(g) For taxable years beginning after December 31, 1977 and before January 1, 1979, the twenty-five dollars ($25) specified in subdivision (a) shall be one hundred dollars ($100) instead of twenty-five dollars ($25), and the fifty dollars ($50) specified in subdivision (b) shall be two hundred dollars ($200) instead of fifty dollars ($50) If the taxpayer has more than one taxable year

beginning after December 31, 1977 and before January 1, 1979, such taxpayer shall be allowed the increased exemption provided by this subdivision only with respect to the taxable year which covers the most number of months

(h) For each taxable year beginning on or after January 1, 1979, the Franchise Tax Board shall compute the credits prescribed in this section. Such computation shall be made as follows:

(1) The California Department of Industrial Relations shall transmit annually to the Franchise Tax Board the percentage change in the California Consumer Price Index for all items from June of 1978 to June of the current calendar year, no later than August 1 of the current calendar year.

(2) The Franchise Tax Board shall add 100 percent to the percentage change figure which is furnished to them pursuant to paragraph (1), and divide the result by 100.

(3) The Franchise Tax Board shall multiply the 1977 taxable year credits by the inflation adjustment factor provided in paragraph (2), rounded off to the nearest one dollar ($1)

(4) In computing the credits pursuant to this subdivision, the credit provided in subdivision (b) shall be twice the credit provided in subdivision (a).

SEC. 7.6. Section 17063 of the Revenue and Taxation Code is amended to read

17063. For purposes of this chapter, the items of tax preference are:

(a) An amount equal to the excess itemized deductions for the taxable year (as determined under Section 17063.2).

(b) With respect to each "Section 18212 property" (as defined in Section 18214), the amount by which the deduction allowable for the taxable year for exhaustion, wear or tear, obsolescence, or amortization exceeds the depreciation deduction which would have been allowable for the taxable year, had the taxpayer depreciated the property under the straight line method for each taxable year of its useful life (determined without regard to Section 17211.7 or 17228.5) for which the taxpayer has held the property.

(c) With respect to each item of Section 18211 property (as defined in Section 18214) which is subject to a lease, the amount by which—

(1) The deduction allowable for the taxable year for depreciation or amortization, exceeds

(2) The deduction which would have been allowable for the taxable year had the taxpayer depreciated the property under the straight line method for each taxable year of its useful life for which the taxpayer has held the property

(d) With respect to the transfer of a share of stock pursuant to the exercise of a qualified stock option (as defined in subdivision (b) of Section 17532) or a restricted stock option (as defined in subdivision (b) of Section 17534), the amount by which the fair market value of the share at the time of exercise exceeds the option price

(e) With respect to each property (as defined in Sections 17681 to 17690, inclusive), the excess of the deduction for depletion allowable under Section 17681 for the taxable year over the adjusted basis of the property at the end of the taxable year (determined without regard to the depletion deduction for the taxable year).

(f) An amount equal to one-half of the amount by which net long-term capital gain exceeds the net short-term capital loss for the taxable year

(g) Subdivision (f) of this section shall apply only to taxable years beginning after December 31, 1970, and ending on or before November 30, 1972. For taxable years beginning after December 31, 1971, the amount of the tax preference income with respect to capital gains shall be an amount (but not below zero) equal to the difference between (1) the taxpayer's total net capital gains and losses (determined without regard to any capital loss carryover) for the taxable year, and (2) the taxpayer's net capital gains and losses recognized by virtue of Section 18162.5 for the same taxable year.

(h) The amount of net farm loss in excess of fifty thousand dollars ($50,000) which is deducted from nonfarm income. In the case of a husband or wife who files a separate return, the amount specified in the preceding sentence shall be twenty-five thousand dollars ($25,000) This subdivision shall not apply if two-thirds or more of the taxpayer's average gross income from all sources for the taxable year and immediately preceding two years is from farming.

(i) The excess of the intangible drilling and development costs described in Section 17283 (c) paid or incurred in connection with oil, gas, and geothermal wells (other than costs incurred in drilling a nonproductive well) allowable under this part for the taxable year over the amount which would have been allowable for the taxable year if such costs had been capitalized and straight line recovery of intangibles (as defined in Section 17063.3) had been used with respect to such costs. This subdivision shall be applied separately with respect to.

(1) All oil and gas properties which are not described in paragraph (2), and

(2) All properties which are geothermal deposits (as defined in Section 613(e)(3) of the Internal Revenue Code of 1954).

SEC 8. Section 17063.2 of the Revenue and Taxation Code is amended to read:

17063.2. (a) For purposes of subdivision (a) of Section 17063, the amount of the excess itemized deductions for any taxable year is the amount by which the sum of the deductions for the taxable year other than—

(1) The deduction for state and local taxes provided by subdivision (a) of Section 17204,

(2) The deduction for medical, dental, etc., expenses provided by Sections 17253 to 17258, inclusive,

(3) The deduction for casualty losses described in paragraph (3) of subdivision (c) of Section 17206, and

(4) The deduction allowable under Section 17836, exceeds 60 percent of the taxpayer's adjusted gross income reduced by the items in paragraphs (1) through (4) for the taxable year

(b) In the case of a trust or estate, any deduction allowed or allowable for the taxable year—

(1) Under Section 17734 (but only to the extent that the amount of the deduction allowable under such section is included in the income of the beneficiary under Section 17762(a) for the taxable year of the beneficiary with which or within which the taxable year of the trust ends);

(2) Under Section 17735, 17736, 17751(a), 17761(a) or 17831 to 17838, inclusive; or

(3) For costs paid or incurred in connection with the administration of the trust or estate shall, for purposes of subdivision (a), be treated as a deduction allowable in arriving at an adjusted gross income.

SEC. 8.5 Section 17064.7 is added to the Revenue and Taxation Code, to read.

17064.7. For purposes of this chapter, "farm net loss" means the amount by which the deductions allowed by this part which are directly connected with the carrying on of the trade or business of farming exceed the gross income derived from such trade or business.

SEC. 10. Section 17139 of the Revenue and Taxation Code is amended to read:

17139. (a) Except as otherwise provided in this section, amounts received by an employee through accident or health insurance for personal injuries or sickness shall be included in gross income to the extent such amounts (1) are attributable to contributions by the employer which were not includable in the gross income of the employee, or (2) are paid by the employer.

(b) Except in the case of amounts attributable to (and not in excess of) deductions allowed under Sections 17253 to 17258, inclusive (relating to medical, etc., expenses), for any prior taxable year, gross income does not include amounts referred to in subsection (a) if such amounts are paid, directly or indirectly, to the taxpayer to reimburse the taxpayer for expenses incurred by him for the medical care (as defined in Section 17257) of the taxpayer, his spouse, and his dependents (as defined in Sections 17054 to 17059, inclusive)

(c) Gross income does not include amounts referred to in subsection (a) to the extent such amounts—

(1) Constitute payment for the permanent loss or loss of use of a member or function of the body, or the permanent disfigurement, of the taxpayer, his spouse, or a dependent (as defined in Sections 17054 to 17059, inclusive), and

(2) Are computed with reference to the nature of the injury without regard to the period the employee is absent from work.

(d) (1) In the case of a taxpayer who—

(A) Has not attained age 65 before the close of the taxable year, and

(B) Retired on disability and, when he retired, was permanently and totally disabled, gross income does not include amounts referred to in subdivision (a) if such amounts constitute wages or payments in lieu of wages for a period during which the employee is absent from work on account of permanent and total disability.

(2) This subdivision shall not apply to the extent that the amounts referred to in paragraph (1) exceed a weekly rate of one hundred dollars ($100).

(3) If the adjusted gross income of the taxpayer for the taxable year (determined without regard to this subdivision) exceeds fifteen thousand dollars ($15,000), the amount which but for this paragraph would be excluded under this subdivision for the taxable year shall be reduced by an amount equal to the excess of the adjusted gross income (as so determined) over fifteen thousand dollars ($15,000).

(4) For purposes of this subdivision, an individual is permanently and totally disabled if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. An individual shall not be considered to be permanently and totally disabled unless he furnishes proof of the existence thereof in such form and manner, and at such time as the Franchise Tax Board may require

(5) (A) Except in the case of a husband and wife who live apart at all times during the taxable year, if the taxpayer is married at the close of the taxable year, the exclusion provided by this subdivision shall be allowed only if the taxpayer and his spouse file a joint return for the taxable year.

(B) In the case of a joint return—

(i) Paragraph (2) shall be applied separately with respect to each spouse, but

(ii) Paragraph (3) shall be applied with respect to their combined adjusted gross income.

(C) For purposes of this subdivision, marital status shall be determined under Section 17173

(D) For purposes of this subdivision, the term "joint return" means the joint return of a husband and wife made under Section 18402

(6) In the case of an individual described in subparagraphs (A) and (B) of paragraph (1), for purposes of Sections 17101 to 17112.7, inclusive, the annuity starting date shall not be deemed to occur before the beginning of the taxable year in which the taxpayer attains age 65, or before the beginning of an earlier taxable year for which the taxpayer makes an irrevocable election not to seek the benefits of this subdivision for such year and all subsequent years.

(e) For purposes of this section and Section 17138—

(1) Amounts received under an accident or health plan for

employees, and

(2) Amounts received from a sickness and disability fund for employees maintained under the law of a state, a territory, or the District of Columbia,

shall be treated as amounts received through accident or health insurance.

(f) For purposes of Section 17253 (relating to medical, dental, etc., expenses) amounts excluded from gross income under subsection (c) or (d) shall not be considered as compensation (by insurance or otherwise) for expenses paid for medical care.

(g) (1) In the case of amounts paid to a highly compensated individual under a self-insured medical reimbursement plan which does not satisfy the requirements of paragraph (2) for a plan year, subsection (b) shall not apply to such amounts to the extent they constitute an excess reimbursement of such highly compensated individual.

(2) A self-insured medical reimbursement plan satisfies the requirements of this paragraph only if—

(A) The plan does not discriminate in favor of highly compensated individuals as to eligibility to participate; and

(B) The benefits provided under the plan do not discriminate in favor of participants who are highly compensated individuals.

(3) (A) A self-insured medical reimbursement plan does not satisfy the requirements of subparagraph (A) of paragraph (2) unless such plan benefits—

(i) Seventy percent or more of all employees, or 80 percent or more of all the employees who are eligible to benefit under the plan if 70 percent or more of all employees are eligible to benefit under the plan; or

(ii) Such employees as qualify under a classification set up by the employer and found by the Franchise Tax Board not to be discriminatory in favor of highly compensated participants.

(B) For purposes of subparagraph (A), there may be excluded from consideration—

(i) Employees who have not completed three years of service;

(ii) Employees who have not attained age 25;

(iii) Part-time or seasonal employees;

(iv) Employees not included in the plan who are included in a unit of employees covered by an agreement between employee representatives and one or more employers which the Franchise Tax Board finds to be a collective-bargaining agreement, if accident and health benefits were the subject of good faith bargaining between such employee representatives and such employer or employers; and

(v) Employees who are nonresident aliens and who receive no earned income (within the meaning of Section 911 (b) of the Internal Revenue Code of 1954) from the employer which constitutes income from sources within the United States (within the meaning of Section 861 (a) (3) of the Internal Revenue Code of 1954).

(4) A self-insured medical reimbursement plan does not meet the

requirements of subparagraph (B) of paragraph (2) unless all benefits provided for participants who are highly compensated individuals are provided for all other participants.

(5) For purposes of this subsection, the term "highly compensated individual" means an individual who is—

(A) One of the five highest paid officers,

(B) A shareholder who owns (with the application of Section 17384) more than 10 percent in value of the stock of the employer, or

(C) Among the highest paid 25 percent of all employees (other than employees described in paragraph (3)(B) who are not participants).

(6) The term "self-insured medical reimbursement plan" means a plan of an employer to reimburse employees for expenses referred to in subsection (b) for which reimbursement is not provided under a policy of accident and health insurance.

(7) For purposes of this section, the excess reimbursement of a highly compensated individual which is attributable to a self-insured medical reimbursement plan is—

(A) In the case of a benefit available to a highly compensated individual but not to a broad cross section of employees, the amount reimbursed under the plan to the employee with respect to such benefit, and

(B) In the case of benefits (other than benefits described in subparagraph (A)) paid to a highly compensated individual by a plan which fails to satisfy the requirements of paragraph (2), the total amount reimbursed to the highly compensated individual for the plan year multiplied by a fraction—

(i) The numerator of which is the total amount reimbursed to all participants who are highly compensated individuals under the plan for the plan year, and

(ii) The denominator of which is the total amount reimbursed to all employees under the plan for such plan year.

In determining the fraction under subparagraph (B), there shall not be taken into account any reimbursement which is attributable to a benefit described in subparagraph (A).

(8) All employees who are treated as employed by a single employer under subsection (b) or (c) of Section 414 of the Internal Revenue Code of 1954 shall be treated as employed by a single employer for purposes of this section.

(9) The Franchise Tax Board shall prescribe such regulations as may be necessary to carry out the provisions of this section.

(10) Any amount paid for a plan year that is included in income by reason of this subsection shall be treated as received or accrued in the taxable year of the participant in which the plan year ends.

(11) The amendments to this section made by the 1979–80 Regular Session of the Legislature shall apply to taxable years beginning on or after January 1, 1980

SEC. 11. Section 17150.5 is added to the Revenue and Taxation

Code, to read.

17150.5. (a) Any amount received from appropriated funds as a scholarship, including the value of contributed services and accommodations, by a member of a uniformed service who is receiving training under the Armed Forces Health Professions Scholarship Program (or any other program determined by the Franchise Tax Board) from an educational institution (as defined in subdivision (c) of Section 17150) shall be treated as a scholarship under Section 17150, whether that member is receiving training while on active duty or in an off duty or inactive status, and without regard to whether a period of active duty is required of the member as a condition of receiving those payments.

(b) For purposes of this section, the term "uniformed service" has the meaning given it by Section 101(3) of Title 37, United States Code.

(c) The provisions of this section shall apply in the case of a member of a uniformed service receiving training after 1975 and before 1980 in programs described in subdivision (a) with respect to amounts received after 1978 and before 1984.

SEC. 12. Section 17150.6 is added to the Revenue and Taxation Code, to read:

17150.6. (a) Any amount paid to, or on behalf of, an individual from appropriated funds as a national research service award under Section 289*l*-1 of Title 42 of the United States Code shall be treated as a scholarship or fellowship grant under Section 17150.

(b) The provisions of this section shall apply to awards made during the 1979 calendar year.

SEC. 13. Section 17154 of the Revenue and Taxation Code is repealed.

SEC. 14. Section 17155 of the Revenue and Taxation Code is repealed.

SEC. 15 Section 17155 is added to the Revenue and Taxation Code, to read:

17155. (a) At the election of the taxpayer, gross income shall not include gain from the sale or exchange of property if during the five-year period ending on the date of the sale or exchange, such property has been owned and used by the taxpayer as his or her principal residence for periods which cumulatively total three years or more.

(b) (1) The amount of the gain excluded from gross income under subdivision (a) shall not exceed one hundred thousand dollars ($100,000) (fifty thousand dollars ($50,000) in the case of a separate return by a married individual).

(c) Subdivision (a) shall not apply to any sale or exchange by the taxpayer if an election by the taxpayer or the taxpayer's spouse under subdivision (a) with respect to any other sale or exchange is in effect.

(d) An election under subdivision (a) may be made or revoked at any time before the expiration of the period for making a claim for credit or refund of the tax imposed by this part for the taxable year

in which the sale or exchange occurred, and shall be made or revoked in such manner as the Franchise Tax Board shall prescribe. In the case of a taxpayer who is married, an election under subdivision (a) or a revocation of an election made under subdivision (a) may be made only if the taxpayer's spouse joins in such election or revocation

(e) (1) For purposes of this section, if·

(A) Property is held by a husband and wife as joint tenants, tenants by the entirety, or community property,

(B) Such husband and wife make a joint return under Section 18402 for the taxable year of the sale or exchange, and

(C) One spouse satisfies the holding and use requirements of subdivision (a) with respect to such property,

then both husband and wife shall be treated as satisfying the holding and use requirements of subdivision (a) with respect to such property.

(2) For purposes of this section, in the case of an unmarried individual whose spouse is deceased on the date of the sale or exchange of property, if·

(A) The deceased spouse (during the five-year period ending on the date of the sale or exchange) satisfied the holding and use requirements of subdivision (a) with respect to such property, and

(B) No election by the deceased spouse under subdivision (a) is in effect with respect to a prior sale or exchange then such individual shall be treated as satisfying the holding and use requirements of subdivision (a) with respect to such property.

(3) For purposes of this section, if the taxpayer holds stock as a tenant-stockholder (as defined in Section 17265) in a cooperative housing corporation (as defined in such section) then:

(A) The holding requirements of subdivision (a) shall be applied to the holding of such stock, and

(B) The use requirements of subdivision (a) shall be applied to the house or apartment which the taxpayer was entitled to occupy as such stockholder.

(4) For purposes of this section, the destruction, theft, seizure, requisition, or condemnation of property shall be treated as the sale of such property.

(5) In the case of property only a portion of which, during the five-year period ending on the date of the sale or exchange, has been owned and used by the taxpayer as his or her principal residence for periods aggregating three years or more, this section shall apply with respect to so much of the gain from the sale or exchange of such property as is determined, as prescribed by the Franchise Tax Board, to be attributable to the portion of the property so owned and used by the taxpayer.

(6) In the case of any sale or exchange, for purposes of this section.

(A) The determination of whether an individual is married shall be made as of the date of the sale or exchange; and

(B) An individual legally separated from his or her spouse under

a decree of divorce, dissolution or of separate maintenance shall not be considered as married.

(7) In applying Sections 18082 (relating to involuntary conversions) and 18091 (relating to sale or exchange of residence), the amount realized from the sale or exchange of property shall be treated as being the amount determined without regard to this section, reduced by the amount of gain not included in gross income pursuant to an election under this section.

(8) If the basis of the property sold or exchanged is determined (in whole or in part) under Section 18088 (relating to basis of property acquired through involuntary conversion), then the holding and use by the taxpayer of the converted property shall be treated as holding and use by the taxpayer of the property sold or exchanged.

SEC 16. Section 17159 of the Revenue and Taxation Code is amended to read:

17159. (a) In the case of an individual, no amount shall be included in gross income for purposes of Section 17071 by reason of the discharge of all or part of the indebtedness of the individual under a student loan if such discharge was pursuant to a provision of such loan under which all or part of the indebtedness of the individual would be discharged if the individual worked for a certain period of time in certain geographical areas or for certain classes of employers.

(b) For purposes of this section the term "student loan" means any loan to an individual to assist the individual in attending an educational organization described in paragraph (2) of subdivision (b) of Section 17215.1—

(1) By the United States, or an instrumentality or agency thereof, or a state, territory, or possession of the United States, or any political subdivision thereof, or the District of Columbia, or

(2) By any such educational organization pursuant to an agreement with the United States, or an instrumentality or agency thereof, or a state, territory, or possession of the United States, or any political subdivision thereof, or the District of Columbia under which the funds from which the loan was made were provided to such educational organization.

(c) The provisions of this section shall apply to discharges of indebtedness made before January 1, 1983.

SEC. 17. Section 17160 is added to the Revenue and Taxation Code, to read:

17160. (a) Except as provided in subdivision (b), no amount shall be included in the gross income of a participant in a cafeteria plan solely because, under the plan, the participant may choose among the benefits of the plan.

(b) (1) In the case of a highly compensated participant, subdivision (a) shall not apply to any benefit attributable to a plan year for which the plan discriminates in favor of—

(A) Highly compensated individuals as to eligibility to participate,

or

(B) Highly compensated participants as to contributions and benefits.

(2) For purposes of determining the taxable year of inclusion, any benefit described in paragraph (1) shall be treated as received or accrued in the participant's taxable year in which the plan year ends.

(c) For purposes of subparagraph (B) of paragraph (1) of subdivision (b), a cafeteria plan does not discriminate where nontaxable benefits and total benefits (or employer contributions allocable to nontaxable benefits and employer contributions for total benefits) do not discriminate in favor of highly compensated participants.

(d) For purposes of this section—

(1) The term "cafeteria plan" means a written plan under which—

(A) All participants are employees, and

(B) The participants may choose among two or more benefits. The benefits which may be chosen may be nontaxable benefits, or cash, property, or other taxable benefits.

(2) The term "cafeteria plan" does not include any plan which provides for deferred compensation.

(e) For purposes of this section—

(1) The term "highly compensated participant" means a participant who is—

(A) An officer,

(B) A shareholder owning more than 5 percent of the voting power or value of all classes of stock of the employer,

(C) Highly compensated, or

(D) A spouse or dependent (within the meaning of Sections 17056 to 17059.5, inclusive) of an individual described in subparagraph (A), (B), or (C).

(2) The term "highly compensated individual" means an individual who is described in subparagraph (A), (B), (C), or (D) of paragraph (1).

(f) For purposes of this section, the term "nontaxable benefit" means any benefit which, with the application of subdivision (a), is not includable in the gross income of the employee.

(g) (1) For purposes of this section, a plan shall not be treated as discriminatory if the plan is maintained under an agreement which the Franchise Tax Board finds to be a collective-bargaining agreement between employee representatives and one or more employers.

(2) For purposes of subparagraph (B) of paragraph (1) of subdivision (b), a cafeteria plan which provides health benefits shall not be treated as discriminatory if—

(A) Contributions under the plan on behalf of each participant include an amount which—

(i) Equals 100 percent of the cost of the health benefit coverage under the plan of the majority of the highly compensated

participants similarly situated, or

(ii) Equals or exceeds 75 percent of the cost of the health benefit coverage of the participant (similarly situated) having the highest cost health benefit coverage under the plan, and

(B) Contributions or benefits under the plan in excess of those described in subparagraph (A) bear a uniform relationship to compensation.

(3) For purposes of subparagraph (A) of paragraph (1) of subdivision (b), a classification shall not be treated as discriminatory if the plan—

(A) Benefits a group of employees described in subparagraph (B) of paragraph (1) of subsection (b) of Section 410 of the Internal Revenue Code of 1954 as amended by Public Law 95-600, and

(B) Meets the requirements of clauses (i) and (ii):

(i) No employee is required to complete more than three years of employment with the employer or employers maintaining the plan as a condition of participation in the plan, and the employment requirement for each employee is the same.

(ii) Any employee who has satisfied the employment requirement of clause (i) and who is otherwise entitled to participate in the plan commences participation no later than the first day of the first plan year beginning after the date the employment requirement was satisfied unless the employee was separated from service before the first day of that plan year.

(4) All employees who are treated as employed by a single employer under subsection (b) or (c) of Section 414 of the Internal Revenue Code of 1954 as amended by Public Law 95-600 shall be treated as employed by a single employer for purposes of this section.

(h) The Franchise Tax Board shall prescribe such regulations as may be necessary to carry out the provisions of this section.

SEC. 18 Section 17161 is added to the Revenue and Taxation Code, to read·

17161 (a) Gross income of an employee does not include amounts paid or expenses incurred by the employer for educational assistance to the employee if the assistance is furnished pursuant to a program which is described in subsection (b).

(b) (1) For purposes of this section an educational assistance program is a separate written plan of an employer for the exclusive benefit of his employees to provide such employees with educational assistance. The program must meet the requirements of paragraphs (2) through (6) of this subsection

(2) The program shall benefit employees who qualify under a classification set up by the employer and found by the Franchise Tax Board not to be discriminatory in favor of employees who are officers, owners, or highly compensated, or their dependents. For purposes of this paragraph, there shall be excluded from consideration employees not included in the program who are included in a unit of employees covered by an agreement which the Secretary of Labor finds to be a collective-bargaining agreement

between employee representatives and one or more employers, if there is evidence that educational assistance benefits were the subject of good faith bargaining between such employee representatives and such employer or employers.

(3) Not more than 5 percent of the amounts paid or incurred by the employer for educational assistance during the year may be provided for the class of individuals who are shareholders or owners (or their spouses or dependents), each of whom (on any day of the year) owns more than 5 percent of the stock or of the capital or profits interest in the employer.

(4) A program must not provide eligible employees with a choice between educational assistance and other remuneration includable in gross income. For purposes of this section, the business practices of the employer (as well as the written program) will be taken into account.

(5) A program referred to in paragraph (1) is not required to be funded.

(6) Reasonable notification of the availability and terms of the program must be provided to eligible employees.

(c) For purposes of this section—

(1) The term "educational assistance" means—

(A) The payment, by an employer, of expenses incurred by or on behalf of an employee for education of the employee (including, but not limited to, tuition, fees, and similar payments, books, supplies, and equipment), and

(B) The provision, by an employer, of courses of instruction for such employee (including books, supplies, and equipment),

but does not include payment for, or the provision of, tools or supplies which may be retained by the employee after completion of a course of instruction, or meals, lodging, or transportation. The term "educational assistance" also does not include any payment for, or the provision of any benefits with respect to, any course or other education involving sports, games, or hobbies.

(2) The term "employee" includes, for any year, an individual who is an employee within the meaning of Section 401(c)(1) of the Internal Revenue Code of 1954 (relating to self-employed individuals).

(3) An individual who owns the entire interest in an unincorporated trade or business shall be treated as his own employer. A partnership shall be treated as the employer of each partner who is an employee within the meaning of paragraph (2).

(4) (A) Ownership of stock in a corporation shall be determined in accordance with the rules provided under subsections (d) and (e) of Section 1563 of the Internal Revenue Code of 1954 (without regard to Section 1563(e)(3)(C) of the Internal Revenue Code of 1954).

(B) The provision, by an employer, of courses of instruction for such employee in a trade or business which is not incorporated shall be determined in accordance with regulations prescribed by the Franchise Tax Board, which shall be based on principles similar to

the principles which apply in the case of subparagraph (A).

(5) An educational assistance program shall not be held or considered to fail to meet any requirements of subsection (b) merely because—

(A) Of utilization rates for the different types of educational assistance made available under the program; or

(B) Successful completion, or attaining a particular course grade, is required for or considered in determining reimbursement under the program.

(6) This section shall not be construed to affect the deduction or inclusion in income of amounts (not within the exclusion under this section) which are paid or incurred, or received as reimbursement, for educational expenses under Section 17150, 17202 through 17202.3, or 17252.

(7) No deduction or credit shall be allowed under any other section of this chapter for any amount excluded from income by reason of this section.

(d) This section shall not apply to taxable years beginning after December 31, 1983.

SEC. 20. Section 17211.4 of the Revenue and Taxation Code is amended to read:

17211.4. (a) (1) In the case of any property in whole or in part constructed, reconstructed, erected, or used on a site which was, on or after December 31, 1976, occupied by a certified historic structure (or by any structure in a registered historic district) which is demolished or substantially altered after such date—

(A) Sections 17208(b), 17211.6, and 17211.7 shall not apply.

(B) The term "reasonable allowance" as used in Section 17208(a) means only an allowance computed under the straight line method.

The preceding sentence shall not apply if the last substantial alteration of the structure is a certified rehabilitation.

(2) The limitations imposed by this section shall not apply—

(A) To personal property, and

(B) In the case of demolition or substantial alteration of a structure located in a registered historic district, if—

(i) Such structure was not a certified historic structure,

(ii) The Secretary of the Interior certified to the Franchise Tax Board that such structure is not of historic significance to the district, and

(iii) If the certification referred to in clause (ii) occurs after the beginning of the demolition or substantial alteration of such structure, the taxpayer certifies to the Franchise Tax Board that, at the beginning of such demolition or substantial alteration, he in good faith was not aware of the requirements of clause (ii).

(3) For purposes of this section, the terms "certified historic structure", "registered historic district", and "certified rehabilitation" have the respective meanings given such terms by Section 17228.5

This subdivision shall apply to that portion of the basis which is attributable to construction, reconstruction, or erection after December 31, 1976, and before January 1, 1981

(b) (1) Pursuant to regulations prescribed by the Franchise Tax Board, the taxpayer may elect to compute the depreciation deduction attributable to substantially rehabilitated historic property (other than property with respect to which an amortization deduction has been allowed to the taxpayer under Section 17228.5) as though the original use of such property commenced with him. The election shall be effective with respect to the taxable year referred to in paragraph (2) and all succeeding taxable years.

(2) For purposes of paragraph (1), the term "substantially rehabilitated historic property" means any certified historic structure (as defined in Section 17228.5(d) (1)) with respect to which the additions to capital account for any certified rehabilitation (as defined in Section 17228 5(d) (4)) during the 24-month period ending on the last day of any taxable year, reduced by any amounts allowed or allowable as depreciation or amortization with respect thereto, exceeds the greater of—

(A) The adjusted basis of such property, or

(B) Five thousand dollars ($5,000)

The adjusted basis of the property shall be determined as of the beginning of the first day of such 24-month period, or of the holding period of the property (within the meaning of Section 18216), whichever is later.

(3) This subdivision shall apply with respect to additions to capital account occurring after December 31, 1976, and before July 1, 1981.

SEC. 21. Section 17211 7 of the Revenue and Taxation Code is amended to read:

17211.7 (a) The taxpayer may elect, in accordance with regulations prescribed by the Franchise Tax Board, to compute the depreciation deduction provided by subdivision (a) of Section 17208 attributable to rehabilitation expenditures incurred with respect to low-income rental housing after December 31, 1970, and before January 1, 1982, under the straight line method using a useful life of 60 months and no salvage value. Such method shall be in lieu of any other method of computing the depreciation deduction under subdivision (a) of Section 17208, and in lieu of any deduction for amortization, for such expenditures.

(b) (1) The aggregate amount of rehabilitation expenditures paid or incurred by the taxpayer with respect to any dwelling unit in any low-income rental housing which may be taken into account under subdivision (a) shall not exceed twenty thousand dollars ($20,000)

(2) Rehabilitation expenditures paid or incurred by the taxpayer in any taxable year with respect to any dwelling unit in any low-income rental housing shall be taken into account under subdivision (a) only if over a period of two consecutive years, including the taxable year, the aggregate amount of such

expenditures exceeds three thousand dollars ($3,000).

(c) For purposes of this section:

(1) The term "rehabilitation expenditures" means amounts chargeable to capital account and incurred for property or additions or improvements to property (or related facilities) with a useful life of five years or more, in connection with the rehabilitation of an existing building for low-income rental housing; but such term does not include the cost of acquisition of such building or any interest therein.

(2) The term "low-income rental housing" means any building the dwelling units in which are held for occupancy on a rental basis by families and individuals of low or moderate income, as determined by the Franchise Tax Board in a manner consistent with the Leased Housing Program under Section 8 of the United States Housing Act of 1937 pursuant to regulations prescribed under this section

(3) The term "dwelling unit" means a house or an apartment used to provide living accommodations in a building or structure, but does not include a unit in a hotel, motel, inn, or other establishment more than one-half of the units in which are used on a transient basis.

(4) Rehabilitation expenditures incurred pursuant to a binding contract entered into before January 1, 1982, and rehabilitation expenditures incurred with respect to low-income rental housing the rehabilitation of which has begun before January 1, 1982, shall be deemed incurred before January 1, 1982.

(d) The amendments made by the 1977–78 Regular Session of the Legislature shall apply to expenditures paid or incurred after December 31, 1976, and before January 1, 1982, and expenditures made pursuant to a binding contract entered into before January 1, 1982. The amendment made in subdivision (b) shall apply to expenditures incurred after December 31, 1976.

SEC. 22. Section 17211 8 is added to the Revenue and Taxation Code, to read:

17211.8. In the case of any boiler which, by reason of Section 48(a) (10) of the Internal Revenue Code of 1954, is not Section 38 of the Internal Revenue Code of 1954 property—

(a) Subdivision (b) of Section 17208 and Section 17211.6 shall not apply, and

(b) The term "reasonable allowance" as used in Section 17208 shall mean only an allowance computed under the straight line method using a useful life equal to the class life prescribed by the Franchise Tax Board

SEC. 23. Section 17211.9 is added to the Revenue and Taxation Code, to read.

17211 9. (a) If—

(1) A boiler or other combustor was in use on October 1, 1978, and as of such date the principal fuel for such combustor was petroleum or petroleum products (including natural gas), and

(2) The taxpayer establishes to the satisfaction of the Franchise

Tax Board that such combustor will be retired or replaced on or before the date specified by the taxpayer,

then for the period beginning with the taxable year in which paragraph (2) is satisfied, the term "reasonable allowance" as used in Section 17208 includes an allowance under the straight line method having a useful life equal to the period ending with the date established under paragraph (2).

(b) If the retirement or replacement of any combustor does not occur on or before the date referred to in paragraph (2) of subdivision (a)—

(1) Sections 17208 through 17211.8, inclusive, shall cease to apply with respect to such combustor as of such date, and

(2) Interest on the amount of the tax benefit arising from the application of this section with respect to such combustor shall be due and payable for the period during which such tax benefit was available to the taxpayer and ending on the date referred to in paragraph (2) of subdivision (a).

SEC. 24. Section 17228 of the Revenue and Taxation Code is amended and renumbered to read:

17228.5. (a) Every taxpayer, at his election, shall be entitled to a deduction with respect to the amortization of the amortizable basis of any certified historic structure (as defined in subdivision (d)) based on a period of 60 months. Such amortization deduction shall be an amount, with respect to each month of such period within the taxable year, equal to the amortizable basis 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 deduction provided by this section with respect to any month shall be in lieu of the depreciation deduction with respect to such basis for such month provided by Sections 17208 to 17211.7, inclusive. The 60-month period shall begin, as to any historic structure, at the election of the taxpayer, with the month following the month in which the basis is acquired, or with the succeeding taxable year.

(b) The election of the taxpayer to take the amortization deduction and to begin the 60-month period with the month following the month in which the basis is acquired, or with the taxable year succeeding the taxable year in which such basis is acquired, shall be made by filing with the Franchise Tax Board, in such manner, in such form, and within such time as the Franchise Tax Board may by regulations prescribe, a statement of such election.

(c) A taxpayer who has elected under subdivision (b) to take the amortization deduction provided in subdivision (a) may, at any time after making such election, discontinue the amortization deduction with respect to the remainder of the amortization period such discontinuance to begin as of the beginning of any month specified by the taxpayer in a notice in writing filed with the Franchise Tax

Board before the beginning of such month. The depreciation deduction provided under Sections 17208 to 17211.7, inclusive, shall be allowed, beginning with the first month as to which the amortization deduction does not apply, and the taxpayer shall not be entitled to any further amortization deduction under this section with respect to such certified historic structure.

(d) For purposes of this section—

(1) The term "certified historic structure" means a building or structure which is of a character subject to the allowance for depreciation provided in Sections 17208 to 17211.7, inclusive which—

(A) Is listed in the National Register,

(B) Is located in a registered historic district and is certified by the Secretary of the Interior as being of historic significance to the district.

(2) The term "registered historic district" means:

(A) Any district listed in the National Register, and

(B) Any district—

(i) Which is designated under a statute of the appropriate state or local government, if such statute is certified by the Secretary of the Interior to the Franchise Tax Board as containing criteria which will substantially achieve the purpose of preserving and rehabilitating buildings of historic significance to the district, and

(ii) Which is certified by the Secretary of the Interior to the Franchise Tax Board as meeting all of the requirements for the listing of districts in the National Register.

(3) The term "amortizable basis" means the portion of the basis attributable to amounts expended in connection with certified rehabilitation.

(4) The term "certified rehabilitation" means any rehabilitation of a certified historic structure which the Secretary of the Interior has certified to the Franchise Tax Board as being consistent with the historic character of such property or the district in which such property is located.

(e) The depreciation deduction provided by Sections 17208 to 17211.7, inclusive, shall, despite the provisions of subdivision (a), be allowed with respect to the portion of the adjusted basis which is not the amortizable basis.

(f) (1) 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.

(2) (A) In the case of a lessee of a certified historic structure who has expended amounts in connection with the certified rehabilitation of such structure which are properly chargeable to capital account, the deduction under this section shall be allowable to such lessee with respect to such amounts.

(B) For purposes of subdivision (a), the amortizable basis of such lessee shall not exceed the sum of the amounts described in subparagraph (A)

(C) Subparagraph (A) shall apply only if on the date of the certified rehabilitation is completed, the remaining term of the lease (determined without regard to any renewal periods) extends—

(i) Beyond the last day of the useful life (determined without regard to this section) of the improvements for which the amounts described in subparagraph (A) were expended, and

(ii) For not less than 30 years.

(g) (1) For rules relating to the listing of buildings, structures and historic districts in the National Register, see the act entitled "An act to establish a program for the preservation of additional historic properties throughout the nation and for other purposes", approved October 15, 1966, and contained in Section 470 et seq. of Title 16 of the United States Code.

(2) 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 Sections 18211 through 18218, inclusive.

(h) This section shall apply with respect to additions to capital account after December 31, 1976, and before June 15, 1981.

SEC. 25. Section 17229.5 of the Revenue and Taxation Code is amended to read:

17229.5. (a) In the case of the demolition of a certified historic structure (as defined in Section 17228.5(d) (1))—

(1) No deduction otherwise allowable under this part shall be allowed to the owner or lessee of such structure for—

(A) Any amount expended for such demolition, or

(B) Any loss sustained on account of such demolition; and

(2) Amounts described in paragraph (1) shall be treated as property chargeable to capital account with respect to the land on which the demolished structure was located.

(b) For purposes of this section, any building or other structure located in a registered historic district (as defined in paragraph (2) of subdivision (d) of Section 17228.5) shall be treated as a certified historic structure unless the Secretary of the Interior has certified that such structure is not a certified historic structure, and that such structure is not of historic significance to the district, and if such certification occurs after the beginning of the demolition of such structure, the taxpayer has certified to the Franchise Tax Board that, at the time of such demolition, he in good faith was not aware of the certification requirement by the Secretary of the Interior.

(c) This section shall apply with respect to demolitions commencing after December 31, 1976, and before January 1, 1981.

SEC 26 Section 17237 of the Revenue and Taxation Code is amended to read:

17237. (a) Except as otherwise provided in this section or in Section 17286 (relating to carrying charges), in the case of an individual, no deduction shall be allowed for real property construction period interest and taxes For purposes of this section, a personal holding company and a foreign personal holding company

shall be treated as one individual.

(b) Any amount paid or accrued which would (but for subdivision (a)) be allowable as a deduction for the taxable year shall be allowable for such taxable year and each subsequent amortization year in accordance with the following table:

If the amount is paid or accrued in a taxable year beginning in—			
Non-residential real property	*Residential real property (other than low-income housing)*	*Low-income housing*	*The percentage of such amount allowable for each amortization year shall be the following percentage of such amount*
	1978	1982	25
1977	1979	1983	20
1978	1980	1984	16⅔
1979	1981	1985	14⅔
1980	1982	1986	12½
1981	1983	1987	11⅓
after 1981	after 1983	after 1987	10

(c) (1) For purposes of this section, the term "amortization year" means the taxable year in which the amount is paid or accrued, and each taxable year thereafter (beginning with the taxable year after the taxable year in which paid or accrued or, if later, the taxable year in which the real property is ready to be placed in service or is ready to be held for sale) until the full amount has been allowable as a deduction (or until the property is sold or exchanged).

(2) For purposes of paragraph (1)—

(A) For the amortization year in which the property is sold or exchanged, or proportionate part of the percentage allowable for such year (determined without regard to the sale or exchange) shall be allowable. If the real property is subject to an allowance for depreciation, the proportion shall be determined in accordance with the convention used for depreciation purposes with respect to such property In the case of all other real property, under regulations prescribed by the Franchise Tax Board, the proportion shall be based on that proportion of the amortization year which elapsed before the sale or exchange

(B) In the case of a sale or exchange of the property, the portion of the amount not allowable shall be treated as an adjustment to basis under Sections 18052 and 18053 for purposes of determining gain or loss

(C) An exchange or transfer after which the property received has a basis determined in whole or in part by reference to the basis of the property to which the amortizable construction period interest and taxes relate, shall not be treated as an exchange.

(d) This section shall not apply to any real property acquired,

constructed, or carried if such property is not, and cannot reasonably be expected to be, held in a trade or business as in an activity conducted for profit

(e) For purposes of this section—

(1) The term "construction period interest and taxes" means all—

(A) Interest paid or accrued on indebtedness incurred or continued to acquire, construct, or carry real property, and

(B) Real property taxes, to the extent such interest and taxes are attributable to the construction period for such property and would be allowable as a deduction under this part for the taxable year in which paid or accrued (determined without regard to this section).

(2) The term "construction period," when used with respect to any real property, means the period—

(A) Beginning on the date on which construction of the building or other improvement begins, and

(B) Ending on the date on which the item of property is ready to be placed in service or is ready to be held for sale

(3) The term "nonresidential real property" means real property which is neither residential real property nor low-income housing

(4) The term "residential real property" means property which is or can reasonably be expected to be—

(A) Residential rental property as defined in paragraph (2) of subdivision (b) of Section 17211 6, or

(B) Real property described in subdivision (a) of Section 18161 held for sale as dwelling units (within the meaning of paragraph (3) of subdivision (c) of Section 17211.7)

(5) The term "low-income housing" means property described in clause (i), (ii), (iii), or (iv) of subparagraph (B) of paragraph (1) of subdivision (a) of Section 18212.

(f) This section shall apply—

(1) In the case of nonresidential real property, if the construction period begins after December 31, 1976.

(2) In the case of residential real property (other than low-income housing), to taxable years beginning after December 31, 1977, and

(3) In the case of low-income housing, to taxable years beginning after December 31, 1981. For purposes of this subdivision, the terms "nonresidential real property," "residential real property (other than low-income housing)," "low-income housing," and "construction period" have the same meaning as when used in subdivision (e)

SEC 26 5. Section 17237 5 of the Revenue and Taxation Code, as amended by Chapter 326 of the Statutes of 1979, is amended and renumbered to read

17238 (a) Every taxpayer, at the election of the taxpayer, shall be entitled to a deduction of the cost of repairing or remodeling any building, facility or transportation vehicle owned or leased by the taxpayer at the time of such repairing or remodeling, in order to permit handicapped or elderly individuals to enter or leave such building, facility or transportation vehicle, to increase the access

handicapped or elderly individuals would have to such building, facility or transportation vehicle, or to allow handicapped or elderly individuals more effective use of such building, facility or transportation vehicle.

(b) The deduction authorized by this section shall be taken with respect to the taxable year in which such repairing or remodeling is completed.

(c) The deduction provided by this section with respect to any taxable year shall be in lieu of any deduction with respect to such repairing or remodeling relating to exhaustion, wear and tear or obsolescence.

(d) If any building, facility or transportation vehicle is owned by more than one person, a taxpayer may deduct a portion of the costs of such repairing or remodeling apportionate to the interest in such building, facility or transportation vehicle which is owned by the taxpayer

(e) For purposes of this section, "building, facility or transportation vehicle" means a building, facility or transportation vehicle, or part thereof, which is intended to be used, and is actually used, by the taxpayer, the taxpayer's family, or the general public, in the taxpayer's business or trade or the taxpayer's place of residence; provided, that such residence is located within the State of California

(f) For purposes of this section, "handicapped individual" means any individual who has a physical or mental disability (including, but not limited to, blindness or deafness) which for such individual constitutes or results in a functional limitation to employment, or who has any physical or mental impairment (including, but not limited to, a sight or hearing impairment) which substantially limits one or more major life activities of such individual, and "elderly individual" means an individual who is 65 years of age or older.

(g) The deduction authorized by this section shall not exceed twenty-five thousand dollars ($25,000) with respect to any taxpayer for any taxable year.

(h) The Franchise Tax Board shall prescribe such regulations as may be necessary to carry out the provisions of this section, and may prescribe regulations as to the deductibility of repairs or remodeling with respect to residences in cooperation with the Department of Rehabilitation and the Office of the State Architect.

(i) This section shall apply to taxable years beginning after December 31, 1976 and before January 1, 1985

SEC 27 Section 17240 of the Revenue and Taxation Code is amended to read

17240 (a) In the case of an individual, there is allowed as a deduction amounts paid in cash for the taxable year by or on behalf of such individual for his benefit—

(1) To an individual retirement account described in Section 17530(a)

(2) For an individual retirement annuity described in Section

17530(b), or

(3) For a retirement bond described in Section 17530.1 (but only if the bond is not redeemed within 12 months of the date of its issuance)

For purposes of this part, any amount paid by an employer to such a retirement account or for such a retirement annuity or retirement bond constitutes payment of compensation to the employee (other than a self-employed individual who is an employee within the meaning of Section 17502.2(a)) includable in his gross income, whether or not a deduction for such payment is allowable under this section to the employee after the application of subdivision (b).

(b) (1) The amount allowable as a deduction under subdivision (a) to an individual for any taxable year may not exceed an amount equal to 15 percent of the compensation includable in his gross income for such taxable year, or one thousand five hundred dollars ($1,500), whichever is less.

(2) No deduction is allowed under subdivision (a) for an individual for the taxable year if for any part of such year—

(A) He was an active participant in—

(i) A plan described in Section 17501 which includes a trust exempt from tax under Section 17631,

(ii) An annuity plan described in Section 17511,

(iii) A qualified bond purchase plan described in Section 17526(a), or

(iv) A plan established for its employees by the United States, by a state or political subdivision thereof, or by an agency or instrumentality of any of the foregoing, or

(B) Amounts were contributed by his employer for an annuity contract described in Section 17512 (whether or not his rights in such contract are nonforfeitable).

(3) No deduction is allowed under subdivision (a) with respect to any payment described in subdivision (a) which is made during the taxable year of an individual who has attained age 70½ before the close of such taxable year.

(4) No deduction is allowed under this section with respect to a rollover contribution described in Section 17503(d), 17511(e), 17512(a), 17530(d)(3), or 17530.1(b)(3)(C).

(5) In the case of an endowment contract described in Section 17530(b), no deduction is allowed under subdivision (a) for that portion of the amounts paid under the contract for the taxable year properly allocable, under regulations prescribed by the Franchise Tax Board, to the cost of life insurance.

(6) No deduction is allowed under subdivision (a) for the taxable year if the individual claims the deduction allowed by Section 17241 for the taxable year.

(7) (A) If there is an employer contribution on behalf of the employee to a simplified employee pension, the limitation under paragraph (1) shall be the lesser of—

(i) Fifteen percent of the compensation includable in the

employee's gross income for the taxable year (determined without regard to the employer contribution to the simplified employee pension), or

(ii) The sum of—

(I) The amount contributed by the employer to the simplified employee pension and included in gross income (but not in excess of two thousand five hundred dollars ($2,500)), and

(II) One thousand five hundred dollars ($1,500), reduced (but not below zero) by the amount described in subclause (I).

(B) Paragraphs (2) and (3) shall not apply with respect to the employer contribution to a simplified employee pension.

(C) In the case of an employee who is an officer, shareholder, or owner-employee described in Section 17530(k)(3), the two thousand five hundred dollars ($2,500) amount specified in subparagraph (A)(ii)(I) shall be reduced by the amount of tax taken into account with respect to such individual under subparagraph (D) of Section 17530(k)(3).

(c) (1) For purposes of this section, the term "compensation" includes earned income as defined in Section 17502.2(b).

(2) In the case of married individuals the maximum deduction under subdivision (b)(1) shall be computed separately for each individual For purposes of this section, the determination of whether an individual is married shall be made in accordance with the provisions of Section 17173.

(3) For purposes of this section, a taxpayer shall be deemed to have made a contribution on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (including extensions thereof).

(4) (A) A member of a reserve component of the armed forces (as defined in Section 261(a) of Title 10 of the United States Code) is not considered to be an active participant in a plan described in subdivision (b)(2)(A)(iv) for a taxable year solely because he is a member of a reserve component unless he has served in excess of 90 days on active duty (other than active duty for training) during the year.

(B) An individual whose participation in a plan described in subdivision (b)(2)(A)(iv) is based solely upon his activity as a volunteer firefighter and whose accrued benefit as of the beginning of the taxable year is not more than an annual benefit of one thousand eight hundred dollars ($1,800) (when expressed as a single life annuity commencing at age 65) is not considered to be an active participant in such a plan for the taxable year

(5) (A) If for the taxable year the maximum amount allowable as a deduction under this section exceeds the amount contributed, then the taxpayer shall be treated as having made an additional contribution for the taxable year in an amount equal to the lesser of—

(i) The amount of such excess, or

(ii) The amount of the excess contributions for such taxable year

(determined under paragraph (2) of subsection (b) of Section 4973 of the Internal Revenue Code of 1954 as amended by Public Law 95-600 without regard to subparagraph (C) thereof)

(B) For purposes of this paragraph, the amount contributed—

(i) Shall be determined without regard to this paragraph, and

(ii) Shall not include any rollover contribution.

(C) Proper reduction shall be made in the amount allowable as a deduction by reason of this paragraph for any amount allowed as a deduction under this section or Section 17241 for a prior taxable year for which the period for assessing deficiency has expired if the amount so allowed exceeds the amount which should have been allowed for such prior taxable year.

SEC. 28. Section 17241 of the Revenue and Taxation Code is amended to read.

17241 (a) In the case of an individual, there is allowed as a deduction amounts paid in cash for a taxable year by or on behalf of such individual for the benefit of himself and his spouse—

(1) To an individual retirement account described in Section 17530(a),

(2) For an individual retirement annuity described in Section 17530(b),

(3) For a retirement bond described in Section 17530.1 (but only if the bond is not redeemed within 12 months of the date of its issuance).

For purposes of this part, any amount paid by an employer to such a retirement account or for such a retirement annuity or retirement bond constitutes payment of compensation to the employee (other than a self-employed individual who is an employee within the meaning of Section 17502.2(a)) includable in his gross income, whether or not a deduction for such payment is allowable under this section to the employee after the application of subdivision (b).

(b) (1) The amount allowable as a deduction under subdivision (a) to an individual for any taxable year may not exceed—

(A) Twice the amount paid to the account for the annuity, or for the bond, established for the individual or for his spouse to or for which the lesser amount was paid for the taxable year,

(B) An amount equal to 15 percent of the compensation includable in the individual's gross income for the taxable year, or

(C) One thousand seven hundred fifty dollars ($1,750), whichever is the smallest amount

(2) No deduction is allowed under subdivision (a) for the taxable year if the individual claims the deduction allowed by Section 17240 for the taxable year.

(3) No deduction is allowed under subdivision (a) for an individual for the taxable year if for any part of such year—

(A) He or his spouse was an active participant in—

(i) A plan described in Section 17501 which includes a trust exempt from tax under Section 17631,

(ii) An annuity plan described in Section 17511,

(iii) A qualified bond purchase plan described in Section 17526(a), or

(iv) A plan established for its employees by the United States, by a state or political subdivision thereof, or by an agency or instrumentality of any of the foregoing, or

(B) Amounts were contributed by his employer, or his spouse's employer, for an annuity contract described in Section 17512 (whether or not his, or his spouse's rights in such contract are nonforfeitable).

(4) No deduction is allowed under subdivision (a) with respect to any payment described in subdivision (a) which is made for a taxable year of an individual if either the individual or his spouse has attained age 70½ before the close of such taxable year.

(5) No deduction is allowed under this section with respect to a rollover contribution described in Section 17503(e), 17511(c), 17512(a), 17530(d)(3), or 17530.1(b)(3)(C).

(6) In the case of an endowment contract described in Section 17530(b), no deduction is allowed under subdivision (a) for that portion of the amounts paid under the contract for the taxable year properly allocable, under regulations prescribed by the Franchise Tax Board, to the cost of life insurance.

(7) No deduction is allowed under subdivision (a) with respect to a payment described in subdivision (a) made for any taxable year of the individual if the spouse of the individual has any compensation (determined without regard to Section 911 of the Internal Revenue Code of 1954 as amended by P.L. 95-600) for the taxable year of such spouse ending with or within such taxable year

(c) (1) For purposes of this section, the term "compensation" includes earned income as defined in Section 17502.2(b).

(2) This section shall be applied without regard to any community property laws

(3) The determination of whether an individual is married for purposes of this section shall be made in accordance with the provisions of Section 17173.

(4) For purposes of this section, a taxpayer shall be deemed to have made a contribution on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (including extensions thereof).

(5) A member of a reserve component of the armed forces or a volunteer firefighter is not considered to be an active participant in a plan described in subdivision (b)(3)(A)(iv) if, under Section 17240(c)(4), he is not considered to be an active participant in such a plan

(6) (A) If for the taxable year the maximum amount allowable as a deduction under this section exceeds the amount contributed, then the taxpayer shall be treated as having made an additional contribution for the taxable year in an amount equal to the lesser of—

(i) The amount of such excess, or

(ii) The amount of the excess contributions for such taxable year (determined under paragraph (2) of subsection (b) of Section 4973 of the Internal Revenue Code of 1954 as amended by Public Law 95-600 without regard to subparagraph (C) thereof).

(B) For purposes of this paragraph, the amount contributed—

(i) Shall be determined without regard to this paragraph, and

(ii) Shall not include any rollover contribution.

(C) Proper reduction shall be made in the amount allowable as a deduction by reason of this paragraph for any amount allowed as a deduction under this section or Section 17240 for a prior taxable year for which the period for assessing a deficiency has expired if the amount so allowed exceeds the amount which should have been allowed for such prior taxable year.

SEC. 28.5. Section 17253 of the Revenue and Taxation Code is amended to read.

17253. There shall be allowed as a deduction the following amounts, not compensated for by insurance or otherwise—

(a) The amount by which the amount of the expenses paid during the taxable year (reduced by any amount deductible under subdivision (b)) for medical care of the taxpayer, his spouse, and dependents (as defined in Section 17056) exceeds 3 percent of the adjusted gross income, and

(b) An amount (not in excess of one hundred fifty dollars ($150)) equal to one-half of the expenses paid during the taxable year for insurance which constitutes medical care for the taxpayer, his spouse, and dependents.

(c) As used in this section, "expenses" includes any amount paid, as required under the parental reimbursement regulation in Title 17 of the California Administrative Code, as certified by the Department of Developmental Services.

SEC. 29. Section 17265 of the Revenue and Taxation Code is amended to read:

17265. For purposes of Section 17264 and this section—

(a) The term "cooperative housing corporation" means a corporation—

(1) Having one and only one class of stock outstanding,

(2) Each of the stockholders of which is entitled, solely by reason of his ownership of stock in the corporation, to occupy for dwelling purposes a house, or an apartment in a building, owned or leased by such corporation,

(3) No stockholder of which is entitled (either conditionally or unconditionally) to receive any distribution not out of earnings and profits of the corporation except on a complete or partial liquidation of the corporation, and

(4) Eighty percent or more of the gross income of which for the taxable year in which the taxes and interest described in Section 17264 are paid or incurred is derived from tenant-stockholders.

(b) The term "tenant-stockholder" means an individual who is a stockholder in a cooperative housing corporation, and whose stock is

fully paid up in an amount not less than an amount shown to the satisfaction of the Franchise Tax Board as bearing a reasonable relationship to the portion of the value of the corporation's equity in the houses or apartment building and the land on which situated which is attributable to the house or apartment which such individual is entitled to occupy.

(c) The term "tenant-stockholder's proportionate share" means that proportion which the stock of the cooperative housing corporation owned by the tenant-stockholder is of the total outstanding stock of the corporation (including any stock held by the corporation).

(d) For purposes of this subdivision in determining whether a corporation is a cooperative housing corporation, stock owned and apartments leased by the United States or any of its possessions, a state or any political subdivision thereof, or any agency or instrumentality of the foregoing empowered to acquire shares in a cooperative housing corporation for the purpose of providing housing facilities, shall not be taken into account.

(e) So much of the stock of a tenant-stockholder in a cooperative housing corporation as is allocable, under regulations prescribed by the Franchise Tax Board, to a proprietary lease or right of tenancy in property subject to the allowance for depreciation under subdivision (a) of Section 17208 shall, to the extent such proprietary lease or right of tenancy is used by such tenant-stockholder in a trade or business or for the production of income, be treated as property subject to the allowance for depreciation under subdivision (a) of Section 17208

(f) If a bank or other lending institution acquires by foreclosure (or by instrument in lieu of foreclosure) the stock of a tenant-stockholder, and a lease or the right to occupy an apartment or house to which such stock is appurtenant, such bank or other lending institution shall be treated as a tenant-stockholder for a period not to exceed three years from the date of acquisition The preceding sentence shall apply even though, by agreement with the cooperative housing corporation, the bank (or other lending institution) or its nominee may not occupy the house or apartment without the prior approval of such corporation.

(g) (1) If the original seller acquires any stock of the corporation—

(A) From the corporation by purchase, or

(B) By foreclosure (or by instrument in lieu of foreclosure) of any purchase-money security interest in such stock held by the original seller,

the original seller shall be treated as a tenant-stockholder for a period not to exceed three years from the date of acquisition.

(2) Paragraph (1) shall apply with respect to any acquisition of stock only if, together with such acquisition, the original seller acquires the right to occupy an apartment or house to which such stock is appurtenant. For purposes of the preceding sentence, there

shall not be taken into account the fact that, by agreement with the corporation, the original seller or its nominee may not occupy the house or apartment without the prior approval of the corporation.

(3) For purposes of this subdivision, the term "original seller" means the person from whom the corporation has acquired the apartments or houses (or leaseholds therein).

SEC 30 Section 17283 of the Revenue and Taxation Code is amended to read

17283. No deduction shall be allowed for—

(a) Any amount paid out for new buildings or for permanent improvements or betterments made to increase the value of any property or estate. This subdivision shall not apply to—

(1) Expenditures for the development of mines or deposits deductible under Section 17690;

(2) Soil and water conservation expenditures deductible under Section 17224;

(3) Expenditures for farmers for fertilizer, etc , deductible under Section 17232;

(4) Research and experimental expenditures deductible under Section 17233, or

(5) Expenditures for removal of architectural and transportation barriers to the handicapped and elderly which the taxpayer elects to deduct under Section 17237 5 or 17238.

(b) Any amount expended in restoring property or in making good the exhaustion thereof for which an allowance is or has been made.

(c) Notwithstanding subdivision (a) or (b), regulations shall be prescribed by the Franchise Tax Board under this part corresponding to the regulations which granted the option to deduct as expenses intangible drilling and development costs in the case of oil and gas wells and which were recognized and approved by the United States Congress in House Concurrent Resolution 50, 79th Congress. Such regulations shall also grant the option to deduct as expenses intangible drilling and development costs in the case of wells drilled for any geothermal deposit (as defined in Section 613(e) (3) of the Internal Revenue Code of 1954) to the same extent and in the same manner as such expenses are deductible in the case of oil and gas wells.

SEC 31 Section 17299.2 of the Revenue and Taxation Code is amended to read·

17299 2 (a) Except in the case of production costs which are charged to capital account, amounts attributable to the production of a film, sound recording, book, or similar property which are otherwise deductible under this part shall be allowed as deductions only in accordance with the provisions of subdivision (b) For purposes of this section, a personal holding company and a foreign personal holding company shall be treated as an individual

(b) Amounts referred to in subdivision (a) are deductible only for those taxable years ending during the period during which the

taxpayer reasonably may be expected to receive substantially all of the income he will receive from any such film, sound recording, book, or similar property. The amount deductible for any such taxable year is an amount which bears the same ratio to the sum of all such amounts (attributable to such film, sound recording, book, or similar property) as the income received from the property for that taxable year bears to the sum of the income the taxpayer may reasonably be expected to receive during such period

(c) For purposes of this section—

(1) The term "film" means any motion picture film or video tape.

(2) The term "sound recording" means works that result from the fixation of a series of musical, spoken, or other sounds, regardless of the nature of the material objects, such as discs, tapes, or other phonorecordings, in which such sounds are embodied.

(d) This section shall apply to amounts paid or incurred after December 31, 1976, with respect to property the principal production of which begins after December 31, 1976.

SEC. 32 Section 17299.3 of the Revenue and Taxation Code is amended to read:

17299.3. (a) Except as otherwise provided in this section, in the case of a taxpayer who is an individual, no deduction otherwise allowable under this part shall be allowed with respect to the use of a dwelling unit which is used by the taxpayer during the taxable year as a residence

(b) Subdivision (a) shall not apply to any deduction allowable to the taxpayer without regard to its connection with his trade or business (or with his income-producing activity).

(c) (1) Subdivision (a) shall not apply to any item to the extent such item is allocable to a portion of the dwelling unit which is exclusively used on a regular basis—

(A) As the taxpayer's principal place of business,

(B) As a place of business which is used by patients, clients, or customers in meeting or dealing with the taxpayer in the normal course of his trade or business, or

(C) In the case of a separate structure which is not attached to the dwelling unit, in connection with the taxpayer's trade or business

In the case of an employee, the preceding sentence shall apply only if the exclusive use referred to in the preceding sentence is for the convenience of his employer.

(2) Subdivision (a) shall not apply to any item to the extent such item is allocable to space within the dwelling unit which is used on a regular basis as a storage unit for the inventory of the taxpayer held for use in the taxpayer's trade or business of selling products at retail or wholesale, but only if the dwelling unit is the sole fixed location of such trade or business.

(3) Subdivision (a) shall not apply to any item which is attributable to the rental of the dwelling unit or portion thereof (determined after the application of subdivision (e)).

(4) In the case of a use described in paragraph (1) or (2), and in the case of a use described in paragraph (3) where the dwelling unit is used by the taxpayer during the taxable year as a residence, the deductions allowed under this part for the taxable year by reason of being attributed to such use shall not exceed the excess of

(A) The gross income derived from such use for the taxable year, over

(B) The deductions allocable to such use which are allowable under this part for the taxable year whether or not such unit (or portion thereof) was so used.

(d) (1) For purposes of this section, a taxpayer uses a dwelling unit during the taxable year as a residence if he uses such unit (or portion thereof) for personal purposes for a number of days which exceeds the greater of—

(A) Fourteen days, or

(B) Ten percent of the number of days during such year for which such unit is rented at a fair rental.

For purposes of subparagraph (B), a unit shall not be treated as rented at a fair rental for any day for which it is used for personal purposes.

(2) For purposes of this section, the taxpayer shall be deemed to have used a dwelling unit for personal purposes for a day, if for any part of such day, the unit is used—

(A) For personal purposes by the taxpayer or any other person who has an interest in such unit, or by any member of the family (as defined in Section 17289(d)) of the taxpayer or such other person;

(B) By any individual who uses the unit under an arrangement which enables the taxpayer to use some other dwelling unit (whether or not a rental is charged for the use of such other unit); or

(C) By any individual (other than an employee with respect to whose use Section 17151 applies), unless for such day the dwelling unit is rented for a rental which, under the facts and circumstances, is fair rental

The Franchise Tax Board shall prescribe regulations with respect to the circumstances under which use of the unit for repairs and annual maintenance will not constitute personal use under this paragraph.

(3) (A) For purposes of applying paragraph (5) of subdivision (c) to deductions allocable to a qualified rental period, a taxpayer shall not be considered to have used a dwelling unit for personal purposes for any day during the taxable year which occurs before or after a qualified rental period described in clause (i) of subparagraph (B), or before a qualified rental period described in clause (ii) of subparagraph (B), if with respect to such day such unit constitutes the principal residence of the taxpayer.

(B) For purposes of subparagraph (A), the term "qualified rental period" means a consecutive period of—

(i) Twelve or more months which begins or ends in such taxable

year, or

(ii) Less than 12 months which begins in such taxable year and at the end of which such dwelling unit is sold or exchanged, and for which such unit is rented to a person other than a member of the family (as defined in subdivision (d) of Section 17289) of the taxpayer, or is held for rental, at a fair rental.

(e) (1) In any case where a taxpayer who is an individual uses a dwelling unit for personal purposes on any day during the taxable year (whether or not he is treated under this section as using such unit as a residence), the amount deductible under this part with respect to expenses attributable to the rental of the unit (or portion thereof) for the taxable year shall not exceed an amount which bears the same relationship to such expenses as the number of days during each year that the unit (or portion thereof) is rented at a fair rental bears to the total number of days during such year that the unit (or portion thereof) is used.

(2) This subdivision shall not apply with respect to deductions which would be allowable under this part for the taxable year whether or not such unit (or portion thereof) was rented.

(f) (1) For purposes of this section—

(A) The term "dwelling unit" includes a house, apartment, condominium, mobilehome, boat, or similar property, and all structures or other property appurtenant to such dwelling unit

(B) The term "dwelling unit" does not include that portion of a unit which is used exclusively as a hotel, motel, inn, or similar establishment

(2) If subdivision (a) applies with respect to any dwelling unit (or portion thereof) for the taxable year—

(A) Section 17233 (relating to activities not engaged in for profit) shall not apply to such unit (or portion thereof) for such year, but

(B) Such year shall be taken into account as a taxable year for purposes of applying subdivision (d) of Section 17233 (relating to five-year presumption)

(g) Notwithstanding any other provision of this section or Section 17233, if a dwelling unit is used during the taxable year by the taxpayer as a residence and such dwelling unit is actually rented for less than 15 days during the taxable year, then—

(1) No deduction otherwise allowable under this part because of the rental use of such dwelling unit shall be allowed, and

(2) The income derived from such use for the taxable year shall not be included in the gross income of such taxpayer under Section 17071

(h) This section shall not apply to any owner-occupied dwelling which is receiving the homeowners' exemption pursuant to Section 218.

SEC. 33 Section 17299 4 of the Revenue and Taxation Code is amended to read

17299 4. (a) If any individual attends more than two foreign conventions during his taxable year—

(1) He shall select not more than two of such conventions to be taken into account for purposes of this section, and

(2) No deduction allocable to his attendance at any foreign convention during such taxable year (other than a foreign convention selected under paragraph (1)) shall be allowed under Section 17202 or 17252

(b) In the case of any foreign convention, no deduction for the expenses of transportation outside the United States to and from the site of such convention shall be allowed under Section 17202 or 17252 in an amount which exceeds the lowest coach or economy rate at the time of travel charged by a commercial airline for transportation to and from such site during the calendar month in which such convention begins. If there is no such coach or economy rate, the preceding sentence shall be applied by substituting "first class" for "coach or economy."

(c) In the case of any foreign convention, a deduction for the full expenses of transportation (determined after the application of subdivision (b)) to and from the site of such convention shall be allowed only if at least one-half of the total days of the trip, excluding the days of transportation to and from the site of such convention, are devoted to business related activities. If less than one-half of the total days of the trip, excluding the days of transportation to and from the site of the convention, are devoted to business related activities, no deduction for the expenses of transportation shall be allowed which exceeds the percentage of the days of the trip devoted to business related activities.

(d) In the case of any foreign convention, no deduction for subsistence expenses shall be allowed except as follows:

(1) A deduction for a full day of subsistence expenses while at the convention shall be allowed if there are at least six hours of scheduled business activities during such day and the individual attending the convention has attended at least two-thirds of these activities, and

(2) A deduction for one-half day of subsistence expenses while at the convention shall be allowed if there are at least three hours of scheduled business activities during such day and the individual attending the convention has attended at least two-thirds of these activities

Notwithstanding paragraphs (1) and (2), a deduction for subsistence expenses for all of the days or half days, as the case may be, shall be allowed if the individual attending the convention has attended at least two-thirds of the scheduled business activities, and each such full day consists of at least six hours of scheduled business activities and each such half day consists of at least three hours of scheduled business activities.

(e) In the case of any foreign convention, no deduction for subsistence expenses while at the convention or traveling to or from such convention shall be allowed at a rate in excess of the dollar per diem rate for the site of the convention which has been established under Section 5702(a) of Title 5 of the United States Code and which

is in effect for the calendar month in which the convention begins

(f) For purposes of this section—

(1) The term "foreign convention" means any convention, seminar, or similar meeting held outside the United States, its possessions, and the Trust Territory of the Pacific.

(2) The term "subsistence expenses" means lodging, meals, and other necessary expenses for the personal sustenance and comfort of the traveler. Such term includes tips and taxi and other local transportation expenses.

(3) In any case where the transportation expenses or the subsistence expenses are not separately stated, or where there is reason to believe that the stated charge for transportation expenses or subsistence expenses or both does not properly reflect the amounts properly allocable to such purposes, all amounts paid for transportation expenses and subsistence expenses shall be treated as having been paid solely for subsistence expenses.

(4) (A) Except as provided in subparagraph (B), this section shall apply to deductions otherwise allowable under Section 17202 or 17252 to any person, whether or not such person is the individual attending the foreign convention. For the purposes of the preceding sentence such person shall be treated, with respect to each individual, as having selected the same two foreign conventions as were selected by such individual.

(B) This section shall not deny a deduction to any person other than the individual attending the foreign convention with respect to any amount paid by such person to or on behalf of another person if includable in the gross income of such other person. The preceding sentence shall not apply if such amount is required to be included in any information return filed by such person under Chapter 17 (commencing with Section 18401) of this part and is not so included

(g) No deduction shall be allowed under Section 17202 or 17252 for transportation or subsistence expenses allocable to attendance at a foreign convention unless the taxpayer claiming the deduction attaches to the return of tax on which the deduction is claimed—

(1) A written statement signed by the individual attending the convention which includes—

(A) Information with respect to the total days of the trip, excluding the days of transportation to and from the site of such convention, and the number of hours of each day of the trip which such individual devoted to scheduled business activities.

(B) A program of the scheduled business activities of the convention, and

(C) Such other information as may be required in regulations prescribed by the Franchise Tax Board; and

(2) A written statement signed by an officer of the organization or group sponsoring the convention which includes—

(A) A schedule of the business activities of each day of the convention,

(B) The number of hours which the individual attending the

convention attended such scheduled business activities, and

(C) Such other information as may be required in regulations prescribed by the Franchise Tax Board.

SEC. 34 Section 17299.5 is added to the Revenue and Taxation Code, to read

17299.5. (a) No deduction otherwise allowable under this chapter shall be allowed for any item—

(1) With respect to an activity which is of a type generally considered to constitute entertainment, amusement, or recreation, unless the taxpayer establishes that the item was directly related to, or, in the case of an item directly preceding or following a substantial and bona fide business discussion (including business meetings at a convention or otherwise), that such item was associated with, the active conduct of the taxpayer's trade or business, or

(2) With respect to a facility used in connection with an activity referred to in paragraph (1)

In the case of an item described in paragraph (1), the deduction shall in no event exceed the portion of such item which meets the requirements of paragraph (1).

(b) For purposes of applying subdivision (a):

(1) Dues or fees to any social, athletic, or sporting club or organization shall be treated as items with respect to facilities.

(2) An activity described in Section 17252 shall be treated as a trade or business

(3) In the case of a country club, paragraph (2) of subdivision (a) shall apply unless the taxpayer establishes that the facility was used primarily for the furtherance of the taxpayer's trade or business and that the item was directly related to the active conduct of such trade or business.

SEC. 35. Section 17299.6 is added to the Revenue and Taxation Code, to read

17299 6 (a) No deduction shall be allowed under Sections 17202.3 through 17203 or Section 17252 for any expense for gifts made directly or indirectly to any individual to the extent that such expense, when added to prior expenses of the taxpayer for gifts made to such individual during the same taxable year, exceeds twenty-five dollars ($25) For purposes of this section, the term "gift" means any item excludable from gross income of the recipient under Section 17136 which is not excludable from his gross income under any other provision of this chapter, but such term does not include—

(1) An item having a cost to the taxpayer not in excess of four dollars ($4) on which the name of the taxpayer is clearly and permanently imprinted and which is one of a number of identical items distributed generally by the taxpayer,

(2) A sign, display rack, or other promotional material to be used on the business premises of the recipient, or

(3) An item of tangible personal property having a cost to the taxpayer not in excess of one hundred dollars ($100) which is

awarded to an employee by reason of length of service or for safety achievement.

(b) (1) In the case of a gift by a partnership, the limitation contained in subdivision (a) shall apply to the partnership as well as to each member thereof.

(2) For purposes of subdivision (a), a husband and wife shall be treated as one taxpayer

SEC. 36. Section 17337 of the Revenue and Taxation Code is amended to read:

17337. If a shareholder sells or otherwise disposes of "Sections 17337 to 17344 stock" (as defined in Section 17339)—

(a) If such disposition is not a redemption (within the meaning of Section 17383(b))

(1) The amount realized shall be treated as gain from the sale of property which is not a capital asset. This subsection shall not apply to the extent that—

(A) The amount realized, exceeds

(B) Such stock's ratable share of the amount which would have been a dividend at the time of distribution if (in lieu of "Sections 17337 to 17344 stock") the corporation had distributed money in an amount equal to the fair market value of the stock at the time of distribution.

(2) Any excess of the amount realized over the sum of—

(A) The amount treated under paragraph (1) as gain from the sale of property which is not a capital asset; plus

(B) The adjusted basis of the stock;

shall be treated as gain from the sale of such stock.

(3) No loss shall be recognized.

(b) If the disposition is a redemption, the amount realized shall be treated as a distribution of property to which Sections 17321 to 17324, inclusive, apply.

(c) If any such stock was distributed before January 1, 1977, and if the adjusted basis of such stock in the hands of the person disposing of it is determined under Section 18047 (relating to carryover basis), then the amount treated as ordinary income under paragraph (1) of subdivision (a) (or the amount treated as a dividend under subdivision (a) of Section 17323) shall not exceed the excess of the amount realized over the sum of—

(A) The adjusted basis of such stock on December 31, 1976, and

(B) Any increase in basis under subdivision (h) of Section 18047

This subdivision shall apply to a redemption only if such redemption is described in subdivision (a), (b) or (d) of Section 17326.

SEC. 37. Section 17338 of the Revenue and Taxation Code is amended to read:

17338 Section 17337 shall not apply—

(a) (1) If the disposition—

(A) Is not a redemption,

(B) Is not, directly or indirectly to a person the ownership of

whose stock would (under Section 17384) be attributable to the shareholder; and

(C) Terminates the entire stock interest of the shareholder in the corporation (and for purposes of this clause, Section 17384 shall apply).

(2) If the disposition is a redemption and Section 17326(c) applies.

(b) If the "Sections 17337 to 17344 stock" is redeemed in a distribution in partial or complete liquidation to which Articles 4 and 5 (Sections 17401 and following) apply.

(c) To the extent that, under any provision of this part, gain or loss to the shareholder is not recognized with respect to the disposition of the "Sections 17337 to 17344 stock."

(d) If it is established to the satisfaction of the Franchise Tax Board—

(1) That the distribution, and the disposition or redemption, or

(2) In the case of a prior or simultaneous disposition (or redemption) of the stock with respect to which the "Sections 17337 to 17344 stock" disposed of (or redeemed) was issued, that the disposition (or redemption) of the "Sections 17337 to 17344 stock," was not in pursuance of a plan having as one of its principal purposes the avoidance of income tax.

(e) To the extent that Section 17329 applies to a distribution in redemption of "Sections 17337 to 17344 stock."

SEC 38. Section 17461 of the Revenue and Taxation Code is amended to read:

17461. (a) For the purposes of Article 1 (commencing with Section 17321) to Article 7 (commencing with Section 17431), inclusive, of this chapter, the term "reorganization" means—

(1) A statutory merger or consolidation;

(2) The acquisition by one corporation, in exchange solely for all or a part of its voting stock (or in exchange solely for all or a part of the voting stock of a corporation which is in control of the acquiring corporation), of stock of another corporation if, immediately after the acquisition, the acquiring corporation has control of such other corporation (whether or not such acquiring corporation had control immediately before the acquisition);

(3) The acquisition by one corporation, in exchange solely for all or a part of its voting stock (or in exchange solely for all or a part of the voting stock of a corporation which is in control of the acquiring corporation), of substantially all of the properties of another corporation, but in determining whether the exchange is solely for stock the assumption by the acquiring corporation of a liability of the other, or the fact that property acquired is subject to a liability, shall be disregarded;

(4) A transfer by a corporation of all or a part of its assets to another corporation if immediately after the transfer the transferor, or one or more of its shareholders (including persons who were shareholders immediately before the transfer), or any combination thereof, is in control of the corporation to which the assets are

transferred; but only if, in pursuance of the plan, stock or securities of the corporation to which the assets are transferred are distributed in a transaction which qualifies under Sections 17432 to 17439, inclusive;

(5) A recapitalization; or

(6) A mere change in identity, form, or place of organization, however effected.

(b) (1) If a transaction is described in both paragraph (3) and paragraph (4) of subdivision (a), then, for purposes of this chapter, such transactions shall be treated as described only in paragraph (4) of subdivision (a).

(2) If—

(A) One corporation acquires substantially all of the properties of another corporation,

(B) The acquisition would qualify under paragraph (3) of subdivision (a) but for the fact that the acquiring corporation exchanges money or other property in addition to voting stock, and

(C) The acquiring corporation acquires, solely for voting stock described in paragraph (3) of subdivision (a), property of the other corporation having a fair market value which is at least 80 percent of the fair market value of all of the property of the other corporation,

then such acquisition shall (subject to paragraph (1) of this subdivision) be treated as qualifying under paragraph (3) of subdivision (a). Solely for the purpose of determining whether subparagraph (C) of the preceding sentence applies, the amount of any liability assumed by the acquiring corporation, and the amount of any liability to which any property acquired by the acquiring corporation is subject, shall be treated as money paid for the property

(3) A transaction otherwise qualifying under paragraph (1), paragraph (2) or paragraph (3) of subdivision (a) shall not be disqualified by reason of the fact that part or all of the assets which were acquired in the transaction are transferred to a corporation controlled by the corporation acquiring such assets.

(4) The acquisition by one corporation, in exchange for stock of a corporation (referred to in this paragraph as "controlling corporation") which is in control of the acquiring corporation, of substantially all of the properties of another corporation which in the transaction is merged into the acquiring corporation shall not disqualify a transaction under paragraph (1) of subdivision (a), if—

(A) Such transaction would have qualified under paragraph (1) of subdivision (a) if the merger had been into the controlling corporation, and

(B) No stock of the acquiring corporation is used in the transaction.

(5) A transaction otherwise qualifying under paragraph (1) of subdivision (a) shall not be disqualified by reason of the fact that

stock of a corporation (referred to in this paragraph as the "controlling corporation") which before the merger was in control of the merged corporation is used in the transaction, if—

(A) After the transaction, the corporation surviving the merger holds substantially all of its properties and of the properties of the merged corporation (other than stock of the controlling corporation distributed in the transaction); and

(B) In the transaction, former shareholders of the surviving corporation exchanged, for an amount of voting stock of the controlling corporation, an amount of stock in the surviving corporation which constitutes control of such corporation.

(6) (A) If immediately before a transaction described in subdivision (a) (other than paragraph (5) thereof), two or more parties to the transaction were investment companies, then the transaction shall not be considered to be a reorganization with respect to any such investment company (and its shareholders and security holders) unless it was a regulated investment company, a real estate investment trust, or a corporation which meets the requirements of subparagraph (B)

(B) A corporation meets the requirements of this subparagraph if not more than 25 percent of the value of its total assets is invested in the stock and securities of any one issuer, and not more than 50 percent of the value of its total assets is invested in the stock and securities of five or fewer issuers. For purposes of this paragraph, all members of a controlled group of corporations (within the meaning of Section 1563(a) of the Internal Revenue Code of 1954) shall be treated as one issuer.

(C) For purposes of this paragraph the term "investment company" means a regulated investment company, a real estate investment trust, or a corporation 50 percent or more of the value of whose total assets are stock and securities and 80 percent or more of the value of whose total assets are assets held for investment. In making the 50-percent and 80-percent determinations under the preceding sentence, stock and securities in any subsidiary corporation shall be disregarded and the parent corporation shall be deemed to own its ratable share of the subsidiary's assets, and a corporation shall be considered a subsidiary if the parent owns 50 percent or more of the combined voting power of all classes of stock entitled to vote, or 50 percent or more of the total value of shares of all classes of stock outstanding.

(D) For purposes of this paragraph, in determining total assets there shall be excluded cash and cash items (including receivables), government securities, and, under regulations prescribed by the Franchise Tax Board, assets acquired (through incurring indebtedness or otherwise) for purposes of meeting the requirements of subparagraph (B) or ceasing to be an investment company.

(E) This paragraph shall not apply if the stock of each investment company is owned substantially by the same persons in the same

proportions.

(F) If an investment company which does not meet the requirement of subparagraph (B) acquires assets of another corporation, subparagraph (A) shall be applied to such investment company and its shareholders and security holders as though its assets had been acquired by such other corporation. If such investment company acquires stock of another corporation in a reorganization described in Section 17461(a)(2) (hereafter referred to as the "actual acquisition") subparagraph (A) shall be applied to the shareholders of such investment company as though they had exchanged with such other corporation all of their stock in such investment company for stock having a fair market value equal to the fair market value of their stock of such investment company immediately after the exchange.

(G) For purposes of subparagraphs (B) and (C), the term "securities" includes obligations of state and local governments, commodity future contracts, shares of regulated investment companies and real estate investment trusts, and other investments constituting a security within the meaning of the Investment Company Act of 1940, 15 U.S.C. 80a-2(36)

(H) In applying subdivision (c) of Section 17288 in respect of any transaction to which this paragraph applies, the reference to a personal holding company in subdivision (c) of Section 17288 shall be treated as including a reference to an investment company and the determination of whether a corporation is an investment company shall be made as of the time immediately before the transaction instead of with respect to the taxable year referred to in subdivision (c) of Section 17288.

(c) The amendments made to this section by the 1971 First Extraordinary Session of the Legislature shall apply to statutory mergers occurring after December 31, 1970.

SEC. 39. Section 17501 of the Revenue and Taxation Code is amended to read:

17501. A trust created or organized in the United States and forming part of a stock bonus, pension, or profit-sharing plan of an employer for the exclusive benefit of his employees or their beneficiaries shall constitute a qualified trust under this article—

(a) If contributions are made to the trust by such employer, or employees, or both, or by another employer who is entitled to deduct his contributions under Section 17516(b) (relating to deduction for contributions to profit-sharing and stock bonus plans), for the purpose of distributing to such employees or their beneficiaries the corpus and income of the fund accumulated by the trust in accordance with such plan,

(b) If under the trust instrument it is impossible, at any time prior to the satisfaction of all liabilities with respect to employees and their beneficiaries under the trust, for any part of the corpus or income to be (within the taxable year or thereafter) used for, or diverted to, purposes other than for the exclusive benefit of his employees or

their beneficiaries;

(c) If the plan of which such trust is a part satisfies the requirements of Section 410 of the Internal Revenue Code of 1954 as amended by Public Law 95-600 (relating to minimum participation standards); and

(d) If the contributions or the benefits provided under the plan do not discriminate in favor of employees who are (1) officers, (2) shareholders, or (3) highly compensated. For purposes of this subdivision, there shall be excluded from consideration employees described in Section 410(b) (2) (A) and (C) of the Internal Revenue Code of 1954 as amended by Public Law 95-600.

(e) A classification shall not be considered discriminatory within the meaning of subdivision (d) or Section 410(b) of the Internal Revenue Code of 1954 as amended by Public Law 95-600 (without regard to paragraph (1) (A) thereof) merely because it excludes employees the whole of whose remuneration constitutes "wages" under Section 3121(a) (1) of the Internal Revenue Code of 1954 as amended by P.L. 95-600 (relating to the Federal Insurance Contribution Act) or merely because it is limited to salaried or clerical employees. Neither shall a plan be considered discriminatory within the meaning of such provisions merely because the contributions or benefits of or on behalf of the employees under the plan bear a uniform relationship to the total compensation, or the basic or regular rate of compensation, of such employees, or merely because the contributions or benefits based on that part of an employee's remuneration which is excluded from "wages" by Section 3121(a) (1) of the Internal Revenue Code of 1954, as amended by Public Law 95-600, or of the California Unemployment Insurance Act differ from the contributions or benefits based on employee's remuneration not so excluded, or differ because of any retirement benefits created under state or federal law.

For purposes of this subdivision and subdivision (j), the total compensation of an individual who is an employee within the meaning of Section 17502.2(a) means such individual's earned income (as defined in Section 17502.2(b)), and the basic or regular rate of compensation of such an individual shall be determined, under regulations prescribed by the Franchise Tax Board, with respect to that portion of his earned income which bears the same ratio to his earned income as the basic or regular compensation of the employees under the plan bears to the total compensation of such employees. For purposes of determining whether two or more plans of an employer satisfy the requirements of subdivision (d) when considered as a single plan, if the amount of contributions on behalf of the employees allowed as a deduction under Sections 17513 to 17525 1, inclusive, for the taxable year with respect to such plans, taken together, bears a uniform relationship to the total compensation, or the basic or regular rate of compensation, of such employees, the plans shall not be considered discriminatory merely because the rights of employees to, or derived from, the employer

contributions under the separate plans do not become nonforfeitable at the same rate. For the purposes of determining whether two or more plans of an employer satisfy the requirements of subdivision (d) when considered as a single plan, if the employees' right to benefits under the separate plans do not become nonforfeitable at the same rate, but the levels of benefits provided by the separate plans satisfy the requirements of regulations prescribed by the Franchise Tax Board to take account of the differences in such rates, the plans shall not be considered discriminatory merely because of the difference in such rates. For purposes of determining whether one or more plans of an employer satisfy the requirements of paragraph (4) and of subsection (b) of Section 410 of the Internal Revenue Code of 1954 as amended by Public Law 95-600, an employer may take into account all simplified employee pensions to which only the employer contributes.

(f) A plan shall be considered as meeting the requirements of subdivision (c) during the whole of any taxable year of the plan if on one day in each quarter it satisfied such requirements.

(g) A trust shall not constitute a qualified trust under this section unless the plan of which such trust is a part satisfies the requirements of Section 411 of the Internal Revenue Code of 1954 as amended by Public Law 95-600 (relating to minimum vesting standards).

(h) A trust forming part of a pension plan shall not constitute a qualified trust under this article unless the plan provides that forfeitures must not be applied to increase the benefits any employee would otherwise receive under the plan.

(i) In the case of a plan which provides contributions or benefits for employees some or all of whom are employees within the meaning of Section 17502.2(a), a trust forming part of such plan shall not constitute a qualified trust under this article unless, under the plan, the entire interest of each employee—

(1) Either will be distributed to him not later than his taxable year in which he attains the age of 70½ years, or, in the case of an employee other than an owner-employee (as defined in Section 17502.2(c)), in which he retires, whichever is the later, or

(2) Will be distributed, commencing not later than such taxable year, (A) in accordance with regulations prescribed by the Franchise Tax Board, over the life of such employee or over the lives of such employee and his spouse, or (B) in accordance with such regulations, over a period not extending beyond the life expectancy of such employee or the life expectancy of such employee and his spouse.

A trust shall not be disqualified under this subdivision by reason of distributions under a designation, prior to the date of the enactment of this subdivision, by any employee under the plan of which such trust is a part, of a method of distribution which does not meet the terms of the preceding sentence.

(j) In the case of a plan which provides contributions or benefits for employees some or all of whom are owner-employees (as defined

in Section 17502.2(c))—

(1) Subdivision (c), the first and second sentences of subdivision (e), and Section 410 of the Internal Revenue Code of 1954 as amended by Public Law 95-600 shall not apply, but—

(A) Such plan shall not be considered discriminatory within the meaning of subdivision (d) merely because the contributions or benefits of or on behalf of employees under the plan bear a uniform relationship to the total compensation, or the basic or regular rate of compensation, of such employees, and

(B) Such plan shall not be considered discriminatory within the meaning of subdivision (d) solely because under the plan contributions described in Section 17502.4 which are in excess of the amounts which may be deducted under Sections 17513 to 17525.1, inclusive, for the taxable year may be made on behalf of any owner-employee; and

(2) A trust forming a part of such plan shall constitute a qualified trust under this section only if the requirements in Section 17502.3 are also met.

(k) (1) A trust shall not constitute a qualified trust under this section if the plan of which such trust is a part provides for the payment of benefits in the form of an annuity unless such plan provides for the payment of annuity benefits in a form having the effect of a qualified joint and survivor annuity.

(2) Notwithstanding the provisions of paragraph (1), in the case of a plan which provides for the payment of benefits before the normal retirement age (as defined in Section 411(a)(8) of the Internal Revenue Code of 1954 as amended by Public Law 95-600), the plan is not required to provide for the payment of annuity benefits in a form having the effect of a qualified joint and survivor annuity during the period beginning on the date on which the employee enters into the plan as a participant and ending on the later of—

(A) The date the employee reaches the earliest retirement age under the plan, or

(B) The first day of the 120th month beginning before the date on which the employee reaches normal retirement age.

(3) A plan described in paragraph (2) does not meet the requirements of paragraph (1) unless, under the plan, a participant has a reasonable period during which he may elect the qualified joint and annuity form with respect to the period beginning on the date on which the period described in paragraph (2) ends and ending on the date on which he reaches normal retirement age (as defined in Section 411(a)(8) of the Internal Revenue Code of 1954 as amended by Public Law 95-600) if he continues his employment during that period A plan does not meet the requirements of this paragraph unless, in the case of such an election, the payments under the survivor annuity are not less than the payments which would have been made under the joint annuity to which the participant would have been entitled if he made an election described in this paragraph

immediately prior to his retirement and if his retirement had occurred on the day before his death and within the period within which an election can be made.

(4) A plan shall not be treated as not satisfying the requirements of this subdivision solely because the spouse of the participant is not entitled to receive a survivor annuity (whether or not an election described in paragraph (3) has been made under paragraph (3)) unless the participant and his spouse have been married throughout the one-year period ending on the date of such participant's death.

(5) A plan shall not be treated as satisfying the requirements of this subdivision unless, under the plan, each participant has a reasonable period (as prescribed by the regulations of the Franchise Tax Board) before the annuity starting date during which he may elect in writing (after having received a written explanation of the terms and conditions of the joint and survivor annuity and the effect of an election under this paragraph) not to take such joint and survivor annuity.

(6) A plan shall not be treated as not satisfying the requirements of this subdivision solely because under the plan there is a provision that any election described in paragraph (3) or (5), and any revocation of any such election, does not become effective (or ceases to be effective) if the participant dies within a period (not in excess of two years) beginning on the date of such election or revocation, as the case may be. The preceding sentence does not apply unless the plan provision described in the preceding sentence also provides that such an election or revocation will be given effect in any case in which—

(A) The participant dies from accidental causes,

(B) A failure to give effect to the election or revocation would deprive the participant's survivor of a survivor annuity, and

(C) Such election or revocation is made before such accident occurred

(7) For purposes of this subdivision—

(A) The term "annuity starting date" means the first day of the first period for which an amount is received as an annuity (whether by reason of retirement or by reason of disability),

(B) The term "earliest retirement age" means the earliest date on which, under the plan, the participant could elect to receive retirement benefits, and

(C) The term "qualified joint and survivor annuity" means an annuity for the life of the participant with a survivor annuity for the life of his spouse which is not less than one-half of, or greater than, the amount of the annuity payable during the joint lives of the participant and his spouse and which is the actuarial equivalent of a single life annuity for the life of the participant.

For purposes of this subdivision, a plan may take into account in any equitable manner (as determined by the Franchise Tax Board) any increased costs resulting from providing joint and survivor annuity benefits

(8) This subdivision shall apply only if—

(A) The annuity starting date did not occur before the effective date of this subdivision, and

(B) The participant was an active participant in the plan on or after such effective date.

(*l*) A trust shall not constitute a qualified trust under this article unless the plan of which such trust is a part provides that in the case of any merger or consolidation with, or transfer of assets or liabilities to, any other plan after the date of the enactment of the Employee Retirement Income Security Act of 1974 (P.L. 93-406), each participant in the plan would (if the plan then terminated) receive a benefit immediately after the merger, consolidation, or transfer which is equal to or greater than the benefit he would have been entitled to receive immediately before the merger, consolidation, or transfer which is equal to or greater than the benefit he would have been entitled to receive immediately before the merger, consolidation, or transfer (if the plan had then terminated). This subdivision shall apply in the case of a multiemployer plan only to the extent determined by the Pension Benefit Guaranty Corporation.

(m) A trust shall not constitute a qualified trust under this article unless the plan of which such trust is a part provides that benefits provided under the plan may not be assigned or alienated. For purposes of the preceding sentence, there shall not be taken into account any voluntary and revocable assignment of not to exceed 10 percent of any benefit payment made by any participant who is receiving benefits under the plan unless the assignment or alienation is made for purposes of defraying plan administration costs. For purposes of this subdivision a loan made to a participant or beneficiary shall not be treated as an assignment or alienation if such loan is secured by the participant's accrued nonforfeitable benefit and is exempt from the tax imposed by Section 4975 of the Internal Revenue Code of 1954 as amended by Public Law 95-600 (relating to tax on prohibited transactions) by reason of Section 4975(d)(1) of the Internal Revenue Code of 1954 as amended by Public Law 95-600. This paragraph shall take effect on January 1, 1976, and shall not apply to assignments which were irrevocable on the date of the enactment of the Employee Retirement Income Security Act of 1974 (P L 93-406)

(n) A trust shall not constitute a qualified trust under this article unless the plan of which such trust is a part provides that, unless the participant otherwise elects, the payment of benefits under the plan to the participant will begin not later than the 60th day after the latest of the close of the plan year in which—

(1) The date on which the participant attains the earlier of age 65 or the normal retirement age specified under the plan,

(2) Occurs the 10th anniversary of the year in which the participant commenced participation in the plan, or

(3) The participant terminates his service with the employer In the case of a plan which provides for the payment of an early

retirement benefit, a trust forming a part of such plan shall not constitute a qualified trust under this article unless a participant who satisfied the service requirements for such early retirement benefit, but separated from the service (with any nonforfeitable right to an accrued benefit) before satisfying the age requirement for such early retirement benefit, is entitled upon satisfaction of such age requirement to receive a benefit not less than the benefit to which he would be entitled at the normal retirement age, actuarially reduced under regulations prescribed by the Franchise Tax Board.

(o) A trust shall not constitute a qualified trust under this article unless under the plan of which such trust is a part—

(1) In the case of a participant or beneficiary who is receiving benefits under such plan, or

(2) In the case of a participant who is separated from the service and who has nonforfeitable rights to benefits,

such benefits are not decreased by reason of any increase in the benefit levels payable under Title II of the Social Security Act or any increase in the wage base under such Title II, if such increase takes place after the date of the enactment of the Employee Retirement Income Security Act of 1974 (P.L. 93-406) or (if later) the earlier of the date of first receipt of such benefits or the date of such separation, as the case may be.

(p) A trust shall not constitute a qualified trust under this article if the plan of which such trust is a part provides for benefits or contributions which exceed the limitations of Section 415 of the Internal Revenue Code of 1954 as amended by Public Law 95-600.

(q) In the case of a plan which provides contributions or benefits for employees some or all of whom are employees within the meaning of Section 17502.2, only if the annual compensation of each employee taken into account under the plan does not exceed the first one hundred thousand dollars ($100,000) of such compensation.

(r) In the case of a trust which is part of a plan providing a defined benefit for employees some or all of whom are employees within the meaning of Section 17502.2, only if such plan satisfies the requirements of Section 17502.9.

(s) A trust shall not constitute a qualified trust under this article if under the plan of which such trust is a part any part of a participant's accrued benefit derived from employer contributions (whether or not otherwise nonforfeitable), is forfeitable solely because of withdrawal by such participant of any amount attributable to the benefit derived from contributions made by such participant. The preceding sentence shall not apply to the accrued benefit of any participant unless, at the time of such withdrawal, such participant has a nonforfeitable right to at least 50 percent of such accrued benefit (as determined under Section 411 of the Internal Revenue Code of 1954 as amended by Public Law 95-600). The first sentence of this paragraph shall not apply to the extent that an accrued benefit is permitted to be forfeited in accordance with Section 411(a)(3)(D)(iii) of the Internal Revenue Code of 1954 as

amended by Public Law 95-600 (relating to proportional forfeitures of benefits accrued before enactment of the Employee Retirement Income Security Act of 1974 (P L. 93-406), in the event of withdrawal of certain mandatory contributions).

(t) A trust forming part of a pension plan shall not be treated as failing to constitute a qualified trust under this section merely because the pension plan of which such trust is a part makes a payment or distribution described in subparagraph (A) of paragraph (1) of subdivision (d) of Section 17503 or subparagraph (A) of paragraph (9) of subdivision (a) of Section 17512 This paragraph shall not apply to a defined benefit plan unless the employer maintaining such plan files a notice with the Pension Benefit Guaranty Corporation (at the time and in the manner prescribed by the Pension Benefit Guaranty Corporation) notifying the corporation of such payment or distribution and the corporation has approved such payment or distribution or, within 90 days after the date on which such notice was filed, has failed to disapprove such payment or distribution

(u) A trust forming part of an employee stock ownership plan shall not fail to be considered a permanent program merely because employer contributions under the plan are determined solely by reference to the amount of credit which would be allowable under subsection (a) of Section 46 of the Internal Revenue Code of 1954, as amended by Public Law 95-600, if the employer made the transfer described in paragraph (1) of subsection (n) of Section 48 of the Internal Revenue Code of 1954 as amended by Public Law 95-600.

(v) A trust forming part of a defined contribution plan which meets the requirements of subsection (e) of Section 409A of the Internal Revenue Code of 1954, as amended by Public Law 95-600, shall not be disqualified if it—

(1) Is established by an employer whose stock is not publicly traded, and

(2) After acquiring securities of the employer, more than ten (10) percent of the total assets of the plan are securities of the employer This subdivision is applicable to the acquisition of securities after December 31, 1979

(w) Subdivisions (k), (*l*), (m), (n), (o), and (s) shall apply only in the case of a plan to which Section 411 of the Internal Revenue Code of 1954 as amended by P.L 95-600 (relating to minimum vesting standards) applies without regard to subsection (e) (2) of such section

SEC. 40. Section 17502 10 is added to the Revenue and Taxation Code, to read

17502.10 (a) A profit-sharing or stock bonus plan shall not be considered as not satisfying the requirements of Section 17501 merely because the plan includes a qualified cash or deferred arrangement

(b) A qualified cash or deferred arrangement is any arrangement which is part of a profit-sharing or stock bonus plan which meets the requirements of Section 17501—

(1) Under which a covered employee may elect to have the

employer make payments as contributions to a trust under the plan on behalf of the employee, or to the employee directly in cash;

(2) Under which amounts held by the trust which are attributable to employer contributions made pursuant to the employee's election may not be distributable to participants or other beneficiaries earlier than upon retirement, death, disability, or separation from service, hardship or the attainment of age 59½, and will not be distributable merely by reason of the completion of a stated period of participation or the lapse of a fixed number of years; and

(3) Which provides that an employee's right to his accrued benefit derived from employer contributions made to the trust pursuant to his election is nonforfeitable.

(c) (1) A qualified cash or deferred arrangement shall be considered to satisfy the requirements of subdivision (d) of Section 17501, with respect to the amount of contributions, and of subparagraph (B) of paragraph (1) of subsection (b) of Section 410 of the Internal Revenue Code of 1954 as amended by Public Law 95-600 for a plan year if those employees eligible to benefit under the plan satisfy the provisions of subparagraph (A) or (B) of paragraph (1) of subsection (b) of Section 410 of the Internal Revenue Code of 1954 as amended by Public Law 95-600 and if the actual deferral percentage for highly compensated employees (as defined in subdivision (d)) for such plan year bears a relationship to the actual deferral percentage for all other eligible employees for such plan year which meets either of the following tests:

(A) The actual deferral percentage for the group of highly compensated employees is not more than the actual deferral percentage of all other eligible employees multiplied by 1.5.

(B) The excess of the actual deferral percentage for the group of highly compensated employees over that of all other eligible employees is not more than three percentage points, and the actual deferral percentage for the group of highly compensated employees is not more than the actual deferral percentage of all other eligible employees multiplied by 2.5

(2) For purposes of paragraph (1), the actual deferral percentage for a specified group of employees for a plan year shall be the average of the ratios (calculated separately for each employee in such group) of—

(A) The amount of employer contributions actually paid over to the trust on behalf of each such employee for such plan year, to

(B) The employee's compensation for such plan year.

For purposes of the preceding sentence, the compensation of any employee for a plan year shall be the amount of his compensation which is taken into account under the plan in calculating the contribution which may be made on his behalf for such plan year.

(d) For purposes of this section, the term "highly compensated employee" means any employee who is more highly compensated than two-thirds of all eligible employees, taking into account only compensation which is considered in applying subdivision (c).

(e) The provisions of this section shall be applicable to plan years beginning after December 31, 1979.

SEC. 41. Section 17503 of the Revenue and Taxation Code is amended to read:

17503. (a) Except as provided in subdivision (b), the amount actually distributed or made available to any distributee by any employees' trust described in Section 17501 which is exempt from tax under Section 17631 shall be taxable to him, in the year in which so distributed or made available, under Sections 17101 to 17112.7, inclusive (relating to annuities). The amount actually distributed or made available to any distributee shall not include net unrealized appreciation in securities of the employer corporation attributable to the amount contributed by the employee. Such net unrealized appreciation and the resulting adjustments to basis of such securities shall be determined in accordance with regulations prescribed by the Franchise Tax Board.

(b) In the case of an employee's trust described in Section 17501, which is exempt from tax under Section 17631, if the total distributions payable with respect to any employee are paid to the distributee within one taxable year of the distributee on account of the employee's death or other separation from service, or on account of the death of the employee after his separation from service, so much of such total distribution as is equal to the excess of such total distribution over the amount contributed by the employee (determined by applying Section 17106), which employee contributions shall be reduced by any amount theretofore distributed to him which was not includable in gross income, multiplied by a fraction—

(1) The numerator of which is the number of calendar years of active participation by the employee in such plan before January 1, 1974, and

(2) The denominator of which is the number of calendar years of active participation by the employee in such plan, shall be treated as a gain from the sale or exchange of a capital asset held for more than five years.

Where such total distributions include securities of the employer corporation, there shall be excluded from such total distributions the net unrealized appreciation attributable to that part of the total distributions which consists of the securities of the employer corporation so distributed The amount of such net unrealized appreciation and the resulting adjustments to basis of the securities of the employer corporation so distributed shall be determined in accordance with regulations prescribed by the Franchise Tax Board.

This subdivision shall not apply to distributions paid to any distributee to the extent such distributions are attributable to contributions made on behalf of the employee while he was an employee within the meaning of subdivision (a) of Section 17502 2.

(c) For purposes of this section—

(1) The term "securities" means only shares of stock and bonds or

debentures issued by a corporation with interest coupons or in registered form.

(2) The term "securities of the employer corporation" includes securities of a parent or subsidiary corporation (as defined in subdivisions (e) and (f) of Section 17535) of the employer corporation.

(3) The term "total distributions payable" means the balance to the credit of an employee which becomes payable to a distributee on account of the employee's death or other separation from the service, or on account of his death after separation from the service.

(4) The term "employee contributions," as used in this section, means the amounts contributed by the employee (determined by applying Section 17106), which employee contributions shall be reduced by amounts theretofore distributed to him which were not includable in gross income.

(d) (1) If—

(A) The balance to the credit of an employee in a qualified trust is paid to him in a qualifying rollover distribution,

(B) The employee transfers any portion of the property he receives in such distribution to an eligible retirement plan, and

(C) In the case of a distribution of property other than money, the amount so transferred consists of the property distributed,

then such distribution (to the extent so transferred) shall not be includable in gross income for the taxable year in which paid.

(2) In the case of any qualifying rollover distribution, the maximum amount transferred to which paragraph (1) applies shall not exceed the fair market value of all the property the employee receives in the distribution, reduced by the employee contributions.

(3) Paragraph (1) shall not apply to any transfer of a distribution made after the 60th day following the day on which the employee received the property distributed.

(4) For purposes of this subdivision—

(A) The term "qualifying rollover distribution" means one or more distributions—

(i) Within one taxable year of the employee on account of a termination of the plan of which the trust is a part or, in the case of a profit-sharing or stock bonus plan, a complete discontinuance of contributions under such plan, or

(ii) Which constitute a lump-sum distribution within the meaning of paragraph (4) of subsection (e) of Section 402 of the Internal Revenue Code of 1954 as amended by Public Law 95-600 (determined without reference to subparagraphs (B) and (H)).

(B) The term "employee contributions" means—

(i) The excess of the amounts considered contributed by the employee (determined by applying Section 17106), over

(ii) Any amounts theretofore distributed to the employee which were not includable in gross income.

(C) The term "qualified trust" means an employees' trust described in Section 17501 which is exempt from tax under Section

17631.

(D) The term "eligible retirement plan" means—

(i) An individual retirement account described in subdivision (a) of Section 17530,

(ii) An individual retirement annuity described in subdivision (b) of Section 17530 (other than an endowment contract),

(iii) A retirement bond described in Section 17530.1,

(iv) A qualified trust, and

(v) An annuity plan described in Section 17511.

(5) (A) For purposes of this part, a transfer described in paragraph (1) to an eligible retirement plan described in clause (i), (ii), or (iii) of subparagraph (D) of paragraph (4) shall be treated as a rollover contribution described in paragraph (3) of subdivision (d) of Section 17530.

(B) An eligible retirement plan described in clause (iv) or (v) of subparagraph (D) of paragraph (4) shall not be treated as an eligible retirement plan for the transfer of a distribution if any part of the distribution is attributable to a trust forming part of a plan under which the employee was an employee within the meaning of subdivision (a) of Section 17502.2 at the time contributions were made on his behalf under the plan.

(e) (1) For purposes of subparagraph (A) of paragraph (4) of subdivision (d), a complete discontinuance of contributions under a profit-sharing or stock bonus plan shall be deemed to occur on the day the plan administrator notifies the Secretary of the Treasury of the United States (in accordance with regulations prescribed by the secretary) that all contributions to the plan have been completely discontinued. The plan shall be considered to be terminated no later than the day such notice is filed with the secretary.

(2) For purposes of subparagraph (A) of paragraph (4) of subdivision (d)—

(A) A payment of the balance to the credit of an employee of a corporation (hereinafter referred to as the employer corporation) which is a subsidiary corporation (within the meaning of Section 17535) or which is a member of a controlled group of corporations (within the meaning of subsection (a) of Section 1563 of the Internal Revenue Code of 1954 as amended by Public Law 95-600, determined by substituting "50 percent" for "80 percent" each place it appears therein) in connection with the liquidation, sale, or other means of terminating the parent-subsidiary or controlled group relationship of the employer corporation with the parent corporation or controlled group, or

(B) A payment of the balance to the credit of an employee of a corporation (hereinafter referred to as the acquiring corporation) in connection with the sale or other transfer to the acquiring corporation of all or substantially all of the assets used by the previous employer of the employee (hereinafter referred to as the selling corporation) in a trade or business conducted by the selling corporation

shall be treated as a payment or distribution on account of the termination of the plan with respect to such employee if the employees of the employer corporation or the acquiring corporation (whichever applies) are not active participants in such plan at the time of such payment or distribution. For purposes of this paragraph, in no event shall a payment or distribution be deemed to be in connection with a sale or other transfer of assets, or a liquidation, sale, or other means of terminating such parent-subsidiary or controlled group relationship, if such payment or distribution is made later than the end of the second calendar year after the calendar year in which occurs such sale or other transfer of assets, or such liquidation, sale, or other means of terminating such parent-subsidiary or controlled group relationship.

(3) If any portion of a lump-sum distribution is transferred in a transfer to which paragraph (1) of subdivision (d) applies, subdivision (b) shall not apply with respect to such lump-sum distribution.

(4) For purposes of subdivisions (d) and (f)—

(A) The transfer of an amount equal to any portion of the proceeds from the sale of property received in the distribution shall be treated as the transfer of property received in the distribution.

(B) The excess of fair market value of property on sale over its fair market value on distribution shall be treated as property received in the distribution.

(C) In any case where part or all of the distribution consists of property other than money, the taxpayer may designate—

(i) The portion of the money or other property which is to be treated as attributable to employee contributions, and

(ii) The portion of the money or other property which is to be treated as included in the rollover contribution.

Any designation under this subparagraph for a taxable year shall be made not later than the time prescribed by law for filing the return for such taxable year (including extensions thereof). Any such designation, once made, shall be irrevocable.

(D) In any case where part or all of the distribution consists of property other than money and the taxpayer fails to make a designation under subparagraph (C) within the time provided therein, then—

(i) The portion of the money or other property which is to be treated as attributable to employee contributions, and

(ii) The portion of the money or other property which is to be treated as included in the rollover contribution

shall be determined on a ratable basis

(E) In the case of any sale described in subparagraph (A), to the extent that an amount equal to the proceeds is transferred pursuant to paragraph (2) of subdivision (d) or paragraph (2) of subdivision (f) (as the case may be), neither gain nor loss on such sale shall be recognized

(f) (1) If—

(A) Any portion of a lump-sum distribution from a qualified trust is paid to the spouse of the employee on account of the employee's death,

(B) The spouse transfers any portion of the property which the spouse receives in such distribution to an individual retirement plan, and

(C) In the case of a distribution of property other than money, the amount so transferred consists of the property distributed,

then such distribution (to the extent so transferred) shall not be includable in gross income for the taxable year in which paid.

(2) Rules similar to the rules of paragraphs (2) through (5), inclusive, of subdivision (d) and of subdivision (e) shall apply for the purposes of this subdivision.

(g) (1) For purposes of this part contributions made by an employer on behalf of an employee to a trust which is a part of a qualified cash or deferred arrangement (as defined in Section 17502.10) shall not be treated as distributed or made available to the employee nor as contributions made to the trust by the employee merely because the arrangement includes provisions under which the employee has an election whether the contribution will be made to the trust or received by the employee in cash.

(2) This subdivision is applicable to plan years beginning after December 31, 1979.

SEC. 42. Section 17511 of the Revenue and Taxation Code is amended to read:

17511 Except as provided in subdivision (a), if an annuity contract is purchased by an employer for an employee under a plan which meets the requirements of Section 17515 (whether or not the employer deducts the amounts paid for the contract under such section), the employee shall include in his gross income the amounts received under such contract for the year received as provided in Sections 17101 to 17112.7, inclusive (relating to annuities).

(a) If—

(1) An annuity contract is purchased by an employer for an employee under a plan described in the first paragraph,

(2) Such plan requires that refunds of contributions with respect to annuity contracts purchased under such plan be used to reduce subsequent premiums on the contracts under the plan, and

(3) The total amounts payable by reason of the employee's death or other separation from service, or by reason of the death of the employee after his separation from service, are paid to the payee within one taxable year of the payee,

then the capital gain element of such payments (as defined in subdivision (c)) shall be considered gain from the sale or exchange of a capital asset held for more than five years. This subdivision shall not apply to amounts paid to any payee to the extent such amounts are attributable to contributions made on behalf of the employee while he was an employee within the meaning of subdivision (a) of Section 17502.2

(b) For purposes of subdivision (a), the term "total amounts" means the balance to the credit of an employee which becomes payable to the payee by reason of the employee's death or other separation from the service, or by reason of his death after separation from the service

(c) For purposes of subdivision (a) the term "capital gain element" means so much of such total amounts described in subdivision (a) as is equal to the excess of such amounts over the amount contributed by the employee, which employee contributions shall be reduced by any amounts theretofore paid to him which were not includable in gross income, multiplied by the fraction described in Section 17503(b)

(d) For purposes of this section, the term "employee" includes an individual who is an employee within the meaning of subdivision (a) of Section 17502.2, and the employer of such individual is the person treated as his employer under subdivision (d) of Section 17502.2.

(e) (1) If—

(A) The balance to the credit of an employee in an employee annuity described in the introductory paragraph is paid to him in a qualifying rollover distribution,

(B) The employee transfers any portion of the property he receives in such distribution to an eligible retirement plan, and

(C) In the case of a distribution of property other than money, the amount so transferred consists of the property distributed,

then such distribution (to the extent so transferred) shall not be includable in gross income for the taxable year in which paid.

(2) Rules similar to the rules of paragraphs (2) through (5), inclusive, of subdivision (d) of Section 17503 and of subdivisions (e) and (f) of Section 17503 shall apply for purposes of paragraph (1).

SEC 43 Section 17512 of the Revenue and Taxation Code is amended to read:

17512 (a) (1) If—

(A) An annuity contract is purchased—

(i) For an employee by an employer described in Section 23701d which is exempt from tax under Section 23701, or

(ii) For an employee (other than an employee described in clause (i) of subparagraph (A)), who performs services for an educational institution (as defined in subdivision (c) of Section 17150), by an employer which is a state, a political subdivision of a state, or an agency or instrumentality of any one or more of the foregoing,

(B) Such annuity contract is not subject to Section 17511, and

(C) The employee's rights under the contract are nonforfeitable, except for failure to pay future premiums,

then amounts contributed by such employer for such annuity contract on or after such rights become nonforfeitable shall be excluded from the gross income of the employee for the taxable year to the extent that the aggregate of such amounts does not exceed the exclusion allowance for such taxable year. The employee shall

include in his gross income the amounts received under such contract for the year received as provided in Sections 17101 to 17112.7, inclusive. For purposes of applying the rules of this section to amounts contributed by an employer for a taxable year, amounts transferred to a contract described in this subdivision by reason of a rollover contribution described in paragraph (8) of this section or Section 17530(d) (3) (A) (iii) or Section 17530.1(b) (3) (C) shall not be considered contributed by such employer.

(2) For purposes of this section, the exclusion allowance for any employee for the taxable year is an amount equal to the excess, if any, of—

(A) The amount determined by multiplying 20 percent of his includable compensation by the number of years of service, over

(B) The aggregate of the amounts contributed by the employer for annuity contracts and excludable from the gross income of the employee for any prior taxable year.

(3) In the case of an employee who makes an election under Section 415(c) (4) (D) of the Internal Revenue Code of 1954 as amended by Public Law 95-600 to have the provisions of Section 415(c) (4) (C) of the Internal Revenue Code of 1954 as amended by Public Law 95-600 (relating to special rule for contracts purchased by educational institutions, hospitals, and home health service agencies) apply, the exclusion allowance for any such employee for the taxable year is the amount which could be contributed (under Section 415 of the Internal Revenue Code of 1954 as amended by Public Law 95-600) by his employer under a plan described in Section 17511 if the annuity contract for the benefit of such employee were treated as a defined contribution plan maintained by the employer.

(4) For purposes of this section, the term "includable compensation" means, in the case of any employee, the amount of compensation which is received from the employer described in subparagraph (A) of paragraph (1), and which is includable in gross income (computed without regard to subdivision (d) of Section 17139 and Section 911 of the Internal Revenue Code of 1954 as amended by Public Law 95-600) for the most recent period (ending not later than the close of the taxable year) which under paragraph (4) may be counted as one year of service. Such term does not include any amount contributed by the employer for any annuity contract to which this section applies.

(5) In determining the number of years of service for purposes of this section, there shall be included—

(A) One year for each full year during which the individual was a full-time employee of the organization purchasing the annuity for him, and

(B) A fraction of a year (determined in accordance with regulations prescribed by the Franchise Tax Board) for each full year during which such individual was a part-time employee of such organization and for each part of a year during which such individual

was a full-time or part-time employee of such organization.

In no case shall the number of years of service be less than one.

(6) If for any taxable year of the employee this section applies to two or more annuity contracts purchased by the employer, such contracts shall be treated as one contract.

(7) For purposes of this section and Section 17106 (relating to special rules for computing employees' contributions to annuity contracts), if rights of the employee under an annuity contract described in subparagraphs (A) and (B) of paragraph (1) change from forfeitable to nonforfeitable rights, then the amount (determined without regard to this subdivision) includable in gross income by reason of such change shall be treated as an amount contributed by the employer for such annuity contract as of the time such rights become nonforfeitable.

(8) (A) For purposes of this part, amounts paid by an employer described in paragraph (1) (A) to a custodial account which satisfies the requirements of Section 17502.5(b) shall be treated as amounts contributed by him for an annuity contract for his employee if—

(i) The amounts are to be invested in regulated investment company stock to be held in that custodial account, and

(ii) Under the custodial account no such amounts may be paid or made available to any distributee before the employee dies, attains age 59½, separates from service, becomes disabled (within the meaning of Section 17112.5(f)), or encounters financial hardship.

(B) For purposes of this part, a custodial account which satisfies the requirements of Section 17502 5(b) shall be treated as an organization described in Section 17501 solely for purposes of Sections 17631 to 17651, inclusive, with respect to amounts received by it (and income from investment thereof).

(C) For purposes of this paragraph, the term "regulated investment company" means a domestic corporation which is a regulated investment company within the meaning of Section 851 (a) of the Internal Revenue Code of 1954 as amended by Public Law 95-600

(9) (A) If—

(i) The balance to the credit of an employee is paid to him in a qualifying distribution,

(ii) The employee transfers any portion of the property he receives in such distribution to an individual retirement plan or to an annuity contract described in paragraph (1), and

(iii) In the case of a distribution of property other than money, the property so transferred consists of the property distributed, then such distribution (to the extent so transferred) shall not be includable in gross income for the taxable year in which paid

(B) (i) For purposes of subparagraph (A), the term "qualifying distribution" means one or more distributions from an annuity contract described in paragraph (1) which would constitute a lump-sum distribution within the meaning of paragraph (4) of subsection (e) of Section 402 of the Internal Revenue Code as

amended by Public Law 95-600 (determined without regard to subparagraphs (B) and (H)) if such annuity contract were described in Section 17511

(ii) For purposes of this paragraph, all annuity contracts in paragraph (1) purchased by an employer shall be treated as a single contract, and paragraph (4) of subsection (e) of Section 402 of the Internal Revenue Code of 1954, as amended by Public Law 95-600, shall not apply

(C) Rules similar to the rules of paragraphs (2), (3), and (4) of subdivision (d) of Section 17503 and of subdivisions (e) and (f) of Section 17503 shall apply for purposes of subparagraph (A).

(b) Premiums paid by an employer for an annuity contract which is not subject to Section 17511 shall be included in the gross income of the employee in accordance with Section 17122 7 (relating to property transferred in connection with performance of services), except that the value of such contract shall be substituted for the fair market value of the property for purposes of applying such section. The preceding sentence shall not apply to that portion of the premiums paid which is excluded from gross income under subdivision (a). The amount actually paid or made available to any beneficiary under such contract shall be taxable to him in the year in which so paid or made available under Sections 17101 to 17112 7, inclusive (relating to annuities).

SEC 44. Section 17515 of the Revenue and Taxation Code is amended to read

17515 A deduction shall be allowed in the taxable year when paid, in an amount determined in accordance with Section 17514, if the contributions are paid toward the purchase of retirement annuities and such purchase is part of a plan which meets the requirements of Section 17501(c), (d), (e), (f), (g), (h), (k), (l), (m), (n), (o), (p), (q), (r), (s), (t), or (v), and, if applicable, the requirements of Section 17501(i), (j), (q) and (r) and of Section 17502 3 (other than subdivision (a)), and if refunds of premiums, if any, are applied within the current taxable year or next succeeding taxable year towards the purchase of such retirement annuities

SEC. 45 Section 17521 of the Revenue and Taxation Code is amended to read

17521. If there is no plan but a method of employer contributions or compensation has the effect of a stock bonus, pension, profit-sharing, or annuity plan, or other plan deferring the receipt of compensation, Sections 17513 to 17520, inclusive, shall apply as if there were such a plan

SEC 46 Section 17522 5 is added to the Revenue and Taxation Code, to read

17522 5 If a plan would be described in Sections 17513 (as modified by Section 17521) but for the fact that there is no employer-employee relationship, the contributions or compensation—

(a) Shall not be deductible by the payor thereof under Section

17202 or 17252, but

(b) Shall (if they would be deductible under Section 17202 or 17252 but for subdivision (a)) be deductible under this section for the taxable year in which an amount attributable to the contribution or compensation is includable in the gross income of the persons participating in the plan.

SEC. 47. Section 17523 of the Revenue and Taxation Code is repealed.

SEC. 48. Section 17525.5 is added to the Revenue and Taxation Code, to read:

17525.5. (a) Employer contributions to a simplified employee pension shall be treated as if they are made to a plan subject to the requirements of this section. Employer contributions to a simplified employee pension are subject to the following limitations:

(1) Contributions made for a calendar year are deductible for the taxable year with which or within which the calendar year ends.

(2) Contributions made within 3½ months after the close of a calendar year are treated as if they were made on the last day of such calendar year if they are made on account of such calendar year.

(3) The amount deductible in a taxable year for a simplified employee pension shall not exceed 15 percent of the compensation paid to the employees during the calendar year ending with or within the taxable year. The excess of the amount contributed over the amount deductible for a taxable year shall be deductible in the succeeding taxable years in order of time subject to the 15 percent limit of the preceding sentence.

(b) For any taxable year for which the employer has a deduction under subdivision (a), the otherwise applicable limitations in subdivision (a) of Section 17516 shall be reduced by the amount of the allowable deductions under subdivision (a) with respect to participants in the stock bonus or profit-sharing trust.

(c) For any taxable year for which the employer has a deduction under subdivision (a), the otherwise applicable 25 percent limitations in Section 17520 shall be reduced by the amount of the allowable deductions under subdivision (a) with respect to participants in the stock bonus or profit-sharing trust.

(d) The limitations described in subdivisions (a) and (b) of Section 17524 for any taxable year shall be reduced by the amount of the allowable deductions under subdivision (a) with respect to an employee within the meaning of subdivision (a) of Section 17502.2.

SEC. 49 Section 17530 of the Revenue and Taxation Code is amended to read.

17530 (a) For purposes of this section, the term "individual retirement account" means a trust created or organized in the United States for the exclusive benefit of an individual or his beneficiaries, but only if the written governing instrument creating the trust meets the following requirements:

(1) Except in the case of a rollover contribution described in subdivision (d)(3), in Section 17503(d), 17511(e), 17512(a)(9), or

17530.1(b)(3), no contribution will be accepted unless it is in cash, and contributions will not be accepted for the taxable year in excess of one thousand five hundred dollars ($1,500) on behalf of any individual.

(2) The trustee is a bank (as defined in Section 17502.3(a)) or such other person who demonstrates to the satisfaction of the Franchise Tax Board that the manner in which such other person will administer the trust will be consistent with the requirements of this section.

(3) No part of the trust funds will be invested in life insurance contracts.

(4) The interest of an individual in the balance in his account is nonforfeitable.

(5) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

(6) The entire interest of an individual for whose benefit the trust is maintained will be distributed to him not later than the close of his taxable year in which he attains age 70½, or will be distributed, commencing before the close of such taxable year, in accordance with regulations prescribed by the Franchise Tax Board, over—

(A) The life of such individual or the lives of such individual and his spouse, or

(B) A period not extending beyond the life expectancy of such individual or the life expectancy of such individual and his spouse.

(7) If an individual for whose benefit the trust is maintained dies before his entire interest has been distributed to him, or if distribution has been commenced as provided in paragraph (6) to his surviving spouse and such surviving spouse dies before the entire interest has been distributed to such spouse, the entire interest (or the remaining part of such interest if distribution thereof has commenced) will, within five years after his death (or the death of the surviving spouse), be distributed, or applied to the purchase of an immediate annuity for his beneficiary or beneficiaries (or the beneficiary or beneficiaries of his surviving spouse) which will be payable for the life of such beneficiary or beneficiaries (or for a term certain not extending beyond the life expectancy of such beneficiary or beneficiaries) and which annuity will be immediately distributed to such beneficiary or beneficiaries. The preceding sentence does not apply if distributions over a term certain commenced before the death of the individual for whose benefit the trust was maintained and the term certain is for a period permitted under paragraph (6).

(b) For purposes of this section, the term "individual retirement annuity" means an annuity contract, or an endowment contract (as determined under regulations prescribed by the Franchise Tax Board), issued by an insurance company which meets the following requirements

(1) The contract is not transferable by the owner.

(2) Under the contract—

(A) The premiums are not fixed,

(B) The annual premium on behalf of any individual will not exceed one thousand five hundred dollars ($1,500), and

(C) Any refund of premiums will be applied before the close of the calendar year following the year of the refund toward the payment of future premiums or the purchase of additional benefits.

(3) The entire interest of the owner will be distributed to him not later than the close of his taxable year in which he attains age 70½, or will be distributed, in accordance with regulations prescribed by the Franchise Tax Board over—

(A) The life of such owner or the lives of such owner and his spouse, or

(B) A period not extending beyond the life expectancy of such owner or the life expectancy of such owner and his spouse.

(4) If the owner dies before his entire interest has been distributed to him, or if distribution has been commenced as provided in paragraph (3) to his surviving spouse and such surviving spouse dies before the entire interest has been distributed to such spouse, the entire interest (or the remaining part of such interest if distribution thereof has commenced) will, within five years after his death (or the death of the surviving spouse), be distributed, or applied to the purchase of an immediate annuity for his beneficiary or beneficiaries (or the beneficiary or beneficiaries of his surviving spouse) which will be payable for the life of such beneficiary or beneficiaries (or for a term certain not extending beyond the life expectancy of such beneficiary or beneficiaries) and which annuity will be immediately distributed to such beneficiary or beneficiaries. The preceding sentence shall have no application if distributions over a term certain commenced before the death of the owner and the term certain is for a period permitted under paragraph (3).

(5) The entire interest of the owner is nonforfeitable. Such term does not include such an annuity contract for any taxable year of the owner in which it is disqualified on the application of subdivision (e) or for any subsequent taxable year. For purposes of this subdivision, no contract shall be treated as an endowment contract if it matures later than the taxable year in which the individual in whose name such contract is purchased attains age 70½; if it is not for the exclusive benefit of the individual in whose name it is purchased or his beneficiaries; or if the aggregate annual premiums under all such contracts purchased in the name of such individual for any taxable year exceed one thousand five hundred dollars ($1,500)

(c) A trust created or organized in the United States by an employer for the exclusive benefit of his employees or their beneficiaries, or by an association of employees (which may include employees within the meaning of Section 17502.2(a)) for the exclusive benefit of its members or their beneficiaries, shall be created as an individual retirement account (described in subdivision (a)), but only if the written governing instrument creating the trust meets the following requirements

(1) The trust satisfies the requirements of paragraphs (1) through (7) of subdivision (a).

(2) There is a separate accounting for the interest of each employee or member (or spouse of an employee or member).

The assets of the trust may be held in a common fund for the account of all individuals who have an interest in the trust.

(d) (1) Except as otherwise provided in this subdivision, any amount paid or distributed out of an individual retirement account or under an individual retirement annuity shall be included in gross income by the payee or distributee, as the case may be, for the taxable year in which the payment or distribution is received. Notwithstanding any other provision of this code (including Parts 8 (commencing with Section 13301) and 9 (commencing with Section 15101) of this division), the basis of any person in such an account or annuity is zero.

(2) Paragraph (1) does not apply to any annuity contract which meets the requirements of paragraphs (1), (3), (4), and (5) of subdivision (b) and which is distributed from an individual retirement account. Sections 17101 to 17112.7, inclusive, apply to any such annuity contract, and for purposes of Sections 17101 to 17112 7, inclusive, the investment in such contract is zero

(3) An amount is described in this paragraph as a rollover contribution if it meets the requirements of subparagraphs (A) and (B).

(A) Paragraph (1) does not apply to any amount paid or distributed out of an individual retirement account or individual retirement annuity to the individual for whose benefit the account or annuity is maintained if—

(i) The entire amount received (including money and any other property) is paid into an individual retirement account or individual retirement annuity (other than an endowment contract) or retirement bond for the benefit of such individual not later than the 60th day after the day on which he receives the payment or distribution;

(ii) The entire amount received (including money and other property) represents the entire amount in the account or the entire value of the annuity and no amount in the account and no part of the value of the annuity is attributable to any source other than a rollover contribution from an employees' trust described in Section 17501 which is exempt from tax under Section 17631 (other than a trust forming part of a plan under which the individual was an employee within the meaning of Section 17502.2(a) at the time contributions were made on his behalf under the plan), or an annuity plan described in Section 17511 (other than a plan under which the individual was an employee within the meaning of Section 17502.2(a) at the time contributions were made on his behalf under the plan) and any earnings on such sums and the entire amount thereof is paid into another such trust (for the benefit of such individual) or annuity plan not later than the 60th day on which he

receives the payment or distribution; or

(iii) (I) The entire amount received (including money and other property) represents the entire interest in the account or the entire value of the annuity,

(II) No amount in the account and no part of the value of the annuity is attributable to any source other than a rollover contribution from an annuity contract described in Section 17512 and any earnings on such rollover, and

(III) The entire amount thereof is paid into another annuity contract described in Section 17512 (for the benefit of such individual) not later than the 60th day after he receives the payment or distribution.

(B) This paragraph does not apply to any amount described in subparagraph (A) (i) received by an individual from an individual retirement account or individual retirement annuity if at any time during the one-year period ending on the day of such receipt such individual received any other amount described in that subparagraph from an individual retirement account, individual retirement annuity, or a retirement bond which was not includable in his gross income because of the application of this paragraph. Clause (ii) of subparagraph (A) shall not apply to any amount paid or distributed out of an individual retirement account or an individual retirement annuity to which an amount was contributed which was treated as a rollover contribution by Section 17503(f) (or in the case of an individual retirement annuity, such section as made applicable by Section 17511(e)(2)).

(4) Paragraph (1) does not apply to the distribution of any contribution paid for a taxable year to an individual retirement account or for an individual retirement annuity to the extent that such contribution exceeds the amount allowable as a deduction under Section 17240 or 17241 if—

(A) Such distribution is received on or before the day prescribed by law (including extensions of time) for filing such individual's return for such taxable year.

(B) No deduction is allowed under Section 17240 or 17241 with respect to such excess contribution, and

(C) Such distribution is accompanied by the amount of net income attributable to such excess contribution.

In the case of such a distribution, for purposes of Section 17071, any net income described in subparagraph (C) shall be deemed to have been earned and receivable in the taxable year in which such excess contribution is made

(5) (A) In the case of any individual, if the aggregate contributions (other than rollover contributions) paid for any taxable year to an individual retirement account or for an individual retirement annuity do not exceed one thousand seven hundred fifty dollars ($1,750), paragraph (1) shall not apply to the distribution of any such contribution to the extent that such contribution exceeds the amount allowable as a deduction under Section 17240 or 17241 for the taxable

year for which the contribution was paid—

(i) If such distribution is received after the date described in paragraph (4),

(ii) But only to the extent that no deduction has been allowed under Section 17240 or 17241 with respect to such excess contribution.

If employer contributions on behalf of the individual are paid for the taxable year to a simplified employee pension, the dollar limitation of the preceding sentence shall be increased by the lesser of the amount of such contributions or seven thousand five hundred dollars ($7,500).

(B) (i) The taxpayer reasonably relies on information supplied pursuant to this part for determining the amount of a rollover contribution, but

(ii) The information was erroneous, subparagraph (A) shall be applied by increasing the dollar limit set forth therein by that portion of the excess contribution which was attributable to such information.

(6) The transfer of an individual's interest in an individual retirement account, individual retirement annuity, or retirement bond to his former spouse under a divorce decree or under a written instrument incident to such divorce is not to be considered a taxable transfer made by such individual notwithstanding any other provision of this part, and such interest at the time of the transfer is to be treated as an individual retirement account of such spouse, and not of such individual. Thereafter such account, annuity, or bond for purposes of this part is to be treated as maintained for the benefit of such spouse

(e) (1) Any individual retirement account is exempt from taxation under this part unless such account has ceased to be an individual retirement account by reason of paragraph (2) or (3). Notwithstanding the preceding sentence, any such account is subject to the taxes imposed by Section 17651 (relating to imposition of tax on unrelated business income of charitable, etc. organizations).

(2) (A) In the case of such a plan in existence in taxable year 1975 where contributions were made pursuant to and in conformance with Section 408 or 409 of the Internal Revenue Code of 1954 as amended by the Employee's Income Security Act of 1974 (P L. 93-406), any net income attributable to the 1975 contribution shall not be includable in the gross income, for taxable year 1977 or succeeding taxable years, of the individual for whose benefit the plan was established until distributed pursuant to the provisions of the plan or by operation of law.

(B) In the case of a simplified employee pension, where contributions are also made pursuant to, and in conformance with, the provisions of Section 408(k) of the Internal Revenue Code of 1954, as amended by Public Law 95-600, the net income attributable to the nondeductible portion of such contributions shall not be includable in the gross income of the individual for whose benefit the

plan was established for the taxable year or for succeeding taxable years until distributed pursuant to the provisions of the plan or by operation of law.

(3) (A) If, during any taxable year of the individual for whose benefit any individual retirement account is established, that individual or his beneficiary engages in any transaction prohibited by Section 4975 of the Internal Revenue Code of 1954 as amended by Public Law 95-600 with respect to such account, such account ceases to be an individual retirement account as of the first day of such taxable year. For purposes of this paragraph—

(i) The individual for whose benefit any account was established is treated as the creator of such account and

(ii) The separate account for any individual within an individual retirement account maintained by an employer or association of employees is treated as a separate individual retirement account.

(B) In any case in which any account ceases to be an individual retirement account by reason of subparagraph (A) as of the first day of any taxable year, paragraph (1) of subdivision (d) applies as if there were a distribution on such first day in an amount equal to the fair market value (on such first day) of all assets in the account (on such first day).

(4) If during any taxable year the owner of an individual retirement annuity borrows any money under or by use of such contract, the contract ceases to be an individual retirement annuity as of the first day of such taxable year Such owner shall include in gross income for such year an amount equal to the fair market value of such contract as of such first day.

(5) If, during any taxable year of the individual for whose benefit an individual retirement account is established, that individual uses the account or any portion thereof as security for a loan, the portion so used is treated as distributed to that individual.

(6) If the assets of an individual retirement account or any part of such assets are used to purchase an endowment contract for the benefit of the individual for whose benefit the account is established—

(A) To the extent that the amount of the assets involved in the purchase are not attributable to the purchase of life insurance, the purchase is treated as a rollover contribution described in subdivision (d) (3), and

(B) To the extent that the amount of the assets involved in the purchase are attributable to the purchase of life, health, accident, or other insurance, such amounts are treated as distributed to that individual (but the provisions of subdivision (f) do not apply)

(7) Any common trust fund or common investment fund of individual retirement account assets which is exempt from taxation under this part does not cease to be exempt on account of the participation or inclusion of assets of a trust exempt from taxation under Section 17631 which is described in Section 17501.

(f) (1) If a distribution from an individual retirement account or

under an individual retirement annuity to the individual for whose benefit such account or annuity was established is made before such individual attains age 59½, his tax under this article for the taxable year in which such distribution is received shall be increased by an amount equal to 2.5 percent of the amount of distribution which is includable in his gross income for such taxable year.

(2) If an amount is includable in gross income for a taxable year under subdivision (e) and the taxpayer has not attained age 59½ before the beginning of such taxable year, his tax under this article for such taxable year shall be increased by an amount equal to 2.5 percent of such amount so required to be included in his gross income.

(3) Paragraphs (1) and (2) do not apply if the amount paid or distributed, or the disqualification of the account or annuity under subdivision (e), is attributable to the taxpayer becoming disabled within the meaning of Section 17112.5(f).

(g) This section shall be applied without regard to any community property laws.

(h) For purposes of this section, a custodial account shall be treated as a trust if the assets of such account are held by a bank (as defined in Section 17502.3(a)) or another person who demonstrates, to the satisfaction of the Franchise Tax Board, that the manner in which he will administer the account will be consistent with the requirements of this section, and if the custodial account would, except for the fact that it is not a trust, constitute an individual retirement account described in subdivision (a). For purposes of this part, in the case of a custodial account treated as a trust by reason of the preceding sentence, the custodian of such account shall be treated as the trustee thereof.

(i) The trustee of an individual retirement account and the issuer of an endowment contract described in subdivision (b) or an individual retirement annuity shall make such reports regarding such account, contract, or annuity to the Franchise Tax Board and to the individuals for whom the account, contract, or annuity is, or is to be, maintained with respect to contributions, distributions, and such other matters as the Franchise Tax Board may require under regulations. The reports required by this subdivision shall be filed at such time and in such manner and furnished to such individuals at such time and in such manner as may be required by those regulations

(j) In the case of a simplified employee pension, this section shall be applied by substituting "two thousand five hundred dollars ($2,500)" for "one thousand five hundred dollars ($1,500)" in the following provisions

(1) Paragraph (1) of subdivision (a), and

(2) Paragraph (2) of subdivision (b)

(k) (1) For purposes of this part, the term "simplified employee pension" means an individual retirement account or individual retirement annuity with respect to which the requirements of

paragraphs (2), (3), (4), and (5) of this subdivision are met.

(2) This paragraph is satisfied with respect to a simplified employee pension for a calendar year only if for such year the employer contributes to the simplified employee pension of each employee who—

(A) Has attained age 25, and

(B) Has performed service for the employer during at least three of the immediately preceding five calendar years.

For purposes of this paragraph, there shall be excluded from consideration employees described in subparagraph (A) or (C) of paragraph (1) of subsection (b) of Section 410 of the Internal Revenue Code of 1954 as amended by Public Law 95-600.

(3) (A) The requirements of this paragraph are met with respect to a simplified employee pension for a calendar year if for such year the contributions made by the employer to simplified employee pensions for his employees do not discriminate in favor of any employee who is—

(i) An officer,

(ii) A shareholder,

(iii) A self-employed individual, or

(iv) Highly compensated.

(B) For purposes of subparagraph (A)—

(i) There shall be excluded from consideration employees described in subparagraph (A) or (C) of Section 410(b) (2) of the Internal Revenue Code of 1954, as amended by Public Law 95-600, and

(ii) An individual shall be considered a shareholder if he owns (with the application of Section 17384) more than 10 percent of the value of the stock of the employer.

(C) For purposes of subparagraph (A), employer contributions to simplified employee pensions shall be considered discriminatory unless contributions thereto bear a uniform relationship to the total compensation (not in excess of the first one hundred thousand dollars ($100,000)) of each employee maintaining a simplified employee pension.

(D) Except as provided in this subparagraph, employer contributions do not meet the requirements of this paragraph unless such contributions meet the requirements of this paragraph without taking into account contributions or benefits relating to tax on self-employment income, relating to Federal Insurance Contributions Act, Title II of the Social Security Act, or any other federal or state law Taxes paid under Section 311 of the Interal Revenue Code of 1954, as amended by Public Law 95-600 (relating to tax on employers) with respect to an employee may, for purposes of this paragraph, be taken into account as a contribution by the employer to an employee's simplified employee pension. If contributions are made to the simplified employee pension of an owner-employee, the preceding sentence shall not apply unless taxes paid by all such owner-employees under Chapter 2 of the Internal

Revenue Code of 1954, as amended by Public Law 95-600, and the taxes which would be payable under Chapter 2 by such owner-employees but for paragraphs (4) and (5) of Section 1402(c) of the Internal Revenue Code of 1954, as amended by Public Law 95-600, are taken into account as contributions by the employer on behalf of such owner-employees.

(4) A simplified employee pension meets the requirements of this paragraph only if—

(A) Employer contributions thereto are not conditioned on the retention in such pension of any portion of the amount contributed, and

(B) There is no prohibition imposed by the employer on withdrawals from the simplified employee pension.

(5) The requirements of this paragraph are met with respect to a simplified employee pension only if employer contributions to such pension are determined under a definite written allocation formula which specifies—

(A) The requirements which an employee must satisfy to share in an allocation, and

(B) The manner in which the amount allocated is computed.

(6) For purposes of this subdivision and subdivision (*l*)—

(A) The terms "employee", "employer", and "owner-employee" shall have the respective meanings given such terms by Section 17502.2

(B) The term "compensation" means, in the case of an employee within the meaning of Section 17502.2(a), earned income within the meaning of Section 17502.2(b).

(*l*) An employer who makes a contribution on behalf of an employee to a simplified employee pension shall provide such simplified reports with respect to such contributions as the Franchise Tax Board may require by regulations. The reports required by this subsection shall be filed at such time and in such manner, and information with respect to such contributions shall be furnished to the employee at such time and in such manner, as may be required by regulations.

SEC. 50 Section 17530 1 of the Revenue and Taxation Code is amended to read.

17530 1. (a) For purposes of this section and Section 17240(a), the term "retirement bond" means a bond issued under the Second Liberty Bond Act, as amended, which by its terms, or by regulations prescribed by the Secretary of the Treasury of the United States or his delegate under such act—

(1) Provides for payment of interest, or investment yield, only on redemption;

(2) Provides that no interest, or investment yield, is payable if the bond is redeemed within 12 months after the date of its issuance;

(3) Provides that it ceases to bear interest, or provide investment yield on the earlier of—

(A) The date on which the individual in whose name it is

purchased (hereinafter in this section referred to as the "registered owner") attains age 70½, or

(B) Five years after the date on which the registered owner dies, but not later than the date on which he would have attained the age 70½ had he lived,

(4) Provides that, except in the case of a rollover contribution described in subdivision (b) (3) (C) or in Section 17503(d), 17511(e), 17512(a) or 17530(d) (3), the registered owner may not contribute on behalf of any individual for the purchase of such bonds in excess of one thousand five hundred dollars ($1,500) for any taxable year; and

(5) Is not transferable.

(b) (1) Except as otherwise provided in this subdivision, on the redemption of a retirement bond the entire proceeds (excluding nontaxable interest) shall be included in the gross income of the taxpayer entitled to the proceeds on redemption. If the registered owner has not tendered it for redemption before the close of the taxable year in which he attains age 70½, such individual shall include in his gross income for such taxable year the amount of proceeds he would have received if the bond had been redeemed at age 70½. The provisions of Sections 17101 to 17112.7, inclusive, and Sections 18183 to 18185, inclusive (relating to bonds and other evidences of indebtedness) shall not apply to a retirement bond.

(2) The basis of a retirement bond is zero.

(3) Exceptions:

(A) If a retirement bond is redeemed within 12 months after the date of its issuance, the proceeds are excluded from gross income if no deduction is allowed under Section 17240 on account of the purchase of such bond.

(B) If a retirement bond is redeemed after the close of the taxable year in which the registered owner attains age 70½, the proceeds from the redemption of the bond are excluded from the gross income of the registered owner to the extent that such proceeds were includable in his gross income for such taxable year.

(C) If a retirement bond is redeemed at any time before the close of the taxable year in which the registered owner attains age 70½, and the registered owner transfers the entire amount of the proceeds from the redemption of the bond to an individual retirement account described in Section 17530(a) or to an individual retirement annuity described in Section 17530(b) (other than an endowment contract) which is maintained for the benefit of the registered owner of the bond, or to an employees' trust described in Section 17501 which is exempt from tax under Section 17631, an annuity plan described in Section 17511, or an annuity contract described in Section 17512 for the benefit of the registered owner, on or before the 60th day after the day on which he received the proceeds of such redemption, then the proceeds shall be excluded from gross income and the transfer shall be treated as a rollover contribution described in Section 17511(e). This subparagraph does not apply in the case of a transfer to such an employees' trust or such annuity plan unless no

part of the value of such proceeds is attributable to any source other than a rollover contribution from such an employees' trust or annuity plan (other than an annuity plan or a trust forming part of a plan under which the individual was an employee within the meaning of Section 17502 2(a) at the time contributions were made on his behalf under the plan). This subparagraph does not apply in the case of a transfer to an annuity contract described in Section 17512 unless no part of the value of such proceeds is attributable to any source other than a rollover contribution from such annuity contract.

(c) (1) If a retirement bond is redeemed by the registered owner before he attains age 59½, his tax under this article for the taxable year in which the bond is redeemed shall be increased by an amount equal to 2 5 percent of the amount of the proceeds of the redemption includable in his gross income for the taxable year.

(2) Paragraph (1) does not apply for any taxable year during which the retirement bond is redeemed if, for that taxable year, the registered owner is disabled within the meaning of Section 17112.5(f).

(3) Paragraph (1) does not apply if the registered owner tenders the bond for redemption within 12 months after the date of its issuance.

SEC. 51 Section 17530 2 of the Revenue and Taxation Code is amended to read.

17530.2. The provisions of subsections (b) and (c) of Section 413, Collectively Bargained Plans, of the Internal Revenue Code of 1954 as amended by Public Law 95-600 shall be applied to a plan maintained pursuant to an agreement which the Secretary of Labor finds to be a collective-bargaining agreement between employee representatives and one or more employers, and each trust which is a part of such plan, exclusive of those paragraphs concerned with and entitled "Liability for Funding Tax."

SEC. 52. Section 17530 3 of the Revenue and Taxation Code is amended to read·

17530.3 For the purposes of this article, the definitions and special rules set forth in Section 414 of the Internal Revenue Code of 1954 as amended by Public Law 95-600 shall be applied as provided therein

SEC 53. Section 17530 4 of the Revenue and Taxation Code is amended to read·

17530 4. (a) (1) A trust which is a part of a pension, profit-sharing, or stock bonus plan shall not constitute a qualified trust under Section 17501, if—

(A) In the case of a defined benefit plan, the plan provides for the payment of benefits with respect to a participant which exceed the limitation of subdivision (b),

(B) In the case of a defined contribution plan, contributions and other additions under the plan with respect to any participant for any taxable year exceed the limitation of subdivision (c), except in the case of such a plan where contributions are also made pursuant to

and in conformance with the special limitation for employee stock ownership plans under Section 415(c)(6) of the Internal Revenue Code of 1954 as amended by Public Law 95-600, in which case:

(i) The amount deductible under Section 17516 is subject to the limitations provided in subdivision (c) of this section, and

(ii) The net income attributable to the nondeductible portion shall not be included in the gross income of the employee for the taxable year or for succeeding taxable years until distributed pursuant to a provision of the plan or by operation of law, or

(C) In any case in which an individual is a participant in both a defined benefit plan and a defined contribution plan maintained by the employer, the trust has been disqualified under subdivision (g).

(2) Except as provided in paragraph (3), in the case of—

(A) An employee annuity plan described in Section 17511,

(B) An annuity contract described in Section 17512,

(C) An individual retirement account described in Section 17530(a),

(D) An individual retirement annuity described in Section 17530(b),

(E) A simplified employee pension,

(F) A plan described in Section 17526, or

(G) A retirement bond described in Section 17530.1, such contract, annuity plan, account, annuity, plan, or bond shall not be considered to be described in Section 17511, 17512, 17526, 17530(a), 17530(b) or 17530.1, as the case may be, unless it satisfies the requirements of subparagraph (A) or subparagraph (B) of paragraph (1), whichever is appropriate, and has not been disqualified under subdivision (g). In the case of an annuity contract described in Section 17512, the preceding sentence shall apply only to the portion of the annuity contract which exceeds the limitation of subdivision (b) or the limitation of subdivision (c), whichever is appropriate, and the amount of the contribution for such portion shall reduce the exclusion allowance as provided in Section 17512

(3) Paragraph (2) shall not apply for any year to an account, annuity, or bond described in Section 17530(a), 17530(b), or 17530.1, respectively, established for the benefit of the spouse of the individual contributing to such account, or for such annuity or bond, if a deduction is allowed under Section 17241 to such individual with respect to such contribution for such year.

(b) (1) Benefits with respect to a participant exceed the limitation of this subdivision if, when expressed as an annual benefit (within the meaning of paragraph (2)), such annual benefit is greater than the lesser of—

(A) Seventy-five thousand dollars ($75,000), or

(B) One hundred percent of the participant's average compensation for his high three years.

(2) (A) For purposes of paragraph (1), the term "annual benefit" means a benefit payable annually in the form of a straight life annuity (with no ancillary benefits) under a plan to which employees do not

contribute and under which no rollover contributions (as defined in Sections 17503, 17511, 17530, and 17530.1) are made.

(B) If the benefit under the plan is payable in any form other than the form described in subparagraph (A), or if the employees contribute to the plan or make rollover contributions (as defined in Sections 17503, 17511, 17530, and 17530.1), the determinations as to whether the limitation described in paragraph (1) has been satisfied shall be made, in accordance with regulations prescribed by the Franchise Tax Board, by adjusting such benefit so that it is equivalent to the benefit described in subparagraph (A). For purposes of this subparagraph, any ancillary benefit which is not directly related to retirement income benefits shall not be taken into account; and that portion of any joint and survivor annuity which constitutes a qualified joint and survivor annuity (as defined in Section 17501) shall not be taken into account.

(C) If the retirement income benefit under the plan begins before age 55, the determination as to whether the limitation set forth in paragraph (1)(A) has been satisfied shall be made, in accordance with regulations prescribed by the Franchise Tax Board, by adjusting such benefit so that it is equivalent to such a benefit beginning at age 55.

(3) For purposes of paragraph (1), a participant's high three years shall be the period of consecutive calendar years (not more than three) during which the participant both was an active participant in the plan and had the greatest aggregate compensation from the employer. In the case of an employee within the meaning of Section 17502.2, the preceding sentence shall be applied by substituting for "compensation from the employer" the following: "the participant's earned income (within the meaning of Section 17502.2 but determined without regard to any exclusion under Section 911 of the Internal Revenue Code of 1954 as amended by Public Law 95-600)."

(4) Notwithstanding the preceding provisions of this subdivision, the benefits payable with respect to a participant under any defined benefit plan shall be deemed not to exceed the limitation of this subdivision, if—

(A) The retirement benefits payable with respect to such participant under such plan and under all other defined benefit plans of the employer do not exceed ten thousand dollars ($10,000) for the plan year, or for any prior plan year, and

(B) The employer has not at any time maintained a defined contribution plan in which the participant participated.

(5) In the case of an employee who has less than 10 years of service with the employer, the limitation referred to in paragraph (1), and the limitation referred to in paragraph (4), shall be the limitation determined under such paragraph (without regard to this paragraph), multiplied by a fraction, the numerator of which is the number of years (or part thereof) of service with the employer and the denominator of which is 10.

(6) The computation of—

(A) Benefits under a defined contribution plan, for purposes of Section 17501(d),

(B) Contributions made on behalf of a participant in a defined benefit plan, for purposes of Section 17501(d), and

(C) Contributions and benefits provided for a participant in a plan described in Section 414(k) of the Internal Revenue Code of 1954 as amended by Public Law 95-600; for purposes of this section shall not be made on a basis inconsistent with regulations prescribed by the Franchise Tax Board.

(7) For a year, the limitation referred to in paragraph (1) (B) shall not apply to benefits with respect to a participant under a defined benefit plan—

(A) Which is maintained for such year pursuant to a collective-bargaining agreement between employee representatives and one or more employers,

(B) Which, at all times during such year, has at least 100 participants,

(C) Benefits under which are determined by multiplying a specified amount (which is the same amount for each participant) by the number of the participant's years of service,

(D) Which provides that an employee who has at least four years of service has a nonforfeitable right to 100 percent of his accrued benefit derived from employer contributions, and

(E) Which requires, as a condition of participation in the plan, that an employee complete a period of not more than 60 consecutive days of service with the employer or employers maintaining the plan.

This paragraph shall not apply to a participant whose compensation for any three years during the 10-year period immediately preceding the year in which he separates from service exceeded the average compensation for such three years of all participants in such plan. This paragraph shall not apply to a participant for any period for which he is a participant under another plan to which this section applies which is maintained by an employer maintaining this plan. For any year for which the paragraph applies to benefits with respect to a participant, paragraph (1) (A) and subdivision (d) (1) (A) shall be applied with respect to such participant by substituting "37,500" for "75,000".

(c) (1) Contributions and other additions with respect to a participant exceed the limitation of this subdivision, if, when expressed as an annual addition (within the meaning of paragraph (2)) to the participant's account, such annual addition is greater than the lesser of—

(A) Twenty-five thousand dollars ($25,000), or

(B) Twenty-five percent of the participant's compensation.

(2) For purposes of paragraph (1), the term "annual addition" means the sum for any year of

(i) The amount of the employee contributions in excess of 6 percent of his compensation, or

(ii) One-half of the employee contributions, and

(C) Forfeitures

For the purposes of this paragraph, employee contributions under subparagraph (B) are determined without regard to any rollover contributions (as defined in Sections 17503, 17511, 17530, and 17530.1).

(3) For purposes of paragraph (1), the term "participant's compensation" means the compensation of the participant from the employer for the year. In the case of an employee within the meaning of Section 17502.2, the preceding sentence shall be applied by substituting for "compensation of the participant from the employer" the following: "the participant's earned income (within the meaning of Section 17502.2 but determined without regard to any exclusion under Section 911 of the Internal Revenue Code of 1954 as amended by Public Law 95-600)."

(4) (A) In the case of amounts contributed for an annuity contract described in Section 17512 for the year in which occurs a participant's separation from the service with an educational institution, a hospital, or a home health service agency, at the election of the participant there is substituted for the amount specified in paragraph (1) (B) the amount of the exclusion allowance which would be determined under Section 17512 (without regard to this section) for the participant's taxable year in which such separation occurs if the participant's years of service were computed only by taking into account his service for the employer during the period of years (not exceeding 10) ending on the date of such separation.

(B) In the case of amounts contributed for an annuity contract described in Section 17512 for any year in the case of a participant who is an employee of an educational institution, a hospital, or a home health service agency, at the election of the participant there is substituted for the amount specified in paragraph (1) (B) the least of—

(i) Twenty-five percent of the participant's includable compensation (as defined in Section 17512) plus four thousand dollars ($4,000),

(ii) The amount of the exclusion allowance determined for the year under Section 17512, or

(iii) Fifteen thousand dollars ($15,000).

(C) In the case of amounts contributed for an annuity contract described in Section 17512 for any year for a participant who is an employee of an educational institution, a hospital, or a home health service agency, at the election of the participant the provisions of Section 17512(a)(2) shall not apply.

(D) (i) The provisions of this paragraph apply only if the participant elects its application at the time and in the manner provided under regulations prescribed by the Franchise Tax Board. Not more than one election may be made under subparagraph (A) by any participant. A participant who elects to have the provisions

of subparagraph (A), (B), or (C) of this paragraph apply to him may not elect to have any other subparagraph of this paragraph apply to him. Any election made under this paragraph is irrevocable.

(ii) For purposes of this paragraph the term "educational institution" means an educational institution as defined in Section 151(e)(4) of the Internal Revenue Code of 1954 as amended by Public Law 95-600

(iii) For purposes of this paragraph the term "home health service agency" means an organization described in subsection 501(c)(3) of the Internal Revenue Code of 1954 as amended by Public Law 95-600 which is exempt from tax under Section 501(a) of the Internal Revenue Code of 1954 as amended by Public Law 95-600 and which has been determined by the Secretary of Health, Education, and Welfare to be a home health agency (as defined in Section 1861(o) of the Social Security Act).

(5) In the case of a plan which provides contributions or benefits for employees some or all of whom are employees within the meaning of Section 17502.2(a), the amount determined under paragraph (1)(B) with respect to any participant shall not be less than the amount deductible under Section 17524 with respect to any individual who is an employee within the meaning of Section 17502.2(a).

(6) Paragraph (1)(B) shall not apply to a contribution described in Section 17502.4 which is made on behalf of a participant for a year to a plan which benefits an owner-employee (within the meaning of Section 17502.2(c)), if—

(A) The annual addition determined under this section with respect to the participant for such year consists solely of such contribution, and

(B) The participant is not an active participant at any time during such year in a defined benefit plan maintained by the employer.

For purposes of this section and Section 17502.4, in the case of a plan which provides contributions or benefits for employees who are not owner-employees, such plan will not be treated as failing to satisfy Section 17501(d) merely because contributions made on behalf of employees who are not owner-employees are not permitted to exceed the limitations of paragraph (1)(B).

(d) (1) The Franchise Tax Board shall adjust annually—

(A) The amount in subdivision (b)(1)(A),

(B) The amount in subdivision (c)(1)(A), and

(C) In the case of a participant who is separated from service, the amount taken into account under subdivision (b)(1)(B), for increases in the cost of living in accordance with regulations prescribed by the Franchise Tax Board Such regulations shall provide for adjustment procedures which are similar to the procedures used to adjust primary insurance amounts under Section 215(i)(2)(A) of the Social Security Act.

(2) The base period taken into account—

(A) For purposes of subparagraphs (A) and (B) of paragraph (1)

is the calendar quarter beginning October 1, 1974, and

(B) For purposes of subparagraph (C) of paragraph (1) is the last calendar quarter of the calendar year before the calendar year in which the participant is separated from service.

(e) (1) In any case in which an individual is a participant in both a defined benefit plan and a defined contribution plan maintained by the same employer, the sum of the defined benefit plan fraction and the defined contribution plan fraction for any year may not exceed 1.4.

(2) For purposes of this subdivision, the defined benefit plan fraction for any year is a fraction—

(A) The numerator of which is the projected annual benefit of the participant under the plan (determined as of the close of the year), and

(B) The denominator of which is the projected annual benefit of the participant under the plan (determined as of the close of the year) if the plan provided the maximum benefit allowable under subsection (b).

(3) Defined contribution plan fraction. For purposes of this subdivision, the defined contribution plan fraction for any year is a fraction—

(A) The numerator of which is the sum of the annual additions to the participant's account as of the close of the year, and

(B) The denominator of which is the sum of the maximum amount of annual additions to such account which could have been made under subdivision (c) for such year and for each prior year of service with the employer.

(4) In applying paragraph (3) with respect to years beginning before January 1, 1976—

(A) The aggregate amount taken into account under paragraph (3) (A) may not exceed the aggregate amount taken into account under paragraph (3) (B), and

(B) The amount taken into account under subdivision (c) (2) (B) (i) for any year concerned is an amount equal to—

(i) The excess of the aggregate amount of employee contributions for all years beginning before January 1, 1976, during which the employee was an active participant of the plan, over 10 percent of the employee's aggregate compensation for all such years, multiplied by

(ii) A fraction the numerator of which is 1 and the denominator of which is the number of years beginning before January 1, 1976, during which the employee was an active participant in the plan. Employee contributions made on or after October 2, 1973, shall be taken into account under subparagraph (B) of the preceding sentence only to the extent that the amount of such contributions does not exceed the maximum amount of contributions permissible under the plan as in effect on October 2, 1973.

(5) For purposes of this subdivision, any annuity contract described in Section 17512 (except in the case of a participant who

has elected under subdivision (c) (4) (D) to have the provisions of subdivision (c) (4) (C) apply), any individual retirement account described in Section 17530(a), any individual retirement annuity described in Section 17530(b), any simplified employee pension, and any retirement bond described in Section 17530.1, for the benefit of a participant shall be treated as a defined contribution plan maintained by each employer with respect to which the participant has the control required under subdivision (b) or (c) of Section 414 of the Internal Revenue Code of 1954 as amended by Public Law 95-600 (as modified by subdivision (h)) In the case of any annuity contract described in Section 17512, the amount of the contribution disqualified by reason of subdivision (g) shall reduce the exclusion allowance as provided in Section 17512.

(f) (1) For purposes of applying the limitations of subdivisions (b), (c), and (e)—

(A) All defined benefit plans (whether or not terminated) of an employer are to be treated as one defined benefit plan, and

(B) All defined contribution plans (whether or not terminated) of an employer are to be treated as one defined contribution plan.

(2) If the employer has more than one defined benefit plan—

(A) Subdivision (b) (1) (B) shall be applied separately with respect to each such plan, but

(B) In applying (b) (1) (B) to the aggregate of such defined benefit plans for purposes of this subdivision, the high three years of compensation taken into account shall be the period of consecutive calendar years (not more than three) during which the individual had the greatest aggregate compensation from the employer.

(g) The Franchise Tax Board, in applying the provisions of this section to benefits or contributions under more than one plan maintained by the same employer, and to any trusts, contracts, accounts, or bonds referred to in subdivision (a) (2), with respect to which the participant has the control required under Section 414(b) or (c) of the Internal Revenue Code of 1954 as amended by Public Law 95-600, as modified by subdivision (h), shall, under regulations prescribed by the Franchise Tax Board, disqualify one or more trusts, plans, contracts, accounts, or bonds, or any combination thereof until such benefits or contributions do not exceed the limitations contained in this section. In addition to taking into account such other factors as may be necessary to carry out the purposes of subdivisions (e) and (f), the regulations prescribed under this paragraph shall provide that no plan which has been terminated shall be disqualified until all other trusts, plans, contracts, accounts, or bonds have been disqualified.

(h) For purposes of applying subdivisions (b) and (c) of Section 414 of the Internal Revenue Code of 1954 as amended by Public Law 95-600 to this section, the phrase "more than 50 percent" shall be substituted for the phrase "at least 80 percent" each place it appears in Section 1563(a) (1) of the Internal Revenue Code of 1954 as amended by Public Law 95-600.

(i) Where for the period before January 1, 1976, or (if later) the first day of the first plan year of the plan, the records necessary for the application of this section are not available, the Franchise Tax Board may by regulations prescribe alternative methods for determining the amounts to be taken into account for such period.

(j) The Franchise Tax Board shall prescribe such regulations as may be necessary to carry out the purposes of this section, including, but not limited to, regulations defining the term "year" for purposes of any provision of this section.

(k) (1) For purposes of this article, the term "defined contribution plan" or "defined benefit plan" means a defined contribution plan (within the meaning of Section 414(i) of the Internal Revenue Code of 1954 as amended by Public Law 95-600) or a defined benefit plan (within the meaning of Section 414(j) of the Internal Revenue Code of 1954 as amended by Public Law 95-600), whichever applies, which is—

(A) A plan described in Section 17501 which includes a trust which is exempt from tax under Section 17631,

(B) An annuity plan described in Section 17511,

(C) A qualified bond purchase plan described in Section 17526,

(D) An annuity contract described in Section 17512,

(E) An individual retirement account described in Section 17530(a),

(F) An individual retirement annuity described in Section 17530(b),

(G) A simplified employee pension, or

(H) An individual retirement bond described in Section 17530.1.

SEC. 54. Section 17530.5 is added to the Revenue and Taxation Code, to read:

17530.5. An employee stock ownership plan qualified under Section 409A of the Internal Revenue Code of 1954 as amended by Public Law 95-600 shall be a qualified plan within this part.

SEC. 55 Section 17585 is added to the Revenue and Taxation Code, to read:

17585. (a) In the case of a participant in an eligible state deferred compensation plan, any amount of compensation deferred under the plan, and any income attributable to the amounts so deferred, shall be includable in gross income only for the taxable year in which such compensation or other income is paid or otherwise made available to the participant or other beneficiary.

(b) For purposes of this section, the term "eligible state deferred compensation plan" means a plan established and maintained by a state—

(1) In which only individuals who perform service for the state may be participants,

(2) Which provides that (except as provided in paragraph (3)) the maximum that may be deferred under the plan for the taxable year shall not exceed the lesser of—

(A) Seven thousand five hundred dollars ($7,500), or

(B) Thirty-three and one-third percent of the participant's includable compensation,

(3) Which may provide that, for one or more of the participant's last three taxable years ending before he attains normal retirement age under the plan, the ceiling set forth in paragraph (2) shall be the lesser of—

(A) Fifteen thousand dollars ($15,000), or

(B) The sum of—

(i) The plan ceiling established for purposes of paragraph (2) for the taxable year (determined without regard to this paragraph), plus

(ii) So much of the plan ceiling established for purposes of paragraph (2) for taxable years before the taxable year as has not theretofore been used under paragraph (2) or this paragraph,

(4) Which provides that compensation will be deferred for any calendar month only if an agreement providing for such deferral has been entered into before the beginning of such month,

(5) Which does not provide that amounts payable under the plan will be made available to participants or other beneficiaries earlier than when the participant is separated from service with the state or is faced with an unforeseeable emergency (determined in the manner prescribed by the Franchise Tax Board by regulation), and

(6) Which provides that—

(A) All amounts of compensation deferred under the plan,

(B) All property and rights purchased with such amounts, and

(C) All income attributable to such amounts, property, or rights,

shall remain (until made available to the participant or other beneficiary) solely the property and rights of the state (without being restricted to the provision of benefits under the plan) subject only to the claims of the state's general creditors.

A plan which is administered in a manner which is inconsistent with the requirements of any of the preceding paragraphs shall be treated as not meeting the requirements of such paragraph as of the first plan year beginning more than 180 days after the date of notification by the Franchise Tax Board of the inconsistency unless the state corrects the inconsistency before the first day of such plan year.

(c) (1) The maximum amount of the compensation of any one individual which may be deferred under subdivision (a) during any taxable year shall not exceed seven thousand five hundred dollars ($7,500) (as modified by any adjustment provided under subdivision (b) (3))

(2) In applying paragraph (1) of this subdivision and paragraphs (2) and (3) of subdivision (b), an amount excluded during a taxable year under Section 17512 shall be treated as an amount deferred under subdivision (a). In applying subparagraph (b) of Section 17512(a) (2), an amount deferred under subdivision (a) for any year of service shall be taken into account as if described in such clause.

(d) For purposes of this section—

(1) The term "state" means a state, a political subdivision of a state, and an agency or instrumentality of a state or political subdivision of a state.

(2) The performance of service includes performance of service as an independent contractor.

(3) The term "participant" means an individual who is eligible to defer compensation under the plan.

(4) The term "beneficiary" means a beneficiary of the participant, his estate, or any other person whose interest in the plan is derived from the participant.

(5) The term "includable compensation" means compensation for service performed for the state which (taking into account the provisions of this section and Section 17512) is currently includable in gross income.

(6) Compensation shall be taken into account at its present value.

(7) The amount of includable compensation shall be determined without regard to any community property laws.

(8) Gains from the disposition of property shall be treated as income attributable to such property

(9) (A) This section shall apply with respect to any participant in a plan of a rural electric cooperative in the same manner and to the same extent as if such plan were a plan of a state

(B) For purposes of subparagraph (A) the term "rural electric cooperative" means an organization described in subparagraph (B) of Section 457(d)(9) of the Internal Revenue Code of 1954 as amended by Public Law 95-600.

(e) (1) In the case of a plan of a state providing for a deferral of compensation, if such plan is not an eligible state deferred compensation plan, then—

(A) The compensation shall be included in the gross income of the participant or beneficiary for the first taxable year in which there is no substantial risk of forfeiture of the rights to such compensation, and

(B) The tax treatment of any amount made available under the plan to a participant or beneficiary shall be determined under Sections 17101 to 17112.7, inclusive (relating to annuities, etc)

(2) Paragraph (1) shall not apply to—

(A) A plan described in Section 17501 which includes a trust exempt from tax under Section 17631,

(B) An annuity plan or contract described in Sections 17511 and 17512,

(C) A qualified bond purchase plan described in Section 17526,

(D) That portion of any plan which consists of a transfer of property described in Section 17122.7, and

(E) That portion of any plan which consists of a trust to which Section 17504 applies

(3) For purposes of this subdivision—

(A) The term "plan" includes any agreement or arrangement

(B) The rights of a person to compensation are subject to a

substantial risk of forfeiture if such person's rights to such compensation are conditioned upon the future performance of substantial services by any individual.

(f) (1) This section shall apply to taxable years beginning after December 31, 1978.

(2) (A) In the case of any taxable year beginning after December 31, 1978, and before January 1, 1982—

(i) Any amount of compensation deferred under a plan of a state providing for a deferral of compensation (other than a plan described in subdivision (e) (2)), and any income attributable to the amounts so deferred, shall be includable in gross income only for the taxable year in which such compensation or other income is paid or otherwise made available to the participant or other beneficiary, but

(ii) The maximum amount of the compensation of any one individual which may be excluded from gross income by reason of clause (i) and by reason of subdivision (a) during any such taxable year shall not exceed the lesser of—

(I) Seven thousand five hundred dollars ($7,500), or

(II) Thirty-three and one-third percent of the participant's includable compensation.

(B) If, in the case of any participant for any taxable year, all of the plans are eligible state deferred compensation plans, then clause (ii) of subparagraph (A) of this paragraph shall be applied with the modification provided by paragraph (3) of subdivision (b).

(C) In applying clause (ii) of subparagraph (A) of this paragraph and Section 17512(a) (2) (B), rules similar to the rules of subdivision (e) (2) shall apply.

(D) Except as otherwise provided in this paragraph, terms used in this paragraph shall have the same meaning as when used in the other subdivisions in this section.

SEC 56 Section 17586 is added to the Revenue and Taxation Code, to read.

17586. (a) A taxpayer who is on an accrual method of accounting may elect not to include in the gross income for the taxable year the income attributable to the qualified sale of any magazine, paperback, or record which is returned to the taxpayer before the close of the merchandise return period.

(b) For purposes of this section—

(1) The term "magazine" includes any other periodical.

(2) The term "paperback" means any book which has a flexible outer cover and the pages of which are affixed directly to such outer cover. Such term does not include a magazine

(3) The term "record" means a disc, tape, or similar object on which musical, spoken, or other sounds are recorded

(4) If a taxpayer makes qualified sales of more than one category of merchandise in connection with the same trade or business, this section shall be applied as if the qualified sales of each such category were made in connection with a separate trade or business. For purposes of the preceding sentence, magazines, paperbacks, and

records shall each be treated as a separate category of merchandise.

(5) A sale of a magazine, paperback, or record is a qualified sale if—

(A) At the time of sale, the taxpayer has a legal obligation to adjust the sales price of such magazine, paperback, or record if it is not resold, and

(B) The sales price of such magazine, paperback, or record is adjusted by the taxpayer because of a failure to resell it.

(6) The amount excluded under this section with respect to any qualified sale shall be the lesser of—

(A) The amount covered by the legal obligation described in paragraph (5)(A), or

(B) The amount of the adjustment agreed to by the taxpayer before the close of the merchandise return period.

(7) (A) Except as provided in subparagraph (B), the term "merchandise return period" means, with respect to any taxable year

(i) In the case of magazines, the period of two months and 15 days first occurring after the close of the taxable year, or

(ii) In the case of paperbacks and records, the period of four months and 15 days first occurring after the close of the taxable year.

(B) The taxpayer may select a shorter period than the applicable period set forth in subparagraph (A).

(C) Any change in the merchandise return period shall be treated as a change in the method of accounting.

(8) As prescribed by the Franchise Tax Board, the taxpayer may substitute, for the physical return of magazines, paperbacks, or records required by subdivision (a), certification or other evidence that the magazine, paperback, or record has not been resold and will not be resold if such evidence—

(A) Is in the possession of the taxpayer at the close of the merchandise return period, and

(B) Is satisfactory to the Franchise Tax Board

(9) A repurchase by the taxpayer shall be treated as an adjustment of the sales price rather than as a resale.

(c) (1) This section shall apply to qualified sales of magazines, paperbacks, or records, as the case may be, if and only if the taxpayer makes an election under this section with respect to the trade or business in connection with which such sales are made An election under this section may be made without the consent of the Franchise Tax Board The election shall be made in such manner as the Franchise Tax Board may prescribe and shall be made for any taxable year not later than the time prescribed by law for filing the return for such taxable year (including extensions thereof).

(2) An election made under this section shall apply to all qualified sales of magazines, paperbacks, or records, as the case may be, made in connection with the trade or business with respect to which the taxpayer has made the election

(3) An election under this section shall be effective for the taxable

year for which it is made and for all subsequent taxable years, unless the taxpayer secures the consent of the Franchise Tax Board to the revocation of such election.

(4) Except to the extent inconsistent with the provisions of this section, for purposes of this part, the computation of taxable income under an election made under this section shall be treated as a method of accounting.

(d) In applying Section 17613 with respect to any election under this section which applies to magazines, the period for taking into account any decrease in taxable income resulting from the application of subdivision (b) of Section 17611, shall be the taxable year for which the election is made and the four succeeding taxable years.

(e) (1) In the case of any election under this section which applies to paperbacks or records, in lieu of applying Sections 17611 through 17614, the taxpayer shall establish a suspense account for the trade or business for the taxable year for which the election is made.

(2) The opening balance of the account described in paragraph (1) for the first taxable year to which the election applies shall be the largest dollar amount of returned merchandise which would have been taken into account under this section for any of the three immediately preceding taxable years if this section had applied to such preceding three taxable years This paragraph and paragraph (3) shall be applied by taking into account only amounts attributable to the trade or business for which such account is established.

(3) At the close of each taxable year the suspense account shall be—

(A) Reduced by the excess (if any) of—

(i) The opening balance of the suspense account for the taxable year, over

(ii) The amount excluded from gross income for the taxable year under subsection (a), or

(B) Increased (but not in excess of the initial opening balance) by the excess (if any) of—

(i) The amount excluded from gross income for the taxable year under subsection (a), over

(ii) The opening balance of the account for the taxable year

(4) (A) In the case of any reduction under paragraph (3) (A) in the account for the taxable year, an amount equal to such reduction shall be excluded from gross income for such taxable year.

(B) In the case of any increase under paragraph (3) (B) in the account for the taxable year, an amount equal to such increase shall be included in gross income for such taxable year.

If the initial opening balance exceeds the dollar amount of returned merchandise which would have been taken into account under subsection (a) for the taxable year preceding the first taxable year for which the election is effective if this section had applied to such preceding taxable year, then an amount equal to the amount of such excess shall be included in gross income for such first taxable

year.

(5) The application of this subsection with respect to a taxpayer which is a party to any transaction with respect to which there is nonrecognition of gain or loss to any party to the transaction by reason of Chapter 4 shall be determined as prescribed by the Franchise Tax Board.

(6) The amendments to this section made by the 1979–80 Regular Session of the Legislature shall apply with respect to taxable years beginning on or after October 1, 1979.

SEC. 57. Section 17599 of the Revenue and Taxation Code is amended to read:

17599 (a) In the case of a taxpayer engaged in an activity to which this section applies, any loss from such activity for the taxable year shall be allowed only to the extent of the aggregate amount with respect to which the taxpayer is at risk (within the meaning of subdivision (b)) for such activity at the close of the taxable year. Any loss from such activity not allowed under this section for the taxable year shall be treated as a deduction allocable to such activity in the first succeeding taxable year.

(b) (1) For purposes of this section, a taxpayer shall be considered at risk for an activity with respect to amounts including—

(A) The amount of money and the adjusted basis of other property contributed by the taxpayer to the activity, and

(B) Amounts borrowed with respect to such activity (as determined under paragraph (2)).

(2) For purposes of this section, a taxpayer shall be considered at risk with respect to amounts borrowed for use in an activity to the extent that he—

(A) Is personally liable for the repayment of such amounts, or

(B) Has pledged property, other than property used in such activity, as security for such borrowed amount (to the extent of the net fair market value of the taxpayer's interest in such property)

No property shall be taken into account as security if such property is directly or indirectly financed by indebtedness which is secured by property described in paragraph (1).

(3) For purposes of subparagraph (B) of paragraph (1), amounts borrowed shall not be considered to be at risk with respect to an activity if such amounts are borrowed from any person who—

(A) Has an interest (other than an interest as a creditor) in such activity, or

(B) Has a relationship to the taxpayer specified within any one of the paragraphs of Section 17288.

(4) Notwithstanding any other provision of this section, a taxpayer shall not be considered at risk with respect to amounts protected against loss through nonrecourse financing, guarantees, stop loss agreements, or other similar arrangements

(5) If in any taxable year the taxpayer has a loss from an activity to which this section applies, the amount with respect to which a taxpayer is considerd to be at risk (within the meaning of subdivision

(b)) in subsequent taxable years with respect to that activity shall be reduced by that portion of the loss which (after the application of subdivision (a)) is allowable as a deduction

(c) (1) This section applies to any taxpayer engaged in the activity of—

(A) Holding, producing, or distributing motion picture films or video tapes,

(B) Farming (as defined in Section 17599.1(e)),

(C) Leasing any Section 18211 property (as defined in paragraph (3) of subdivision (a) of Section 18211),

(D) Exploring for, or exploiting, oil and gas resources as a trade or business or for the production of income, or

(E) Exploring for, or exploiting, geothermal deposits (as defined in Section 17686.1)

(2) For purposes of this section, a taxpayer's activity with respect to each—

(A) Film or video tape,

(B) Section 18211 property which is leased or held for leasing,

(C) Farm,

(D) Oil and gas property (as defined under Section 614 of the Internal Revenue Code of 1954), or

(E) Geothermal property (as determined under Section 614 of the Internal Revenue Code of 1954),

shall be treated as a separate activity. A partner's interest in a partnership shall be treated as a single activity to the extent that the partnership is engaged in activities described in any subparagraph of this paragraph

(3) (A) In the case of taxable years beginning after December 31, 1978, this section also applies to each activity—

(i) Engaged in by the taxpayer in carrying on a trade or business or for the production of income, and

(ii) Which is not described in paragraph (1)

(B) Except as provided in subparagraph (C), for purposes of this section, activities described in subparagraph (A) which constitute a trade or business shall be treated as one activity if—

(i) The taxpayer actively participates in the management of such trade or business, or

(ii) Such trade or business is carried on by a partnership and 65 percent or more of the losses for the taxable year is allocable to persons who actively participate in the management of the trade or business

(C) The Franchise Tax Board shall prescribe which activities described in subparagraph (A) shall be aggregated or treated as separate activities.

(D) In the case of activities described in subparagraph (A), the holding of real property (other than mineral property) shall be treated as a separate activity, and subdivision (a) shall not apply to losses from such activity For purposes of the preceding sentence, personal property and services which are incidental to making real

property available as living accommodations shall be treated as part of the activity of holding such real property.

(E) In the case of an activity described in subparagraph (A), subdivision (b) (3) shall apply only to the extent prescribed by the Franchise Tax Board.

(d) For purposes of this section, the term "loss" means the excess of the deductions allowable under this part for the taxable year (determined without regard to the first sentence of subdivision (a)) and allocable to an activity to which this section applies over the income received or accrued by the taxpayer during the taxable year from such activity.

(e) Except as provided in paragraphs (1) and (2), this section shall apply to losses attributable to amounts paid or incurred in taxable years beginning after December 31, 1976. For purposes of this section, any amount allowed or allowable for depreciation or amortization for any period shall be treated as an amount paid or incurred in such period.

(1) (A) In the case of any activity described in subparagraph (A) of paragraph (1) of subdivision (c), this section shall not apply to—

(i) Deductions for depreciation or amortization with respect to property the principal production of which began before January 1, 1977, and for the purchase of which there was on January 1, 1977, and at all times thereafter a binding contract, and

(ii) Deductions attributable to producing or distributing property the principal production of which began before January 1, 1977

(B) In the case of any activity described in subparagraph (A) of paragraph (1) of subdivision (c), this section shall not apply to deductions attributable to the producing of a film the principal photography of which began on or before December 31, 1976, if—

(i) On December 31, 1976, there was an agreement with the director or a principal motion picture star, or on or before December 31, 1976, there had been expended (or committed to the production) an amount not less than the lower of one hundred thousand dollars ($100,000) or 10 percent of the estimated costs of producing the film, and

(ii) The production takes place in the United States Subparagraph (A) shall apply only to taxpayers who held their interests on December 31, 1976 Subparagraph (B) shall apply only to taxpayers who held their interests on December 31, 1976.

(3) (A) In the case of any activity described in subparagraph (C) of paragraph (1) of subdivision (c) of this section shall not apply with respect to—

(i) Leases entered into before January 1, 1977, and

(ii) Leases where the property was ordered by the lessor or lessee before January 1, 1977

(B) Subparagraph (A) shall apply only to taxpayers who held their interest in the property on December 31, 1976

(f) (1) If zero exceeds the amount for which the taxpayer is at risk in any activity at the close of any taxable year—

(A) The taxpayer shall include in his gross income for such taxable year (as income from such activity) an amount equal to such excess, and

(B) An amount equal to the amount so included in gross income shall be treated as a deduction allocable to such activity for the first succeeding taxable year

(2) The excess referred to in paragraph (1) shall not exceed—

(A) The aggregate amount of the reductions required by subsection (b) (5) with respect to the activity for all prior taxable years beginning after December 31, 1978, reduced by

(B) The amounts previously included in gross income with respect to such activity under this subsection.

(g) The amendments made to this section by the 1979–80 Regular Session of the Legislature shall apply to taxable years beginning after December 31, 1978.

(h) If the amount for which the taxpayer is at risk in any activity as of the close of the taxpayer's last taxable year beginning before January 1, 1979, is less than zero, subdivision (f) shall be applied with respect to such activity by substituting such negative amount for zero

SEC. 58 Section 17599.1 of the Revenue and Taxation Code is amended to read:

17599 1 (a) In the case of any farming syndicate (as defined in subdivision (c)), a deduction (otherwise allowable under this part) for amounts paid for feed, seed, fertilizer, or other similar farm supplies shall only be allowed for the taxable year in which such feed, seed, fertilizer, or other supplies are actually used or consumed, or, if later, in the taxable year for which allowable as a deduction (determined without regard to this section)

(b) In the case of any farming syndicate (as defined in subdivision (c))—

(1) The cost of poultry (including egg-laying hens and baby chicks) purchased for use in a trade or business (or both for use in a trade or business and for sale) shall be capitalized and deducted ratably over the lesser of 12 months or their useful life in the trade or business, and

(2) The cost of poultry purchased for sale shall be deducted for the taxable year in which the poultry is sold or otherwise disposed of.

(c) (1) For purposes of this section, the term "farming syndicate" means—

(A) A partnerhsip or any other enterprise other than a corporation engaged in the trade or business of farming, if at any time interests in such partnership or enterprise have been offered for sale in any offering required to be registered with any federal or state agency having authority to regulate the offering of securities for sale, or

(B) A partnership or any other enterprise other than a corporation engaged in the trade or business of farming, if more than 35 percent of the losses during any period are allocable to limited

partners or limited entrepreneurs.

(2) For purposes of subparagraph (B) of paragraph (1), the following shall be treated as an interest which is not held by a limited partner or a limited entrepreneur:

(A) In the case of any individual who has actively participated (for a period of not less than five years) in the management of any trade or business of farming, any interest in a partnership or other enterprise which is attributable to such active participation,

(B) In the case of any individual whose principal residence is on a farm, any partnership or other enterprise engaged in the trade or business of farming such farm,

(C) In the case of any individual who is actively participating in the management of any trade or business of farming or who is an individual who is described in subparagraph (A) or (B), any participation in the further processing of livestock which was raised in such trade or business (or in the trade or business referred to in subparagraph (A) or (B)),

(D) In the case of an individual whose principal business activity involves active participation in the management of a trade or business of farming, any interest in any other trade or business of farming, and

(E) Any interest held by a member of the family (or a spouse of any such member) of a grandparent of an individual described in subparagraph (A), (B), (C), or (D) if the interest in the partnership or the enterprise is attributable to the active participation of the individual described in subparagraph (A), (B), (C), or (D).

For purposes of subparagraph (A), where one farm is substituted for or added to another farm, both farms shall be treated as one farm. For purposes of subparagraph (E), the term "family" has the meaning given to such term by Section 17289.

(d) Subdivision (a) shall not apply to—

(1) Any amount paid for supplies which are on hand at the close of the taxable year on account of fire, storm, flood, or other casualty or on account of disease or drought, or

(2) Any amount required to be charged to capital account under Section 17235.

(e) For purposes of this section—

(1) The term "farming" means the cultivation of land or the raising or harvesting of any agricultural or horticultural commodity including the raising, shearing, feeding, caring for, training and management of animals. For purposes of the preceding sentence, trees (other than trees bearing fruit or nuts) shall not be treated as an agricultural or horticultural commodity

(2) The term "limited entrepreneur" means a person who—

(A) Has an interest in an enterprise other than as a limited partner, and

(B) Does not actively participate in the management of such enterprise

SEC. 59. Section 17599.2 is added to the Revenue and Taxation Code, to read:

17599 2. If—

(a) A farming syndicate (within the meaning of subdivision (c) of Section 17599.1) was in existence on December 31, 1975, and

(b) Such syndicate elects an accrual method of accounting for a taxable year beginning before January 1, 1979,

then such election shall be treated as having been made with the consent of the Franchise Tax Board and, under the regulations prescribed by the Franchise Tax Board, the net amount of the adjustments required by Section 17611 to be taken into account by the taxpayer in computing taxable income shall be taken into account in each of the 10 taxable years (or the remaining taxable years where there is a stated future life of less than 10 taxable years) beginning with the year of change.

SEC 60. Section 17599.3 is added to the Revenue and Taxation Code, to read·

17599.3. (a) At the election of a taxpayer whose taxable income is computed under an accrual method of accounting, the deduction allowable under this part for the redemption costs of qualified discount coupons shall be an amount equal to the sum of—

(1) Such costs incurred by the taxpayer with respect to coupons

(B) Which were received by the taxpayer before the close of the redemption period for the taxable year, plus

(2) Such costs (other than costs properly taken into account under paragraph (1) for a prior taxable year) incurred by the taxpayer during the taxable year.

(b) For purposes of this section—

(1) The term "qualified discount coupon" means a discount coupon which—

(A) Was issued by the taxpayer,

(B) Is redeemable by the taxpayer, and

(C) Allows a discount on the purchase price of merchandise or other tangible personal property.

(2) The determination of whether or not a discount coupon is a qualified discount coupon shall be made without regard to whether the coupon was issued through a newspaper, magazine, or other publication, by mail, on the pack or in the pack of merchandise, or otherwise

(3) A coupon shall not be a qualified discount coupon if—

(A) The face amount of such coupon is more than five dollars ($5), or

(B) Such coupon may be used with other coupons to bring about a price discount of more than five dollars ($5) with respect to any item

(4) A coupon shall not be a qualified discount coupon if the issuer directly redeems such coupon from the person using the coupon to receive a price discount

(5) A coupon is redeemable by the taxpayer if the terms of the

coupon require the taxpayer to redeem the coupon when presented for redemption in accordance with its terms

(c) For purposes of this section—

(1) The term "redemption cost" means, with respect to any coupon—

(A) The lesser of—

(i) The amount of the discount provided by the terms of the coupon, or

(ii) The amount incurred by the taxpayer for paying such discount, plus

(B) The amount incurred by the taxpayer for a payment to the retailer (or other person redeeming the coupon from the person receiving the price discount), but only if the amount so payable is stated on the coupon.

(2) (A) Except as provided in subparagraph (B), the redemption period for any taxable year is the six-month period immediately following the close of the taxable year.

(B) The taxpayer may select a redemption period which is shorter than six months

(C) Any change in the redemption period shall be treated as a change in the method of accounting

(d) (1) This section shall apply to qualified discount coupons if and only if the taxpayer makes an election under this section with respect to the trade or business in connection with which such coupons are issued. An election under this section may be made without the consent of the Franchise Tax Board The election shall be made in such manner as the Franchise Tax Board may prescribe and shall be made for any taxable year not later than the time prescribed by law for filing the return for such taxable year (including extensions thereof)

(2) An election made under this section shall apply to all qualified discount coupons issued in connection with the trade or business with respect to which the taxpayer has made the election

(3) An election under this section shall apply to the taxable year for which it is made and for all subsequent taxable years, unless the taxpayer secures the consent of the Franchise Tax Board to the revocation of such election.

(4) Except to the extent inconsistent with the provisions of this section, for purposes of this part, the computation of taxable income under an election made under this section shall be treated as a method of accounting

(e) (1) In the case of any election under this section which (but for this subsection) would result in a net decrease in taxable income under subdivision (b) of Section 17611, in lieu of applying Sections 17611 through 17614, the taxpayer shall establish a suspense account for the trade or business for the taxable year for which the election is made

(2) The initial opening balance of the account described in paragraph (1) for the first taxable year to which the election applies

shall be the amount by which—

(A) The largest dollar amount which would have been taken into account under subsection (a) (1) for any of the three immediately preceding taxable years if this section had applied to such three preceding taxable years, exceeds

(B) The sum of the increases in income (and the decrease in deductions) which (but for this subsection) would result under subdivision (b) of Section 17611 for such first taxable years.

This subsection shall be applied by taking into account only amounts attributable to the trade or business for which such account is established.

(3) At the close of each taxable year, the suspense account shall be—

(A) Reduced by the excess (if any) of—

(i) The opening balance of the suspense account for the taxable year, over

(ii) The amount deducted for the taxable year under subsection (a) (1), or

(B) Increased (but not in excess of the initial opening balance) by the excess (if any) of—

(i) The amount deducted for the taxable year under subsection (a) (1), over

(ii) The opening balance of the suspense account for the taxable year.

(4) (A) In the case of any reduction under paragraph (3) (A) in the account for the taxable year, an amount equal to such reduction shall be allowed as a deduction for such taxable year.

(B) In the case of any increase under paragraph (3) (B) in the account for the taxable year, an amount equal to such increase shall be included in gross income for such taxable year.

If the amount described in paragraph (2) (A) exceeds the dollar amount which would have been taken into account under subsection (a) (1) for the taxable year preceding the first taxable year for which the election is effective if this section had applied to such preceding taxable year, then an amount equal to the amount of such excess shall be included in gross income for such first taxable year

(5) The application of this subsection with respect to a taxpayer which is a party to any transaction with respect to which there is nonrecognition of gain or loss to any party to the transaction by reason of Chapter 4 shall be determined under regulations prescribed by the Franchise Tax Board.

(f) In the case of any election under this section which results in a net increase in taxable income under subdivision (b) of Section 17611, under regulations prescribed by the Franchise Tax Board such net increase shall (except as otherwise provided in such regulations) be taken into account by the taxpayer in computing taxable income in each of the 10 taxable years beginning with the year for which the election is made

SEC. 61 Section 17686 of the Revenue and Taxation Code is

amended to read·

17686. (a) In the case of oil, gas, and geothermal wells the allowance for depletion under Section 17681 shall be 22 percent of the gross income from the property during the taxable year, excluding from such gross income an amount equal to any rents or royalties paid or incurred by the taxpayer in respect of the property. The allowance shall not exceed 50 percent of the taxable income of the taxpayer (computed without allowance for depletion) from the property, except that in no case shall the depletion allowance be less than it would be if computed without reference to this section. For purposes of the preceding sentence, the allowable deductions taken into account with respect to expenses of oil, gas, and geothermal wells in computing the taxable income from the property shall be decreased by an amount equal to so much of any gain which (A) is treated under Section 18211 (relating to gain from disposition of certain depreciable property) as gain from the sale or exchange of property which is neither a capital asset nor property described in Sections 18181 and 18182, and (B) is properly allocable to the property.

(b) Where the total accumulated amount of deduction allowed or allowable for depletion exceeds an amount equal to the adjusted cost of the taxpayer's interest in any property which is subject to recovery through depletion under this part, percentage depletion shall be allowed in respect to such interests in such property, subject to the limitations and adjustments of subdivisions (c) and (d).

(c) Where the total depletion allowance for all properties in subdivision (b) exceeds one million five hundred thousand dollars ($1,500,000), the allowance in subdivision (b) shall be reduced by 125 percent of the excess.

(d) In any case where husband and wife file separate returns, the amount specified in subdivision (c) shall be seven hundred fifty thousand dollars ($750,000) in lieu of one million five hundred thousand dollars ($1,500,000)

(e) For purposes of this section, a "geothermal deposit" means a geothermal reservoir consisting of natural heat which is stored in rocks or in an aqueous liquid or vapor (whether or not under pressure)

SEC 62 Section 17686 5 of the Revenue and Taxation Code is amended to read:

17686.5. Notwithstanding the provisions of any section in this chapter, the total accumulated amount of deduction allowed or allowable for depletion, with respect to oil, gas and geothermal wells, shall be limited to an amount equal to the adjusted cost of the taxpayer's interest in such property which is subject to recovery through depletion under this part, except as provided in Section 17686

SEC. 63 Section 17688 of the Revenue and Taxation Code is amended to read·

17688 For purposes of this section and Section 17687—

(a) The term "gross income from the property" means, in the case of a property other than an oil, gas, or geothermal well, the gross income from mining.

(b) The term "mining" includes not merely the extraction of the ores or minerals from the ground but also the treatment processes considered as mining described in paragraph (d) (and the treatment processes necessary or incidental thereto), and so much of the transportation of ores or minerals (whether or not by common carrier) from the point of extraction from the ground to the plants or mills in which such treatment processes are applied thereto as is not in excess of 50 miles unless the Franchise Tax Board finds that the physical and other requirements are such that the ore or mineral must be transported a greater distance to such plants or mills.

(c) The term "extraction of the ores or minerals from the ground" includes the extraction by mine owners or operators of ores or minerals from the waste or residue of prior mining. The preceding sentence shall not apply to any such extraction of the mineral or ore by a purchaser of such waste or residue or of the rights to extract ores or minerals therefrom.

(d) The following treatment processes where applied by the mine owner or operator shall be considered as mining to the extent they are applied to the ore or mineral in respect of which he is entitled to a deduction for depletion under Sections 17681, 17687 and 17688

(1) In the case of coal—cleaning, breaking, sizing, dust allaying, treating to prevent freezing, and loading for shipment;

(2) In the case of sulfur recovered by the Frasch process—cleaning, pumping to vats, cooling, breaking, and loading for shipment;

(3) In the case of iron ore, bauxite, ball and sagger clay, rock asphalt, and ores or minerals which are customarily sold in the form of a crude mineral product—sorting, concentrating, sintering, and substantially equivalent processes to bring to shipping grade and form, and loading for shipment,

(4) In the case of lead, zinc, copper, gold, silver, uranium, or fluorspar ores, potash, and ores or minerals which are not customarily sold in the form of the crude mineral product—crushing, grinding, and beneficiation by concentration (gravity, flotation, amalgamation, electrostatic, or magnetic), cyanidation, leaching, crystallization, precipitation (but not including electrolytic deposition, roasting, thermal or electric smelting, or refining), or by substantially equivalent processes or combination of processes used in the separation or extraction of the product or products from the ore or the mineral or minerals from other material from the mine or other natural deposit,

(5) The pulverization of talc, the burning of magnesite, the sintering and nodulizing of phosphate rock, and the furnacing of quicksilver ores,

(6) In the case of calcium carbonates and other minerals when used in making cement—all processes (other than preheating of the

kiln feed) applied prior to the introduction of the kiln feed into the kiln, but not including any subsequent process;

(7) In the case of clay used, or sold for use, in the manufacture of building or paving brick, drainage and roofing tile, sewer pipe, flowerpots and kindred products—crushing, grinding, and separating the mineral from waste, but not including any subsequent process; and

(8) Any other treatment process provided for by regulations prescribed by the Franchise Tax Board which, with respect to the particular ore or mineral, is not inconsistent with the preceding provisions of this paragraph.

(e) Unless such processes are otherwise provided for in subdivision (d) (or are necessary or incidental to processes so provided for), the following treatment processes shall not be considered as "mining": electrolytic deposition, roasting, calcining, thermal or electric smelting, refining, polishing, fine pulverization, blending with other materials, treatment effecting a chemical change, thermal action, and molding or shaping.

SEC 64. Section 17690 of the Revenue and Taxation Code is amended to read:

17690. (a) Except as provided in subsection (b), there shall be allowed as a deduction in computing taxable income all expenditures paid or incurred during the taxable year for the development of a mine or other natural deposit (other than an oil, gas, or geothermal well) if paid or incurred after the existence of ores or minerals in commercially marketable quantities has been disclosed. This section shall not apply to expenditures for the acquisition or improvement of property of a character which is subject to the allowance for depreciation provided in Sections 17208 and 17209, but allowances for depreciation shall be considered, for purposes of this section, as expenditures.

(b) At the election of the taxpayer, made in accordance with regulations prescribed by the Franchise Tax Board, expenditures described in subsection (a) paid or incurred during the taxable year shall be treated as deferred expenses and shall be deductible on a ratable basis as the units of produced ores or minerals benefited by such expenditures are sold. In the case of such expenditures paid or incurred during the development stage of the mine or deposit, the election shall apply only with respect to the excess of such expenditures during the taxable year over the net receipts during the taxable year from the ores or minerals produced from such mine or deposit. The election under this subsection, if made, must be for the total amount of such expenditures, or the total amount of such excess, as the case may be, with respect to the mine or deposit, and shall be binding for such taxable year

(c) The amount of expenditures which are treated under subsection (b) as deferred expenses shall be taken into account in computing the adjusted basis of the mine or deposit, except that such amount, and the adjustments to basis provided in Section 18052(i),

shall be disregarded in determining the adjusted basis of the property for the purpose of computing a deduction for depletion under Section 17681

SEC. 65 Section 17747 of the Revenue and Taxation Code is amended to read:

17747. (a) (1) If—

(A) A trust (or another trust to which the property is distributed) sells or exchanges property at a gain not more than two years after the date of the initial transfer of the property in trust by the transferor, and

(B) The fair market value of such property at the time of the initial transfer in trust by the transferor exceeds the adjusted basis of such property immediately after such transfer,

there is hereby imposed a tax determined in accordance with paragraph (2) on the includable gain recognized on such sale or exchange

(2) The amount of the tax imposed by paragraph (1) on any includable gain recognized on the sale or exchange of any property shall be equal to the sum of—

(A) The excess of—

(i) The tax which would have been imposed under this part for the taxable year of the transferor in which the sale or exchange of such property occurs had the amount of the includable gain recognized on such sale or exchange, reduced by any deductions properly allocable to such gain, been included in the gross income of the transferor for such taxable year, over

(ii) The tax actually imposed under this part for such taxable year on the transferor,

plus

(B) If such sale or exchange occurs in a taxable year of the transferor which begins after the beginning of the taxable year of the trust in which such sale or exchange occurs, an amount equal to the amount determined under subparagraph (A) multiplied by the annual rate established under Section 18686.

The determination of tax under clause (i) of subparagraph (A) shall be made by not taking into account any carryback, and by not taking into account any loss or deduction to the extent that such loss or deduction may be carried by the transferor to any other taxable year.

(3) The tax imposed by paragraph (1) shall be imposed for the taxable year of the trust which begins with or within the taxable year of the transferor in which the sale or exchange occurs.

(4) The tax imposed by this section for any taxable year of the trust shall be in addition to any other tax imposed by this part for such taxable year.

(b) For purposes of this section, the term "includable gain" means the lesser of—

(1) The gain recognized by the trust on the sale or exchange of any property, or

(2) The excess of the fair market value of such property at the time of the initial transfer in trust by the transferor over the adjusted basis of such property immediately after such transfer.

(c) For purposes of subdivision (a)—

(1) The character of the includable gain shall be determined as if the property had actually been sold or exchanged by the transferor, and any activities of the trust with respect to the sale or exchange of the property shall be deemed to be activities of the transferor, and

(2) The portion of the includable gain subject to the provisions of Section 18211 and Sections 18212 to 18218, inclusive, shall be determined in accordance with regulations prescribed by the Franchise Tax Board.

(d) (1) If the trust sells the property referred to in subdivision (a) in a short sale within the two-year period referred to in such subdivision such two-year period shall be extended to the date of the closing of such short sale

(2) For purposes of this section, in the case of any property held by the trust which has a basis determined in whole or in part by reference to the basis of any other property which was transferred to the trust—

(A) The initial transfer of such property in trust by the transferor shall be treated as having occurred on the date of the initial transfer in trust of such other property,

(B) Subparagraph (B) of paragraph (1) of subdivision (a) and paragraph (2) of subdivision (b) shall be applied by taking into account the fair market value and the adjusted basis of such other property, and

(C) The amount determined under paragraph (2) of subdivision (b) with respect to such other property shall be allocated (under regulations prescribed by the Franchise Tax Board) among such other property and all properties held by the trust which have a basis determined in whole or in part by reference to the basis of such other property.

(e) Subdivision (a) shall not apply to property—

(1) Acquired by the trust from a decedent or which passed to a trust from a decedent (within the meaning of Section 18044), or

(2) Acquired by a pooled income fund (as defined in Section 17734(e)), or

(3) Acquired by a charitable remainder annuity trust (as defined in Section 17763.1(d)(1)) or a charitable remainder unitrust (as defined in Section 17763 1(d)(2) and (3)), or

(4) If the sale or exchange of the property occurred after the death of the transferor.

(f) If the trust elects to report income under Section 17577 or 17578 on any sale or exchange to which subdivision (a) applies, under regulations prescribed by the Franchise Tax Board—

(1) Subdivision (a) (other than the two-year requirement of subparagraph (A) of paragraph (1) thereof) shall be applied if each installment were a separate sale or exchange of property to which

such subdivision applies, and

(2) The term "includable gain" shall not include any portion of an installment received by the trust after the death of the transferor

(g) This section shall apply to transfer in trusts made after taxable years beginning after December 31, 1976

SEC 66 Section 17771 of the Revenue and Taxation Code is amended to read:

17771 (a) For purposes of this article, the term "undistributed net income" for any taxable year means the amount by which the distributable net income of the trust for such taxable year exceeds the sum of—

(1) The amounts for such taxable year specified in paragraphs (1) and (2) of subdivision (a) of Section 17761, and

(2) The amount of taxes imposed on the trust attributable to such distributable net income.

(b) For purposes of this article, the term "accumulation distribution" for any taxable year of the trust means the amount by which the amounts specified in paragraph (2) of subdivision (a) of Section 17761 for such taxable year, exceed distributable net income for such year reduced (but not below zero) by the amounts specified in paragraph (1) of subdivision (a) of Section 17761

For purposes of Section 17775 (other than subdivision (c) thereof, relating to multiple trusts), the amounts specified in paragraph (2) of Section 17761 shall not include amounts properly paid, credited, or required to be distributed to a beneficiary from a trust as income accumulated before the birth of such beneficiary or before such beneficiary attains the age of 18. If the amounts properly paid, credited, or required to be distributed by the trust for the taxable year do not exceed the income of the trust for such year, there shall be no accumulation distribution for such year.

(c) (1) The term "taxes imposed on the trust" means the amount of the taxes which are imposed for any taxable year of the trust under this part (without regard to this article) and which, under regulations prescribed by the Franchise Tax Board, are properly allocable to the undistributed portions of the distributable net income and gains in excess of losses from sales or exchanges of capital assets The amount determined in the preceding sentence shall be reduced by any amount of such taxes deemed distributed under Sections 17773, 17774, or subdivisions (d) and (e) of Section 17777, to any beneficiary

(2) In the case of any foreign trust, the term "taxes imposed on the trust" includes the amount, reduced as provided in the last sentence of paragraph (1), of income, war profits, and excess-profits taxes imposed by any foreign country or possession of the United States on such foreign trust which, as determined under paragraph (1), are so properly allocable

(d) For purposes of this article, the term "preceding taxable year" does not include any taxable year of the trust—

(1) Which precedes by more than five years the taxable year of

the trust in which an accumulation distribution is made, if it is made in a taxable year beginning before January 1, 1974, or

(2) Which begins before January 1, 1969, in the case of an accumulation distribution made during a taxable year beginning after December 31, 1973.

In the case of a preceding taxable year with respect to which a trust qualifies (without regard to this article) under the provisions of Article 2, for purposes of the application of this article to such trust for such taxable year, such trust shall, in accordance with regulations prescribed by the Franchise Tax Board, be treated as a trust to which Article 3 applies.

SEC. 67. Section 17775 of the Revenue and Taxation Code is amended to read:

17775. (a) The total of the amounts which are treated under Sections 17772 to 17774.5, inclusive, as having been distributed by the trust in a preceding taxable year shall be included in the income of a beneficiary of the trust when paid, credited, or required to be distributed to the extent that such total would have been included in the income of such beneficiary under Section 17762(b) (and, with respect to any tax-exempt interest under Section 17763) if such total had been paid to such beneficiary on the last day of such preceding taxable year. The tax imposed by this part on a beneficiary for a taxable year in which any such amount is included in his income shall be determined only as provided in this section and shall consist of the sum of—

(1) A partial tax computed on the taxable income reduced by an amount equal to the total of such amounts, at the rate and in the manner as if this section had not been enacted, and

(2) A partial tax determined as provided in subdivision (b) of this section.

(b) (1) The partial tax imposed by subdivision (a) (2) shall be determined—

(A) By determining the number of preceding taxable years of the trust on the last day of which an amount is deemed under Section 17772 to have been distributed,

(B) By taking from the five taxable years immediately preceding the year of the accumulation distribution the one taxable year for which the beneficiary's taxable income was the highest and the one taxable year for which his taxable income was the lowest,

(C) By adding to the beneficiary's taxable income for each of the three taxable years remaining after the application of subparagraph (B) an amount determined by dividing the amount deemed distributed under Sections 17772 to 17774 5, inclusive, and required to be included in income under subdivision (a) by the number of preceding taxable years determined under subparagraph (A), and

(D) By determining the average increase in tax for the three taxable years referred to in subparagraph (C) resulting from the

application of such subparagraph.

The partial tax imposed by subdivision (a) (2) shall be the excess (if any) of the average increase in tax determined under subparagraph (D), multiplied by the number of preceding taxable years determined under subparagraph (A), over the amount of taxes (other than the amount of taxes described in paragraph (2) of subdivision (c) of Section 17771) deemed distributed to the beneficiary under Sections 17773 and 17774

(2) For purposes of paragraph (1), the taxable income of the beneficiary for any taxable year shall be deemed not to be less than zero

(3) For purposes of paragraph (1), if the amount of the undistributed net income deemed distributed in any preceding taxable year of the trust is less than 25 percent of the amount of the accumulation distribution divided by the number of preceding taxable years to which the accumulation distribution is allocated under Section 17772, the number of preceding taxable years of the trust with respect to which an amount is deemed distributed to a beneficiary under Section 17772 shall be determined without regard to such year.

(4) In computing the partial tax under paragraph (1) for any beneficiary, the income of such beneficiary for each of his prior taxable years shall include amounts previously deemed distributed to such beneficiary in such year under Sections 17772 to 17774.5, inclusive, as a result of prior accumulation distributions (whether from the same or another trust).

(5) In the case of accumulation distributions made from more than one trust which are includable in the income of a beneficiary in the same taxable year, the distributions shall be deemed to have been made consecutively in whichever order the beneficiary shall determine

(c) (1) If, in the same prior taxable year of the beneficiary in which any part of the accumulation distribution from a trust (hereinafter in this paragraph referred to as "third trust") is deemed under Section 17772 to have been distributed to such beneficiary, some part of prior distributions by each of two or more other trusts is deemed under Section 17772 to have been distributed to such beneficiary, then Sections 17773 and 17774 shall not apply with respect to such part of the accumulation distribution from such third trust

(2) For purposes of paragraph (1), an accumulation distribution from a trust to a beneficiary shall be taken into account only if such distribution, when added to any prior accumulation distributions from such trust which are deemed under Section 17772 to have been distributed to such beneficiary for the same prior taxable year of the beneficiary, equals or exceeds one thousand dollars ($1,000)

(d) (1) (A) In determining the increase in tax under subparagraph (D) of paragraph (1) of subdivision (b) for any computation year, the taxes described in paragraph (2) of

subdivision (c) of Section 17771 which are deemed distributed under Section 17773 or 17774 and added under subparagraph (c) of paragraph (1) of subdivision (b) to the taxable income of the beneficiary for any computation year shall, except as provided in subparagraphs (B) and (C), be treated as a credit against the increase in tax for such computation year under subparagraph (D) of paragraph (1) of subdivision (b).

(B) The items of income, deduction, and credit of the trust shall retain their character to the extent necessary to apply this paragraph.

(C) For purposes of this paragraph, the term "computation year" means any of the three taxable years remaining after application of subparagraph (B) of paragraph (1) of subdivision (b)

(e) In the case of a distribution from a trust to a nonresident alien individual or to a foreign corporation, the first sentence of subdivision (a) shall be applied as if the reference to the determination of character under Section 17763 applied to all amounts instead of just to tax-exempt interest.

SEC. 68 Section 17858 of the Revenue and Taxation Code is amended to read:

17858. (a) A partner's distributive share of partnership loss (including capital loss) shall be allowed only to the extent of the adjusted basis of such partner's interest in the partnership at the end of the partnership year in which such loss occurred Any excess of such loss over such basis shall be allowed as a deduction at the end of the partnership year in which such excess is repaid to the partnership.

(b) The amendment made to this section by the 1977–78 Regular Session of the Legislature shall apply to liabilities incurred after December 31, 1976.

(c) In the case of a loss which was not allowed for any taxable year by reason of the last two sentences of subdivision (a) (as in effect prior to the amendments made to this section by the 1979–80 Regular Session of the Legislature) such loss shall be treated as a deduction (subject to subdivision (a) of Section 17599) for the first taxable year beginning after December 31, 1978. The amendments made to subdivision (a) of Section 17599 by the 1979–80 Regular Session of the Legislature shall not apply with respect to partnership liabilities to which the last two sentences of subdivision (a) (as in effect prior to the amendments made to this section by the 1979–80 Regular Session of the Legislature) did not apply because of the provisions of subdivision (b)

SEC. 70. Section 18031 of the Revenue and Taxation Code is amended to read:

18031. (a) The gain from the sale or other disposition of property shall be the excess of the amount realized therefrom over the adjusted basis provided in Section 18041 for determining gain, and the loss shall be the excess of the adjusted basis provided in such section for determining loss over the amount realized.

(b) The amount realized from the sale or other disposition of

property shall be the sum of any money received plus the fair market value of the property (other than money) received.

In determining the amount realized—

(1) There shall not be taken into account any amount received as reimbursement for real property taxes which are treated under Section 17205 as imposed on the purchaser; and

(2) There shall be taken into account amounts representing real property taxes which are treated under Section 17205 as imposed on the taxpayer if such taxes are to be paid by the purchaser.

(c) In the case of a sale or exchange of property, the extent to which the gain or loss determined under this section shall be recognized for purposes of this part shall be determined under Section 18032.

(d) Nothing in this section shall be construed to prevent (in the case of property sold under contract providing for payment in installments) the taxation of that portion of any installment payment representing gain or profit in the year in which such payment is received.

(e) (1) In determining gain or loss from the sale or other disposition of a term interest in property, that portion of the adjusted basis of such interest which is determined pursuant to Sections 18044 to 18046, inclusive, 18047, or 18049 to 18051.1, inclusive (to the extent that such adjusted basis is a portion of the entire adjusted basis of the property), shall be disregarded.

(2) For purposes of paragraph (1), the term "term interest in property" means—

(A) A life interest in property,

(B) An interest in property for a term of years, or

(C) An income interest in a trust.

(3) Paragraph (1) shall not apply to a sale or other disposition which is a part of a transaction in which the entire interest in property is transferred to any person or persons.

SEC. 71. Section 18046 of the Revenue and Taxation Code is amended to read.

18046. (a) Sections 18044 and 18045 shall not apply to property which constitutes a right to receive an item of income in respect of a decedent under Sections 17831 to 17837, inclusive.

(b) In the case of a decedent dying after December 31, 1979, Sections 18044, 18045, and subdivision (a) of this section shall not apply to any property for which a carryover basis is provided by Section 18047

SEC. 72. Section 18047 of the Revenue and Taxation Code is amended to read:

18047. (a) (1) Except as otherwise provided in this section, the basis of carryover basis property acquired from a decedent dying after December 31, 1979, in the hands of the person so acquiring it shall be the adjusted basis of the property immediately before the death of the decedent, further adjusted as provided in this section.

(2) In the case of any carryover basis property which, in the hands of the decedent, was a personal or household effect, for purposes of determining loss, the basis of such property in the hands of the

person acquiring such property from the decedent shall not exceed its fair market value.

(b) (1) For purposes of this section, the term "carryover basis property" means any property which is acquired from or passed from a decedent (within the meaning of Section 1014(b) of the Internal Revenue Code of 1954) and which is not excluded pursuant to paragraph (2) or (3).

(2) The term "carryover basis property" does not include—

(A) Any item of gross income in respect of a decedent described in Sections 17831 to 17837, inclusive;

(B) Property described in Section 2042 of the Internal Revenue Code of 1954 (relating to proceeds of life insurance),

(C) A joint and survivor annuity under which the surviving annuitant is taxable under Sections 17101 to 17112, inclusive, and payments and distributions under a deferred compensation plan described in Sections 17501 to 17530.4, inclusive, to the extent such payments and distributions are taxable to the decedent's beneficiary under this part;

(D) Property included in the decedent's gross estate by reason of Section 2035, 2038, or 2041 of the Internal Revenue Code of 1954 which has been disposed of before the decedent's death in a transaction in which gain or loss is recognizable for purposes of this part

(E) Stock or a stock option passing from the decedent to the extent income in respect of such stock or stock option is includable in gross income under Section 17532(c) (1), 17533(c), or 17534(c) (1); and

(F) Property described in Section 1014(b) (5) of the Internal Revenue Code of 1954

(3) (A) The term "carryover basis property" does not include any asset—

(i) Which, in the hands of the decedent, was a personal or household effect, and

(ii) With respect to which the executor has made an election under this paragraph.

(B) The fair market value of all assets designated under this subdivision with respect to any decedent shall not exceed ten thousand dollars ($10,000)

(C) An election under this paragraph with respect to any asset shall be made by the executor in such manner as the Franchise Tax Board shall by regulation prescribe

(c) The basis of appreciated carryover basis property (determined after any adjustment under subdivision (h)) which is subject to the tax imposed by Part 8 (commencing with Section 13301) of this division in the hands of the person acquiring it from the decedent shall be increased by an amount which bears the same ratio to the taxes imposed by Part 8 (commencing with Section 13301) of this division as—

(1) The net appreciation in value of such property, bears to

(2) The fair market value of all property which is subject to the taxes imposed by Part 8 (commencing with Section 13301) of this division.

(d) (1) If sixty thousand dollars ($60,000) exceeds the aggregate bases (as determined after any adjustment under subdivision (h) or (c)) of all carryover basis property, the basis of each appreciated carryover basis property (after any adjustment under subdivision (h) or (c)) shall be increased by an amount which bears the same ratio to the amount of such excess as—

(A) The net appreciation in value of such property, bears to

(B) The net appreciation in value of all such property.

(2) For purposes of paragraph (1), the basis of any property which is a personal or household effect shall be treated as not greater than the fair market value of such property.

(3) This subdivision shall not apply to any carryover basis property acquired from any decedent who was (at the time of his death) a nonresident not a citizen of the United States.

(e) If—

(1) Any such person acquires appreciated carryover basis property from a decedent, and

(2) Such person actually pays an amount of the taxes imposed by Part 8 (commencing with Section 13301) of this division with respect to such property,

then the basis of such property (after any adjustment under subdivision (h), (c) or (d)) shall be increased by an amount which bears the same ratio to the aggregate amount of all such taxes paid by such person as—

(A) The net appreciation in value of such property, bears to

(B) The fair market value of all property acquired by such person which is subject to such taxes

(f) (1) The adjustments under subdivisions (c), (d), and (e) shall not increase the basis of property above its fair market value.

(2) For purposes of this section, the net appreciation in value of any property is the amount by which the fair market value of such property exceeds the adjusted basis of such property immediately before the death of the decedent (as determined after any adjustment under subdivision (h)). For purposes of subdivision (d) such adjusted basis shall be increased by the amount of any adjustment under subdivision (c), and, for purposes of subdivision (e), such adjusted basis shall be increased by the amount of any adjustment under subdivision (c) or (d).

(3) For purposes of subdivisions (c) and (e), property shall be treated as not subject to a tax with respect to the taxes imposed by Part 8 of this code, to the extent that a deduction is allowable with respect to such property under Section 13841, 13842 or 13805 of Part 8 (commencing with Section 13301) of this division

(4) For purposes of this section, the term "appreciated carryover basis property" means any carryover basis property if the fair market value of such property exceeds the adjusted basis of such property

immediately before the death of the decedent.

(g) (1) For purposes of this section, when not otherwise distinctly expressed, the term "fair market value" means value as determined under Section 13311 (without regard to whether there is a mortgage on, or indebtedness in respect of, the property).

(2) For purposes of this section, property passing from the decedent shall be treated as property acquired from the decedent.

(3) If the facts necessary to determine the basis (unadjusted) of carryover basis property immediately before the death of the decedent are unknown and cannot be reasonably ascertained, such basis shall be treated as being the fair market value of such property as of the date (or approximate date) at which such property was acquired by the decedent or by the last preceding owner in whose hands it did not have a basis determined in whole or in part by reference to its basis in the hands of a prior holder.

(h) (1) If the adjusted basis immediately before the death of the decedent of any property which is carryover basis property reflects the adjusted basis of any marketable bond or security on December 31, 1976, and if the fair market value of such bond or security on December 31, 1976, exceeded its adjusted basis on such date, then for purposes of determining gain and applying this section, the adjusted basis of such property shall be increased by the amount of such excess.

(2) (A) If—

(i) The adjusted basis immediately before the death of the decedent of any property which is carryover basis property reflects the adjusted basis on December 31, 1976, of any property other than a marketable bond or security, and

(ii) The value of such carryover basis property exceeds the adjusted basis of such property immediately before the death of the decedent (determined without regard to this subdivision),

then, for purposes of determining gain and applying this section, the adjusted basis of such property immediately before the death of the decedent (determined without regard to this subdivision) shall be increased by the amount determined under subparagraph (B).

(B) The amount of the increase under this subparagraph for any property is the sum of—

(i) The excess referred to in clause (ii) of subparagraph (A), reduced by an amount equal to all adjustments for depreciation, amortization, or depletion for the holding period of such property, and then multiplied by the applicable fraction determined under subparagraph (C), and

(ii) The adjustments to basis for depreciation, amortization, or depletion which are attributable to that portion of the holding period for such property which occurs before January 1, 1977.

(C) For purposes of clause (i) of subparagraph (B), the term "applicable fraction" means, with respect to any property, a fraction—

(i) The numerator of which is the number of days in the holding

period with respect to such property which occurs before January 1, 1977, and

(ii) The denominator of which is the total number of days in such holding period.

(D) Under regulations prescribed by the Franchise Tax Board, if there is a substantial improvement of any property, such substantial improvement shall be treated as a separate property for purposes of this paragraph.

(E) For purposes of this paragraph—

(i) The term "marketable bond or security" means any security for which, as of December 1976, there was a market on a stock exchange, in an over-the-counter market, or otherwise.

(ii) The term "holding period" means, with respect to any carryover basis property, the period during which the decedent (or, if any other person held such property immediately before the death of the decedent, such other person) held such property as determined under Sections 18163 to 18172, inclusive; except that such period shall end on the date of the decedent's death.

(3) If—

(A) The holding period for any carryover basis property which is tangible personal property includes December 31, 1976, then, for purposes of determining gain and applying this section, the adjusted basis of such property immediately before the death of the decedent shall be treated as being not less than the amount determined under subparagraph (B).

(B) The amount determined under this subparagraph for any property is—

(i) The value of such property (as determined with respect to the estate of the decedent without regard to Section 2032), divided by

(ii) 1 0066 to the nth power where n equals the number of full calendar months which have elapsed between December 31, 1976, and the date of the decedent's death.

(4) There shall be no increase in basis under this subdivision by reason of the death of any decedent if the adjusted basis of the property in the hands of such decedent reflects the adjusted basis of property which was carryover basis property with respect to a prior decedent

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

(j) References to the Internal Revenue Code of 1954 in this section mean said code as it read on January 1, 1979

SEC. 73. Section 18052 of the Revenue and Taxation Code is amended to read:

18052. Proper adjustment in respect of the property shall in all cases be made—

(a) For proper expenditures, receipts, losses, or other items, properly chargeable to capital account, but no such adjustment shall be made—

(1) For taxes or other carrying charges described in Section 17286,

or

(2) For expenditures described in Section 17222 (relating to circulation expenditures), for which deductions have been taken by the taxpayer in determining taxable income for the taxable year or prior taxable years;

(b) To the extent sustained prior to January 1, 1935, and for periods thereafter, for exhaustion, wear and tear, obsolescence, amortization, and depletion, to the extent of the amount—

(1) Allowed as deductions in computing taxable income under this part or prior income tax laws, and

(2) Resulting (by reason of the deductions so allowed) in a reduction for any taxable year of the taxpayer's taxes under this part, but not less than the amount allowable under this part or prior income tax laws. Where no method has been adopted under Sections 17208 to 17211.7, inclusive (relating to depreciation deduction), the amount allowable shall be determined under paragraph (1) of subdivision (b) of Section 17208.

(c) In respect of any period—

(1) Before January 1, 1935, and

(2) Since December 31, 1934, during which such property was held by a person or an organization not subject to income taxation under this part or prior income tax laws, for exhaustion, wear and tear, obsolescence, amortization, and depletion, to the extent sustained.

(d) In the case of stock (to the extent not provided for in the foregoing subdivisions) for the amount of distributions previously made which, under the law applicable to the year in which the distribution was made, either were tax free or were applicable in reduction of basis (not including distributions made by a corporation which was classified as a personal service corporation under the provisions of the Revenue Act of 1918 (40 Stat. 1057), or the Revenue Act of 1921 (42 Stat. 227), out of its earnings or profits which were taxable in accordance with the provisions of Section 218 of the Revenue Act of 1918 or 1921);

(e) In the case of any bond (as defined in Section 17220) the interest on which is wholly exempt from the tax imposed by this part, to the extent of the amortizable bond premium disallowable as a deduction pursuant to subdivision (b) of Section 17217, and in the case of any other bond (as defined in Section 17220) to the extent of the deductions allowable pursuant to subdivision (a) of Section 17217 with respect thereto;

(f) In the case of any municipal bond (as defined in Section 17116), to the extent provided in subdivision (b) of Section 17115;

(g) In the case of a residence the acquisition of which resulted, under Sections 18091 to 18100, inclusive, in the nonrecognition of any part of the gain realized on the sale, exchange, or involuntary conversion of another residence, to the extent provided in Section 18095,

(h) In the case of property pledged to the Commodity Credit

Corporation, to the extent of the amount received as a loan from the Commodity Credit Corporation and treated by the taxpayer as income for the year in which received pursuant to Section 17117, and to the extent of any deficiency on such loan with respect to which the taxpayer has been relieved from liability;

(i) For amounts allowed as deductions as deferred expenses under subdivision (b) of Section 17690 (relating to certain expenditures in the development of mines) and resulting in a reduction of the taxpayer's taxes under this part, but not less than the amounts allowable under such section for the taxable year and prior years;

(j) For amounts allowed as deductions as deferred expenses under subdivision (b) of Section 17689 or Section 17689.5 (relating to certain exploration expenditures) and resulting in a reduction of the taxpayer's taxes under this part, but not less than the amounts allowable under such section for the taxable year and prior years;

(k) For deductions to the extent disallowed under Section 17291 (relating to sale of land with unharvested crops), notwithstanding the provisions of any other subdivision of this section;

(*l*) For amounts allowed as deductions as deferred expenses under paragraph (1) of subdivision (b) of Section 17223 (relating to research and experimental expenditures) and resulting in a reduction of the taxpayer's taxes under this part, but not less than the amounts allowable under such section for the taxable year and prior years;

(m) For amounts allowed as deductions for expenditures treated as deferred expenses under Section 17227 (relating to trademark and trade name expenditures) and resulting in a reduction of the taxpayer's taxes under this part, but not less than the amounts allowable under such section for the taxable year and prior years;

(n) For amounts allowed as deductions for payments made on account of transfers of franchises, trademarks, or trade names under paragraph (2) of subdivision (d) of Section 18218.5;

(o) To the extent provided in Section 18047, relating to carryover basis for certain property acquired from a decedent dying after December 31, 1979.

SEC 73.5. Section 18104 of the Revenue and Taxation Code is amended to read:

18104. (a) If the executor of the estate of any decedent satisfies the right of any person to receive a pecuniary bequest with appreciated carryover basis property (as defined in Section 18047(f)(5)), then gain on such exchange shall be recognized to the estate only to the extent that, on the date of such exchange, the fair market value of such property exceeds the value of such property for purposes of Chapter 11 of the Internal Revenue Code of 1954, as it read on January 1, 1979

(b) To the extent provided in regulations prescribed by the Franchise Tax Board, a rule similar to the rule provided in subdivision (a) shall apply where—

(1) By reason of the death of the decedent, a person has a right

to receive from a trust a specific dollar amount which is the equivalent of a pecuniary bequest, and

(2) The trustee of the trust satisfies such right with carryover basis property to which Section 18047 applies.

(c) The basis of property acquired in an exchange with respect to which gain realized is not recognized by reason of subdivision (a) or (b) shall be the basis of such property immediately before the exchange, increased by the amount of the gain recognized to the estate or trust on the exchange.

SEC 74. Section 18090.3 is added to the Revenue and Taxation Code, to read:

18090.3. For purposes of Sections 18082 through 18086, inclusive, if, because of soil contamination or other environmental contamination, it is not feasible for the taxpayer to reinvest the proceeds from compulsorily or involuntarily converted livestock in property similar or related in use to the livestock so converted, other property (including real property) used for farming purposes shall be treated as property similar or related in service or use to the livestock so converted.

SEC. 75. Section 18093 of the Revenue and Taxation Code is amended to read:

18093. For purposes of this article—

(a) An exchange by the taxpayer of his residence for other property shall be treated as a sale of such residence, and the acquisition of a residence on the exchange of property shall be treated as a purchase of such residence.

(b) A residence any part of which was constructed or reconstructed by the taxpayer shall be treated as purchased by the taxpayer. In determining the taxpayer's cost of purchasing a residence, there shall be included only so much of his cost as is attributable to the acquisition, construction, reconstruction, and improvements made which are properly chargeable to capital account, during the period specified in Section 18091.

(c) If a residence is purchased by the taxpayer before the date of his sale of the old residence, the purchased residence shall not be treated as his new residence if sold or otherwise disposed of by him before the date of the sale of the old residence.

(d) If the taxpayer, during the period described in Section 18091, purchases more than one residence which is used by him as his principal residence at some time within 18 months after the date of the sale of the old residence, only the last of such residences so used by him after the date of such sale shall constitute the new residence. If the principal residence is sold in a sale to which subdivision (b) of Section 18094 applies within 18 months after the sale of the old residence, for purposes of applying the preceding sentence with respect to the old residence, the principal residence so sold shall be treated as the last residence used during such 18-month period

(e) In the case of a new residence the construction of which was commenced by the taxpayer before the expiration of 18 months after

the date of the sale of the old residence, the period specified in Section 18091, and the 18 months referred to in subsection (d) of this section, shall be treated as including a period of two years beginning with the date of the sale of the old residence.

SEC 76 Section 18094 of the Revenue and Taxation Code is amended to read·

18094 (a) The provisions of Section 18091 shall not be applicable with respect to the sale of the taxpayer's residence if within 18 months prior to the date of such sale the taxpayer sold at a gain other property used by him as his principal residence, and any part of such gain was not recognized by reason of the provisions of Section 18091 or 17690 1 of the Personal Income Tax Law of 1954.

(b) Subdivision (a) shall not apply with respect to the sale of the taxpayer's residence if—

(1) Such sale was in connection with the commencement of work by the taxpayer as an employee or as a self-employed individual at a new principal place of work, and

(2) If the residence so sold is treated as the former residence for purposes of Section 17266, the taxpayer would satisfy the conditions of subdivision (c) of Section 17266.

SEC. 77. Section 18172 of the Revenue and Taxation Code is amended to read:

18172 (a) In the case of a person acquiring property from a decedent or to whom property passed from a decedent (within the meaning of Section 18045), if—

(1) The basis of such property in the hands of such person is determined under Section 18044 or 18047, and

(2) Such property is sold or otherwise disposed of by such person within five years after the decedent's death,

then such person shall be considered to have held such property for more than one year but not more than five years.

(b) This section shall apply with respect to decedent's dying after December 31, 1970.

SEC. 78. Section 18182 of the Revenue and Taxation Code is amended to read:

18182 (a) For the purposes of this section and Section 18181, the term "property used in the trade or business" means property used in the trade or business, of a character which is subject to the allowance for depreciation provided in Sections 17208 to 17211.7, inclusive, and real property used in the trade or business, which is not

(1) Property of a kind which would properly be includable in the inventory of the taxpayer if on hand at the close of the taxable year,

(2) Property held by the taxpayer primarily for sale to customers in the ordinary course of his trade or business,

(3) A copyright, a literary, musical or artistic composition, a letter or memorandum, or similar property, held by a taxpayer described in subdivision (c) of Section 18161, or

(4) A publication of the United States government (including the

Congressional Record) which is received from the United States government, or any agency thereof, other than by purchase at the price at which it is offered for sale to the public, and which is held by a taxpayer described in subdivision (e) of Section 18161.

(b) Such term also includes timber with respect to which Sections 17711 and 17712 are applicable. Such term also includes cattle and horses, regardless of age, held by the taxpayer for draft, breeding, dairy, or sporting purposes, and held by him for 24 months or more from the date of acquisition, and other livestock, regardless of age, held by the taxpayer for draft, breeding, dairy, or sporting purposes, and held by him for 12 months or more from the date of acquisition. It does not include poultry.

(c) In the case of an unharvested crop on land used in the trade or business and held for more than one year, if the crop and the land are sold or exchanged (or compulsorily or involuntarily converted as described in Section 18181) at the same time and to the same person, the crop shall be considered as "property used in the trade or business."

SEC. 79 Section 18207 of the Revenue and Taxation Code is amended to read:

18207 For any taxable year the aggregate amount treated by the taxpayer by reason of Sections 18206 through 18210 as a loss from the sale or exchange of an asset which is not a capital asset shall not exceed—

(a) Fifty thousand dollars ($50,000), or

(b) One hundred thousand dollars ($100,000), in the case of a husband and wife filing a joint return for such year under Section 18402(b).

SEC 80. Section 18208 of the Revenue and Taxation Code is repealed.

SEC. 81 Section 18208 is added to the Revenue and Taxation Code, to read:

18208. (a) For purposes of Sections 18206 through 18210, inclusive, the term "Section 18208 stock" means common stock in a corporation organized and operated within the United States if—

(1) At the time such stock is issued, such corporation was a small business corporation,

(2) Such stock was issued by such corporation for money or other property (other than stock and securities), and

(3) Such corporation, during the period of its five most recent taxable years ending before the date the loss on such stock was sustained, derived more than 50 percent of its aggregate gross receipts from sources other than royalties, rents, dividends, interest, annuities, and sales or exchanges of stocks or securities

(b) (1) For purposes of paragraph (3) of subdivision (a), if the corporation has not been in existence for five taxable years ending before the date the loss on the stock was sustained, there shall be substituted for such five-year period—

(A) The period of the corporation's taxable years ending before

such date, or

(B) If the corporation has not been in existence for one taxable year ending before such date, the period such corporation has been in existence before such date.

(2) For purposes of paragraph (3) of subdivision (a), gross receipts from the sales or exchanges of stocks or securities shall be taken into account only to the extent of gains therefrom.

(3) Paragraph (3) of subdivision (a) shall not apply with respect to any corporation if, for the period taken into account for purposes of paragraph (3) of subdivision (a), the amount of the deductions allowed by the Bank and Corporation Tax Law exceeds the amount of gross income.

(c) (1) For purposes of Sections 18206 through 18210, inclusive, a corporation shall be treated as a small business corporation if the aggregate amount of money and other property received by the corporation for stock, as a contribution to capital, and as paid in surplus, does not exceed one million dollars ($1,000,000) The determination under the preceding sentence shall be made as of the time of the issuance of the stock in question but shall include amounts received for such stock and for all stock theretofore issued

(2) For purposes of paragraph (1), the amount taken into account with respect to any property other than money shall be the amount equal to the adjusted basis to the corporation of such property for determining gain, reduced by any liability to which the property was subject or which was assumed by the corporation. The determination under the preceding sentence shall be made as of the time the property was received by the corporation.

SEC. 82. Section 18209 of the Revenue and Taxation Code is amended to read:

18209. (a) (1) If—

(i) Section 18208 stock was issued in exchange for property,

(ii) The basis of such stock in the hands of the taxpayer is determined by reference to the basis in his hands of such property, and

(iii) The adjusted basis (for determining loss) of such property immediately before the exchange exceeded its fair market value at such time,

then in computing the amount of the loss on such stock for purposes of this section the basis of such stock shall be reduced by an amount equal to the excess described in clause (iii).

(2) In computing the amount of the loss on stock for purposes of Sections 18206 through 18210, any increase in the basis of such stock (through contributions to the capital of the corporation, or otherwise) shall be treated as allocable to stock which is not Section 18208 stock

(b) To the extent provided in regulations prescribed by the Franchise Tax Board, common stock in a corporation, the basis of which (in the hands of a taxpayer) is determined in whole or in part by reference to the basis in his hands of stock in such corporation

which meets the requirements of Section 18208(a) (other than subparagraph (a)(3) thereof), or which is received in a reorganization described in Section 24562(a)(6) of the Bank and Corporation Tax Law in exchange for stock which meets such requirements, shall be treated as meeting such requirements. For purposes of Section 18208(a)(3) or (c)(1), a successor corporation in a reorganization described in Section 24562(a)(6) of the Bank and Corporation Tax Law shall be treated as the same corporation as its predecessor.

(c) For purposes of Sections 18206 through 18210, the term individual does not include a trust or estate.

SEC 83 Section 18211 of the Revenue and Taxation Code is amended to read:

18211 (a) (1) Except as otherwise provided in this section, if Section 18211 property is disposed of during a taxable year beginning after December 31, 1962, the amount by which the lower of—

(A) The recomputed basis of the property, or

(B) (i) In the case of a sale, exchange or involuntary conversion, the amount realized, or

(ii) In the case of any other disposition, the fair market value of such property,

exceeds the adjusted basis of such property shall be treated as gain from the sale or exchange or property which is neither a capital asset nor property described in Sections 18181 and 18182. Such gain shall be recognized notwithstanding any other provision of this part.

(2) For purposes of this section, the term "recomputed basis" means—

(A) With respect to any property referred to in subparagraphs (A) or (B) of paragraph (3), its adjusted basis recomputed by adding thereto all adjustments, attributable to periods after December 31, 1961,

(B) With respect to any property referred to in subparagraph (C) of paragraph (3), its adjusted basis recomputed by adding thereto all adjustments attributable to periods after June 30, 1963,

(C) With respect to livestock its adjusted basis recomputed by adding thereto all adjustments attributable to periods after December 31, 1969, or

(D) With respect to any property referred to in subparagrah (D) of paragraph (3), its adjusted basis recomputed by adding thereto all adjustments attributable to periods beginning with the first month for which a deduction for amortization is allowed under Section 17226 or 17227, reflected in such adjusted basis on account of deductions (whether in respect of the same or other property) allowed or allowable to the taxpayer or to any other person for depreciation, or for amortization under Section 17226, 17227, or (in the case of property described in subparagraph (c) of paragraph (3)) 17228. For purposes of the preceding sentence if the taxpayer can establish by adequate records or other sufficient evidence that the amount allowed for depreciation, or for amortization under Section

17226, 17227, or (in the case of property discussed in subparagraph (c) of paragraph (3)) 17228, for any period was less than the amount allowable, the amount added for such period shall be the amount allowed. For purposes of this section, any deduction allowable under Section 17227 shall be treated as if it were a deduction for amortization.

(3) For purposes of this section, the term "Section 18211 property" means any property which is or has been property of a character subject to the allowance for depreciation provided in Sections 17208 to 17211.7, inclusive, and is either—

(A) Personal property,

(B) Other property (not including a building or its structural components) but only if such other property is tangible and has an adjusted basis in which there are reflected adjustments described in paragraph (2) for a period in which such property (or other property)—

(i) Was used as an integral part of manufacturing, production, or extraction or of furnishing transportation, communications, electrical energy, gas, water, or sewage disposal services, or

(ii) Constituted research or storage facilities used in connection with any of the activities referred to in clause (i),

(C) An elevator or an escalator, or

(D) So much of any real property (other than any property described in subparagraph (B)) which has an adjusted basis in which there are reflected adjustments for amortization under Section 17226, or 17227.

(4) (A) For purposes of this section, if a franchise to conduct any sports enterprise is sold or exchanged, and if, in connection with such sale or exchange, there is a transfer of any player contracts, the recomputed basis of such player contracts in the hands of the transferor shall be the adjusted basis of such contracts increased by the greater of—

(i) The previously unrecaptured depreciation with respect to player contracts acquired by the transferor at the time of acquisition of such franchise, or

(ii) The previously unrecaptured depreciation with respect to the player contracts involved in such transfer.

(B) For purposes of clause (i) of subparagraph (A), the term "previously unrecaptured depreciation" means the excess (if any) of—

(i) The sum of the deduction allowed or allowable to the taxpayer transferor for the depreciation attributable to periods after December 31, 1975, of any player contracts acquired by him at the time of acquisition of such franchise, plus the deduction allowed or allowable for losses incurred after December 31, 1975, with respect to such player contracts acquired at the time of such acquisition, over

(ii) The aggregate of the amounts described in clause (i) treated as ordinary income by reason of this section with respect to prior dispositions of such player contracts acquired upon acquisition of the

franchise.

(C) For purposes of clause (ii) of subparagraph (A) the term "previously unrecaptured depreciation" means the amount of any deduction allowed or allowable to the taxpayer transferor for the depreciation of any contracts involved in such transfer.

(D) For purposes of this paragraph, the term "player contract" means any contract for the services of an athlete which, in the hands of the taxpayer, is of a character subject to the allowance for depreciation provided in Section 17208.

(E) This section shall apply to transfers of player contracts in connection with any sale or exchange of a franchise after December 31, 1976, in taxable years ending after the enactment of this section.

(b) (1) Subdivision (a) shall not apply to a disposition by gift.

(2) Except as provided in Sections 17831 to 17837, inclusive (relating to income in respect of a decedent), subdivision (a) shall not apply to a transfer at death.

(3) If the basis of property in the hands of a transferee is determined by reference to its basis in the hands of the transferor by reason of the application of Section 17431, 17481, 17881, 17891, or Section 24502, 24521, or 24551 of the Bank and Corporation Tax Law, then the amount of gain taken into account by the transferor under paragraph (1) of subdivision (a) shall not exceed the amount of gain recognized to the transferor on the transfer of such property (determined without regard to this section). This paragraph shall not apply to a disposition to an organization which is exempt from the tax imposed by this part.

(4) If property is disposed of and gain (determined without regard to this section) is not recognized in whole or in part under Section 18081 or Sections 18082 to 18090.2, inclusive, then the amount of gain taken into account by the transferor under paragraph (1) of subdivision (a) shall not exceed the sum of—

(A) The amount of gain recognized on such disposition (determined without regard to this section), plus

(B) The fair market value of property acquired which is not Section 18211 property and which is not taken into account under subparagraph (A).

(5) Under regulations prescribed by the Franchise Tax Board, rules consistent with paragraphs (3) and (4) of this subdivision shall apply in the case of transactions described in Section 18121 (relating to gain from sale or exchange to effectuate policies of FCC) or Sections 18131 to 18134, inclusive (relating to exchanges in obedience to SEC orders)

(6) (A) For purposes of this section, the basis of Section 18211 property distributed by a partnership to a partner shall be deemed to be determined by reference to the adjusted basis of such property to the partnership

(B) In the case of any property described in subparagraph (A), for purposes of computing the recomputed basis of such property the amount of the adjustments added back for periods before the

distribution by the partnership shall be—

(i) The amount of the gain to which subdivision (a) would have applied if such property had been sold by the partnership immediately before the distribution at its fair market value at such time, reduced by

(ii) The amount of such gain to which Section 17912 applied.

(c) The Franchise Tax Board shall prescribe such regulations as it may deem necessary to provide for adjustments to the basis of property to reflect gain recognized under subdivision (a).

(d) This section shall apply notwithstanding any other provisions of this part.

SEC. 84. Section 18213 of the Revenue and Taxation Code is amended to read:

18213. For the purposes of Sections 18212 to 18218, inclusive—

(a) The term "additional depreciation" means, in the case of any property, the depreciation adjustments in respect of such property; except that, in the case of property held more than one year, it means such adjustments only to the extent that they exceed the amount of the depreciation adjustments which would have resulted if such adjustments had been determined for each taxable year under the straight line method of adjustment. For purposes of the preceding sentence, if a useful life (or salvage value) was used in determining the amount allowed as a deduction for any taxable year, such life (or value) shall be used in determining the depreciation adjustments which would have resulted for such year under the straight line method.

(b) In the case of a lessee, in determining the depreciation adjustments which would have resulted in respect of any building erected (or other improvement made) on the leased property, or in respect of any cost of acquiring the lease, the lease period shall be treated as including all renewal periods. For purposes of the preceding sentence—

(1) The term "renewal period" means any period for which the lease may be renewed, extended, or continued pursuant to an option exercisable by the lessee, but

(2) The inclusion of renewal periods shall not extend the period taken into account by more than two-thirds of the period on the basis of which the depreciation adjustments were allowed.

(c) The term "depreciation adjustments" means, in respect of any property, all adjustments attributable to periods after December 31, 1963, reflected in the adjusted basis of such property on account of deductions (whether in respect of the same or other property) allowed or allowable to the taxpayer or to any other person for exhaustion, wear and tear, obsolescence, or amortization (other than amortization under Section 17226 or 17227). For purposes of the preceding sentence, if the taxpayer can establish by adequate records or other sufficient evidence that the amount allowed as a deduction for any period was less than the amount allowable, the amount taken into account for such period shall be the amount

allowed.

(d) The term "additional depreciation" also means, in the case of Section 18212 property with respect to which a depreciation or amortization deduction for rehabilitation expenditures was allowed under Section 17211.7 or 17228.5, the depreciation or amortization adjustments allowed under such section to the extent attributable to such property, except that, in the case of such property held for more than one year after the rehabilitation expenditures so allowed were incurred, it means such adjustments only to the extent that they exceed the amount of the depreciation adjustments which would have resulted if such adjustments had been determined under the straight line method of adjustment without regard to the useful life permitted under Section 17211.7 or 17228.5.

SEC. 85. Section 18221 of the Revenue and Taxation Code is amended to read.

18221. (a) (1) If oil, gas, or geothermal property is disposed of after December 31, 1976, the lower of—

(A) The aggregate amount of expenditures after December 31, 1976, which are allocable to such property and which have been deducted as intangible drilling and development costs under subdivision (c) of Section 17283 by the taxpayer or any other person and which (but for being so deducted) would be reflected in the adjusted basis of such property, adjusted as provided in paragraph (4), or

(B) The excess of—

(i) The amount realized (in the case of a sale, exchange, or involuntary conversion), or the fair market value of the interest (in the case of any other disposition), over

(ii) The adjusted basis of such interest, shall be treated as gain which is ordinary income. Such gain shall be recognized notwithstanding any other provision of this part.

(2) For purposes of paragraph (1)—

(A) In the case of the disposition of a portion of an oil, gas, or geothermal property (other than an undivided interest), the entire amount of the aggregate expenditures described in subparagraph (A) of paragraph (1) with respect to such property shall be treated as allocable to such portion to the extent of the amount of the gain to which paragraph (1) applies

(B) In the case of the disposition of an undivided interest in an oil, gas, or geothermal property (or a portion thereof), a proportionate part of the expenditures described in subparagraph (A) of paragraph (1) with respect to such property shall be treated as allocable to such undivided interest to the extent of the amount of the gain to which paragraph (1) applies

This paragraph shall not apply to any expenditures to the extent the taxpayer establishes to the satisfaction of the Franchise Tax Board that such expenditures do not relate to the portion (or interest therein) disposed of

(3) The term "oil, gas, or geothermal property" means any

property (within the meaning of Section 614 of the Internal Revenue Code of 1954) with respect to which any expenditures described in paragraph (1) (A) are properly chargeable.

(4) In applying subparagraph (A) of paragraph (1), the amount deducted for intangible drilling and development costs and allocable to the interest disposed of shall be reduced by the amount (if any) by which the deduction for depletion under Section 17681 with respect to such interest would have been increased if such costs incurred (after December 31, 1976) had been charged to capital account rather than deducted.

(b) Under regulations prescribed by the Franchise Tax Board rules similar to the rules of subdivision (g) of Section 17689.5 and to the rules of subdivisions (b) and (c) of Section 18211 shall be applied for purposes of this section.

SEC. 86 Section 18568.6 is added to the Revenue and Taxation Code, to read:

18568.6. (a) In the case of any tax imposed by this part with respect to any person, the period for assessing a deficiency attributable to any partnership item of a federally registered partnership shall not expire before the later of—

(A) The date which is five years after the date on which the partnership return of the federally registered partnership for the partnership taxable year in which the item arose was filed (or later, if the date prescribed for filing the return), or

(B) If the name or address of such person does not appear on the partnership return, the date which is one year after the date on which such information is furnished to the Franchise Tax Board in such manner and at such place as he may prescribe by regulations.

(b) For purposes of this section, the term "partnership item" means—

(1) Any item required to be taken into account for the partnership taxable year under any provision of subchapter K of Chapter 1 of Title 26 of the Internal Revenue Code of 1954 to the extent that regulations prescribed by the Franchise Tax Board provide that for purposes of this part such item is more appropriately determined at the partnership level than at the partner level, and

(2) Any other item to the extent affected by an item described in paragraph (1)

(c) The extensions referred to in subsection (c) (4) of Section 6501 of the Internal Revenue Code of 1954, insofar as they relate to partnership items, may, with respect to any person, be consented to—

(1) Except to the extent the Franchise Tax Board is otherwise notified by the partnership, by a general partner of the partnership, or

(2) By any person authorized to do so by the partnership in writing

(d) For purposes of this section, the term "federally registered partnership" means, with respect to any partnership taxable year,

any partnership—

(A) Interests in which have been offered for sale at any time during such taxable year or a prior taxable year in any offering required to be registered with the Securities and Exchange Commission, or

(B) Which, at any time during such taxable year or a prior taxable year, was subject to the annual reporting requirements of the Securities and Exchange Commission which relate to the protection of investors in the partnership.

(e) This section shall apply to partnership items arising in partnership taxable years beginning after December 31, 1978.

SEC. 87. Section 18802 of the Revenue and Taxation Code is amended to read:

18802. (a) Every individual, partnership, corporation, joint stock company or association, insurance company, business trust, or so-called Massachusetts trust, engaged in a trade or business in this state and making payment in the course of such trade or business to another person, including lessees or mortgagors of real or personal property, fiduciaries, employers, and all officers and employees of this state or any political subdivision of this state, or any city organized under a freeholder's charter, or any political body not a subdivision or agency of the state, having the control, receipt, custody, disposal, or payment of interest (other than interest coupons payable to bearer), dividends, rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable annual or periodical gains, profits, and income amounting to one thousand dollars ($1,000) or over, paid or payable during any year to any taxpayer, shall make a complete return to the Franchise Tax Board, which shall contain or be verified by a written declaration that it is made under the penalties of perjury, under such regulations and in such form and manner and to such extent as may be prescribed by it

(b) For purposes of subdivision (a), the term "trade or business" includes the activities of nonprofit organizations.

(c) In cases of annuities with an annuity starting date on and after January 1, 1968, in lieu of the return required by subdivision (a), a duplicate copy of the federal return may be filed with the Franchise Tax Board

(d) This section shall not apply to tips with respect to which Section 18824 applies. The only records which an employer shall be required to keep under this section in connection with charged tips shall be charge receipts and copies of statements furnished by employees under Section 18824 This subdivision shall apply to payments made after December 31, 1978

SEC 88 Section 18802.6 is added to the Revenue and Taxation Code, to read

18802 6 (a) Every person who makes payments of unemployment compensation aggregating ten dollars ($10) or more to any individual during any calendar year shall make a return

according to the forms or regulations prescribed by the Franchise Tax Board, setting forth the aggregate amounts of such payments and the name and address of the individual to whom paid.

(b) Every person making a return under subdivision (a) shall furnish to each individual whose name is set forth in such return a written statement showing—

(1) The name and address of the person making such return, and

(2) The aggregate amount of payments to the individual as shown on such return.

The written statement required under the preceding sentence shall be furnished to the individual on or before January 31 of the year following the calendar year for which the return under subdivision (a) was made. No statement shall be required to be furnished to any individual under this subdivision if the aggregate amount of payments to such individual shown on the return made under subdivision (a) is less than ten dollars ($10)

(c) For purposes of this section—

(1) The term "unemployment compensation" has the meaning given to such term by subdivision (c) of Section 17124.

(2) The term "person" means the officer or employee having control of the payment of the unemployment compensation, or the person appropriately designated for purposes of this section.

SEC. 89 Section 19053.8 is added to the Revenue and Taxation Code, to read:

19053.8 (a) The case of any tax imposed by this part with respect to any person, the period for filing a claim for credit or refund of any overpayment attributable to any partnership item of a federally registered partnership shall not expire before the later of—

(1) The date which is five years after the date prescribed by law (including extensions thereof) for filing the partnership return for the partnership taxable year in which the item arose, or

(2) If an agreement under the provisions of Section 6501(c)(4) of the Internal Revenue Code of 1954 extending the period for the assessment of any deficiency attributable to such partnership item is made before the date specified in paragraph (1), the date six months after the expiration of such extension.

In any case to which the preceding sentence applies, the amount of the credit or refund may exceed the portion of the tax paid within the period provided in subsection 19053 or 19053.3, whichever is applicable

(b) For purposes of this subsection, the terms "partnership item" and "federally registered partnership" have the same meanings as such terms have when used in Section 18568 6

(c) This section shall apply to partnership items arising in partnership taxable years beginning after December 31, 1978

SEC 90 Section 23401 of the Revenue and Taxation Code is amended to read

23401 For purposes of this chapter the items of tax preference

are·

(a) With respect to each property as described in Section 1250(c) of the Internal Revenue Code as such provision read on April 1, 1970, the amount by which the deduction allowable for the income year for exhaustion, wear, tear, obsolescence, or amortization exceeds the depreciation deduction which would have been allowable for the income year, had the taxpayer depreciated the property under the straight line method for each income year of its useful life (determined without regard to Section 24354.2 or 24381) for which the taxpayer has held the property.

(b) In the case of a taxpayer subject to tax under Article 3 (commencing with Section 23181) of Chapter 2 of this part, the amount by which the deduction allowable for the income year for a reasonable addition to a reserve for bad debts exceeds the amount that would have been allowed if the taxpayer maintained its bad debt reserve for all income years on the basis of actual experience, as defined in Section 585(b) (3) (A) of the Internal Revenue Code of 1954.

It is the intent of the Legislature that this subdivision shall apply only to new additions each year to the bad debt reserve.

(c) With respect to each property, as defined in Sections 24831 to 24835, inclusive, the excess of the deduction for depletion allowable under Section 24835 for the income year over the adjusted basis of the property at the end of the income year, as determined without regard to the depletion deduction for the income year.

SEC. 91 Section 24353.1 of the Revenue and Taxation Code is amended to read·

24353.1. (a) (1) In the case of any property in whole or in part constructed, reconstructed, erected, or used on a site which was, on or after December 31, 1976, occupied by a certified historic structure (or by any structure in a registered historic district) which is demolished or substantially altered after such date—

(A) Sections 24349(b), 24354.1 and 24354.2 shall not apply, and

(B) The term "reasonable allowance" as used in Section 24349(a) means only an allowance computed under the straight line method

The preceding sentence shall not apply if the last substantial alteration of the structure is a certified rehabilitation.

(2) The limitations imposed by this section shall not apply—

(A) To personal property, and

(B) In the case of demolition or substantial alteration of a structure located in a registered historic district, if—

(i) Such structure was not a certified historic structure,

(ii) The Secretary of the Interior certified to the Franchise Tax Board that such structure is not of historic significance to the district, and

(iii) If the certification referred to in clause (ii) occurs after the beginning of the demolition or substantial alteration of such structure, the taxpayer certifies to the Franchise Tax Board that, at

the beginning of such demolition or substantial alteration, he in good faith was not aware of the requirements of clause (ii).

(3) For purposes of this section, the terms "certified historic structure," "registered historic district," and "certified rehabilitation" have the respective meanings given such terms by Section 24381

This subdivision shall apply to that portion of the basis which is attributable to construction, reconstruction, or erection after December 31, 1976, and before January 1, 1981.

(b) (1) Pursuant to regulations prescribed by the Franchise Tax Board, the taxpayer may elect to compute the depreciation deduction attributable to substantially rehabilitated historic property (other than property with respect to which an amortization deduction has been allowed to the taxpayer under Section 24381) as though the original use of such property commenced with it. The election shall be effective with respect to the income year referred to in paragraph (2) and all succeeding income years

(2) For purposes of paragraph (1), the term "substantially rehabilitated historic property" means any certified historic structure (as defined in Section 24381(d) (1)) with respect to which the additions to capital account for any certified rehabilitation (as defined in Section 24381(d) (4)) during the 24-month period ending on the last day of any income year, reduced by any amounts allowed or allowable as depreciation or amortization with respect thereto, exceeds the greater of—

(A) The adjusted basis of such property, or

(B) Five thousand dollars ($5,000)

The adjusted basis of the property shall be determined as of the beginning of the first day of such 24-month period, or of the holding period of the property, whichever is later.

This subdivision shall apply with respect to additions to capital account occurring after December 31, 1976, and before July 1, 1981.

SEC. 92 Section 24354.2 of the Revenue and Taxation Code is amended to read.

24354 2. (a) The taxpayer may elect, in accordance with regulations prescribed by the Franchise Tax Board, to compute the depreciation deduction provided by subdivision (a) of Section 24349 attributable to rehabilitation expenditures incurred with respect to low-income rental housing after December 31, 1970, and before January 1, 1982, under the straight line method using a useful life of 60 months and no salvage value Such method shall be in lieu of any other method of computing the depreciation deduction under subdivision (a) of Section 24349, and in lieu of any deduction for amortization, for such expenditures

(b) (1) The aggregate amount of rehabilitation expenditures paid or incurred by the taxpayer with respect to any dwelling unit in any low-income rental housing which may be taken into account under subdivision (a) shall not exceed twenty thousand dollars ($20,000).

(2) Rehabilitation expenditures paid or incurred by the taxpayer in any income year with respect to any dwelling unit in any low-income rental housing shall be taken into account under subdivision (a) only if over a period of two consecutive years, including the income year, the aggregate amount of such expenditures exceeds three thousand dollars ($3,000).

(c) For purposes of this section

(1) The term "rehabilitation expenditures" means amounts chargeable to capital account and incurred for property or additions or improvements to property (or related facilities) with a useful life of five years or more, in connection with the rehabilitation of an existing building for low-income rental housing; but such term does not include the cost of acquisition of such building or any interest therein.

(2) The term "low-income rental housing" means any building the dwelling units in which are held for occupancy on a rental basis by families and individuals of low or moderate income, as determined by the Franchise Tax Board in a manner consistent with the Leased Housing Program under Section 8 of the United States Housing Act of 1937 pursuant to regulations prescribed under this section.

(3) The term "dwelling unit" means a house or an apartment used to provide living accommodations in a building or structure, but does not include a unit in a hotel, motel, inn, or other establishment more than one-half of the units in which are used on a transient basis

(4) Rehabilitation expenditures incurred pursuant to a binding contract entered into before January 1, 1982, and rehabilitation expenditures incurred with respect to low-income rental housing the rehabilitation of which has begun before January 1, 1982, shall be deemed incurred before January 1, 1982.

(d) The amendments made by the 1977–78 Legislature shall apply to expenditures paid or incurred after December 31, 1976, and before January 1, 1982, and expenditures made pursuant to a binding contract entered into before January 1, 1982. The amendment made in subdivision (b) shall apply to expenditures incurred after December 31, 1976

SEC 93. Section 24354 3 is added to the Revenue and Taxation Code, to read

24354 3 In the case of any boiler which, by reason of Section 48(a) (10) of the Internal Revenue Code of 1954, is not Section 38 of the Internal Revenue Code of 1954 property—

(a) Subdivision (b) of Section 24349 and Section 24354 1 shall not apply, and

(b) The term "reasonable allowance" as used in Section 24349 shall mean only an allowance computed under the straight line method using a useful life equal to the class life prescribed by the Franchise Tax Board

SEC 94 Section 24354 4 is added to the Revenue and Taxation Code, to read

24354.4. (a) If—

(1) A boiler or other combustor was in use on October 1, 1978, and as of such date the principal fuel for such combustor was petroleum or petroleum products (including natural gas), and

(2) The taxpayer establishes to the satisfaction of the Franchise Tax Board that such combustor will be retired or replaced on or before the date specified by the taxpayer,

then for the period beginning with the taxable year in which paragraph (2) is satisfied, the term "reasonable allowance" as used in Section 24349 includes an allowance under the straight line method using a useful life equal to the period ending with the date established under paragraph (2).

(b) If the retirement or replacement of any combustor does not occur on or before the date referred to in paragraph (2) of subdivision (a)—

(1) Sections 24349 through 24354.3 shall cease to apply with respect to such combustor as of such date, and

(2) Interest on the amount of the tax benefit arising from the application of this section with respect to such combustor shall be due and payable for the period during which such tax benefit was available to the taxpayer and ending on the date referred to in paragraph (2) of subdivision (a).

SEC. 94.5. Section 24380 of the Revenue and Taxation Code, as amended by Chapter 326 of the Statutes of 1979, is amended and renumbered to read·

24383 (a) Every taxpayer, at the election of the taxpayer, shall be entitled to a deduction of the cost of repairing or remodeling any building, facility or transportation vehicle owned or leased by the taxpayer at the time of such repairing or remodeling, in order to permit handicapped or elderly individuals to enter or leave such building, facility or transportation vehicle, to increase the access handicapped or elderly individuals would have to such building, facility or transportation vehicle, or to allow handicapped or elderly individuals more effective use of such building, facility or transportation vehicle, provided that the repair or remodeling meets one or more standards established pursuant to Section 4450 or 4451 of the Government Code. In the absence of such state standards, those standards established by the Secretary of the Treasury of the United States with the concurrence of the Architectural and Transportation Barriers Compliance Board shall be used.

(b) The deduction authorized by this section shall be taken with respect to the income year in which such repairing or remodeling is completed

(c) The deduction provided by this section with respect to any income year shall be in lieu of any deduction with respect to such repairing or remodeling relating to exhaustion, wear and tear or obsolescence

(d) If any building, facility or transportation vehicle is owned by more than one person, a taxpayer may deduct a portion of the costs

of such repairing or remodeling apportionate to the interest in such building, facility or transportation vehicle which is owned by the taxpayer.

(e) For purposes of this section, "building, facility or transportation vehicle" means a building, facility or transportation vehicle, or part thereof, which is intended to be used, and is actually used, by the taxpayer or the general public, in the taxpayer's business or trade.

(f) For purposes of this section, "handicapped individual" means any individual who has a physical or mental disability (including, but not limited to, blindness or deafness) which for such individual constitutes or results in a functional limitation to employment, or who has any physical or mental impairment (including, but not limited to, a sight or hearing impairment) which substantially limits one or more major life activities of such individual, and "elderly individual" means an individual who is 65 years of age or older.

(g) The deduction authorized by this section shall not exceed twenty-five thousand dollars ($25,000) with respect to any taxpayer for any income year.

(h) The Franchise Tax Board shall prescribe such regulations as may be necessary to carry out the provisions of this section.

(i) This section shall apply to income years beginning after December 31, 1976 and before January 1, 1985

SEC. 95. Section 24381 of the Revenue and Taxation Code is amended to read:

24381 (a) Every taxpayer, at its election, shall be entitled to a deduction with respect to the amortization of the amortizable basis of any certified historic structure (as defined in subdivision (d)) based on a period of 60 months. Such amortization deduction shall be an amount, with respect to each month of such period within the income year, equal to the amortizable basis 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 deduction provided by this section with respect to any month shall be in lieu of the depreciation deduction with respect to such basis for such month provided by Sections 24349 to 24354.2, inclusive. The 60-month period shall begin, as to any historic structure, at the election of the taxpayer, with the month following the month in which the basis is acquired, or with the succeeding income year

(b) The election of the taxpayer to take the amortization deduction and to begin the 60-month period with the month following the month in which the basis is acquired, or with the income year succeeding the income year in which such basis is acquired, shall be made by filing with the Franchise Tax Board, in such manner, in such form, and within such time as the Franchise Tax Board may by regulations prescribe, a statement of such election.

(c) A taxpayer who has elected under subdivision (b) to take the amortization deduction provided in subdivision (a) may, at any time after making such election, discontinue the amortization deduction with respect to the remainder of the amortization period, such discontinuance to begin as of the beginning of any month specified by the taxpayer in a notice in writing filed with the Franchise Tax Board before the beginning of such month. The depreciation deduction provided under Sections 24349 to 24354.2, inclusive, shall be allowed, beginning with the first month as to which the amortization deduction does not apply, and the taxpayer shall not be entitled to any further amortization deduction under this section with respect to such certified historic structure.

(d) For purposes of this section—

(1) The term "certified historic structure" means a building or structure which is of a character subject to the allowance for depreciation provided in Sections 24349 to 24354.2, inclusive, which—

(A) Is listed in the National Register,

(B) Is located in a registered historic district and is certified by the Secretary of the Interior as being of historic significance to the district

(2) The term "registered historic district" means:

(A) Any district listed in the National Register, and

(B) Any district—

(i) Which is designated under a statute of the appropriate state or local government, if such statute is certified by the Secretary of the Interior to the Franchise Tax Board as containing criteria which will substantially achieve the purpose of preserving and rehabilitating buildings of historic significance to the district, and

(ii) Which is certified by the Secretary of the Interior to the Franchise Tax Board as meeting all of the requirements for the listing of districts in the National Register.

(3) The term "amortizable basis" means the portion of the basis attributable to amounts expended in connection with certified rehabilitation

(4) The term "certified rehabilitation" means any rehabilitation of a certified historic structure which the Secretary of the Interior has certified to the Secretary of the Treasury as being consistent with the historic character of such property or the district in which such property is located.

(e) The depreciation deduction provided by Sections 24349 to 24354 2, inclusive, shall, despite the provisions of subdivision (a), be allowed with respect to the portion of the adjusted basis which is not the amortizable basis

(f) For rules relating to the listing of buildings, historic districts and structures in the National Register, see the act entitled "An act to establish a program for the preservation of additional historic properties throughout the nation and for other purposes", approved October 15, 1966, and contained in Section 470 et seq of Title 16 of

the United States Code.

(g) This section shall apply with respect to additions to capital account after December 31, 1976, and before June 15, 1981.

SEC. 96. Section 24382 is added to the Revenue and Taxation Code, to read:

24382. If a bank or other lending institution acquires by foreclosure (or by instrument in lieu of foreclosure) the stock of a tenant-stockholder of a cooperative housing corporation described in Section 17265, and a lease or the right to occupy an apartment or house to which such stock is appurtenant, such bank or other lending institution shall be entitled to a deduction, for a period not to exceed three years from the date of acquisition, for amounts (not otherwise deductible) paid or accrued to a cooperative housing corporation within the income year, but only to the extent that such amounts represent the tenant-stockholder's proportionate share of.

(a) The real estate taxes allowable as a deduction under Section 24345 which are paid or accrued by the corporation on the houses or apartment buildings and on the land on which such houses (or buildings) are situated, or

(b) The interest allowable as a deduction to the cooperative housing corporation which is paid or incurred by the corporation on its indebtedness contracted—

(1) In the acquisition, construction, alteration, rehabilitation, or maintenance of the houses or apartment buildings, or

(2) In the acquisition of the land on which the houses (or apartment buildings) are situated.

This section shall apply even though, by agreement with the cooperative housing corporation, the bank (or other lending institution) or its nominee may not occupy the house or apartment without prior approval of such corporation

SEC. 97. Section 24442 of the Revenue and Taxation Code is amended to read

24442. (a) In the case of the demolition of a certified historic structure (as defined in Section 24381(d)(1))—

(1) No deduction otherwise allowable under this part shall be allowed to the owner or lessee of such structure for—

(A) Any amount expended for such demolition, or

(B) Any loss sustained on account of such demolition; and

(2) Amounts described in paragraph (1) shall be treated as property chargeable to capital account with respect to the land on which the demolished structure was located.

(b) For purposes of this section, any building or other structure located in a registered historic district (as defined in paragraph (2) of subdivision (d) of Section 24381) shall be treated as a certified historic structure unless the Secretary of the Interior has certified that such structure is not a certified historic structure, and that such structure is not of historic significance to the district, and if such certification occurs after the beginning of the demolition of such structure, the taxpayer has certified to the Franchise Tax Board that,

at the time of such demolition, he in good faith was not aware of the certification requirement by the Secretary of the Interior.

This section shall apply with respect to demolitions commencing after December 31, 1976, and before January 1, 1981.

SEC 98 Section 24443 of the Revenue and Taxation Code is amended to read:

24443 (a) If any employee attends more than two foreign conventions during the income year—

(1) The taxpayer shall select not more than two of such conventions to be taken into account for purposes of this section, and

(2) No deduction allocable to the employee's attendance at any foreign convention during such income year (other than a foreign convention selected under paragraph (1)) shall be allowed under Section 24343.

(b) In the case of any foreign convention, no deduction for the expenses of transportation outside the United States to and from the site of such convention shall be allowed under Section 24343 in an amount which exceeds the lowest coach or economy rate at the time of travel charged by a commercial airline for transportation to and from such site during the calendar month in which such convention begins If there is no such coach or economy rate, the preceding sentence shall be applied by substituting "first class" for "coach or economy."

(c) In the case of any foreign convention, a deduction for the full expenses of transportation (determined after the application of subdivision (b)) to and from the site of such convention shall be allowed only if at least one-half of the total days of the trip, excluding the days of transportation to and from the site of such convention, are devoted to business-related activities. If less than one-half of the total days of the trip, excluding the days of transportation to and from the site of the convention, are devoted to business-related activities, no deduction for the expenses of transportation shall be allowed which exceeds the percentage of the days of the trip devoted to business-related activities.

(d) In the case of any foreign convention, no deduction for subsistence expenses shall be allowed except as follows·

(1) A deduction for a full day of subsistence expenses while at the convention shall be allowed if there are at least six hours of scheduled business activities during such day and the employee attending the convention has attended at least two-thirds of these activities, and

(2) A deduction for one-half day of subsistence expenses while at the convention shall be allowed if there are at least three hours of scheduled business activities during such day and the employee attending the convention has attended at least two-thirds of these activities.

Notwithstanding paragraphs (1) and (2), a deduction for subsistence expenses for all of the days or half days, as the case may be, shall be allowed if the employee attending the convention has attended at least two-thirds of the scheduled business activities, and

each such full day consists of at least six hours of scheduled business activities and each such half day consists of at least three hours of scheduled business activities.

(e) In the case of any foreign convention, no deduction for subsistence expenses while at the convention or traveling to or from such convention shall be allowed at a rate in excess of the dollar per diem rate for the site of the convention which has been established under Section 5702(a) of Title 5 of the United States Code and which is in effect for the calendar month in which the convention begins.

(f) For purposes of this section—

(1) The term "foreign convention" means any convention, seminar, or similar meeting held outside the United States, its possessions, and the Trust Territory of the Pacific.

(2) The term "subsistence expenses" means lodging, meals, and other necessary expenses for the personal sustenance and comfort of the traveler. Such term includes tips and taxi and other local transportation expenses.

(3) In any case where the transportation expenses or the subsistence expenses are not separately stated, or where there is reason to believe that the stated charge for transportation expenses or subsistence expenses or both does not properly reflect the amounts properly allocable to such purposes, all amounts paid for transportation expenses and subsistence expenses shall be treated as having been paid solely for subsistence expenses.

(4) (A) Except as provided in subparagraph (B), this section shall apply to deductions otherwise allowable under Section 24343.

(B) This section shall not deny a deduction to any person other than the employee attending the foreign convention with respect to any amount paid by such person to or on behalf of another person if includable in the gross income of such other person. The preceding sentence shall not apply if such amount is required to be included in any information return filed by such person under Chapter 19 (commencing with Section 25401) of this part and is not so included.

(g) No deduction shall be allowed under Section 24343 for transportation or subsistence expenses allocable to attendance at a foreign convention unless the taxpayer claiming the deduction attaches to the return of tax on which the deduction is claimed—

(1) A written statement signed by the employee attending the convention which includes—

(A) Information with respect to the total days of the trip, excluding the days of transportation to and from the site of such convention, and the number of hours of each day of the trip which such individual devoted to scheduled business activities,

(B) A program of the scheduled business activities of the convention, and

(C) Such other information as may be required in regulations prescribed by the Franchise Tax Board;

and

(2) A written statement signed by an officer of the organization

or group sponsoring the convention which includes—

(A) A schedule of the business activities of each day of the convention,

(B) The number of hours which the employee attending the convention attended such scheduled business activities, and

(C) Such other information as may be required in regulations prescribed by the Franchise Tax Board

SEC 99. Section 24444 is added to the Revenue and Taxation Code, to read:

24444. (a) No deduction otherwise allowable under this chapter shall be allowed for any item—

(1) With respect to an activity which is of a type generally considered to constitute entertainment, amusement, or recreation, unless the taxpayer establishes that the item was directly related to, or, in the case of an item directly preceding or following a substantial and bona fide business discussion (including business meetings at a convention or otherwise), that such item was associated with, the active conduct of the taxpayer's trade or business, or

(2) With respect a facility used in connection with an activity referred to in paragraph (1)

In the case of an item described in paragraph (1), the deduction shall in no event exceed the portion of such item which meets the requirements of paragraph (1).

(b) For purposes of applying subdivision (a), dues or fees to any social, athletic, or sporting club or organization shall be treated as items with respect to facilities

In the case of a country club, paragraph (2) of subdivision (a) shall apply unless the taxpayer establishes that the facility was used primarily for the furtherance of the taxpayer's trade or business and that the item was directly related to the active conduct of such trade or business

SEC 100 Section 24445 is added to the Revenue and Taxation Code, to read

24445. No deduction shall be allowed under Section 24343 for any expense for gifts made directly or indirectly to any individual to the extent that such expense, when added to prior expenses of the taxpayer for gifts made to such individual during the same income year, exceeds twenty-five dollars ($25).

For purposes of this section, the term gift does not include—

(a) An item having a cost to the taxpayer not in excess of four dollars ($4 00) on which the name of the taxpayer is clearly and permanently imprinted and which is one of a number of identical items distributed generally by the taxpayer,

(b) A sign, display rack, or other promotional material to be used on the business premises of the recipient, or

(c) An item of tangible personal property having a cost to the taxpayer not in excess of one hundred dollars ($100) which is awarded to an employee by reason of length of service or for safety

achievement.

SEC. 101. Section 24514 of the Revenue and Taxation Code is amended to read:

24514 (a) This section and Sections 24512 and 24513 shall not apply to any sale or exchange—

(1) Made by a collapsible corporation (as defined in Section 17412 of the Personal Income Tax Law), or

(2) Following the adoption of a plan of complete liquidation, if Section 24503 applies with respect to such liquidation

(b) In the case of a sale or exchange following the adoption of a plan of complete liquidation, if Section 24502 applies with respect to such liquidation, then

(1) If the basis of the property of the liquidating corporation in the hands of the distributee is determined under Section 24504(b) (1), this section and Sections 24512 and 24513 shall not apply; or

(2) If the basis of the property of the liquidating corporation in the hands of the distributee is determined under Section 24504(b) (2), this section and Sections 24512 and 24513 shall apply only to that portion (if any) of the gain which is not greater than the excess of (A) that portion of the adjusted basis (adjusted for any adjustment required under the second sentence of Section 24504(b) (2) of the stock of the liquidating corporation which is allocable, under regulations prescribed by the Franchise Tax Board, to the property sold or exchanged, over (B) the adjusted basis, in the hands of the liquidating corporation, of the property sold or exchanged.

(c) (1) Subdivision (b) shall not apply to a sale or exchange by a corporation (hereinafter in this subdivision referred to as the "selling corporation") if:

(A) Within the 12-month period beginning on the date of the adoption of a plan of complete liquidation by the selling corporation, the selling corporation and each distributee corporation is completely liquidated, and

(B) None of the complete liquidations referred to in subparagraph (A) is a liquidation with respect to which Section 24503 applies

(2) For purposes of paragraph (1):

(A) The term "distributee corporation" means a corporation in the chain of includable corporations to which the selling corporation or a corporation above the selling corporation in such chain makes a distribution in complete liquidation within the 12-month period referred to in subparagraph (A) (i)

(B) The term "chain of includable corporation" includes, in the case of any distribution, any corporation which (at the time of such distribution) is in a chain of includable corporations for purposes of Section 23361. Such term includes, where appropriate, the common parent corporation.

(d) The amendment made to subdivision (b) by the 1977–78 Regular Session of the Legislature shall apply to sales or exchanges made pursuant to a plan of complete liquidation adopted after

December 31, 1976

SEC 102 Section 24540 of the Revenue and Taxation Code is amended to read:

24540 (a) Except as provided in subsections (b) and (c), if—

(1) The taxpayer receives property which would be permitted to be received under Section 24521, 24551, 24571 or 24578 without the recognition of gain if it were the sole consideration; and

(2) As part of the consideration, another party to the exchange assumes a liability of the taxpayer, or acquires from the taxpayer property subject to a liability,

then such assumption or acquisition shall not be treated as money or other property, and shall not prevent the exchange from being within the provisions of Section 24521, 24551, 24571, or 24578, as the case may be.

(b) (1) If, taking into consideration the nature of the liability and the circumstances in the light of which the arrangement for the assumption or acquisition was made, it appears that the principal purpose of the taxpayer with respect to the assumption or acquisition described in subsection (a)—

(A) Was a purpose to avoid tax under this part on the exchange; or

(B) If not such purpose, was not a bona fide business purpose; then such assumption or acquisition (in the total amount of the liability assumed or acquired pursuant to such exchange) shall, for the purposes of Section 24521, 24551, 24571 or 24578 (as the case may be), be considered as money received by the taxpayer on the exchange

(2) In any suit or proceeding where the burden is on the taxpayer to prove such assumption or acquisition is not to be treated as money received by the taxpayer, such burden shall not be considered as sustained unless the taxpayer sustains such burden by the clear preponderance of the evidence

(c) (1) In the case of an exchange—

(A) To which Section 24521 applies; or

(B) To which Section 24551 applies by reason of a plan of reorganization within the meaning of Section 24562(a)(4),

if the sum of the amount of the liabilities assumed, plus the amount of the liabilities to which the property is subject, exceeds the total of the adjusted basis of the property transferred pursuant to such exchange, then such excess shall be considered as a gain from the sale or exchange of a capital asset or of property which is not a capital asset, as the case may be.

(2) Paragraph (1) shall not apply to any exchange to which—

(A) Paragraph (1) of subdivision (b) of this section applies; or

(B) Sections 24571 to 24574, inclusive, or 24578, apply

(3) (A) (i) The taxpayer's taxable income is computed under the cash receipts and disbursements method of accounting, and

(ii) Such taxpayer transfers, in an exchange to which Section 24521 applies, a liability which is either—

(I) An account payable payment of which would give rise to a deduction, or

(II) An amount payable which is described in Section 736(a), of the Internal Revenue Code of 1954,

then, for purposes of paragraph (1), the amount of such liability shall be excluded in determining the amount of liabilities assumed or to which the property transferred is subject

(B) Subparagraph (A) shall not apply to any liability to the extent that the incurrence of the liability resulted in the creation of, or an increase in, the basis of any property.

SEC 103 Section 24541 of the Revenue and Taxation Code is amended to read

24541. (a) In the case of an exchange to which Section 24521, 24531, 24532, 24533, 24535, 24551, or 24572 applies—

(1) The basis of the property permitted to be received under such section without the recognition of gain or loss shall be the same as that of the property exchanged—

(A) Decreased by—

(i) The fair market value of any other property (except money) received by the bank or corporation;

(ii) The amount of any money received by the bank or corporation; and

(iii) The amount of loss to the bank or corporation which was recognized on such exchange, and

(B) Increased by—

(i) The amount which was treated as a dividend; and

(ii) The amount of gain to the bank or corporation which was recognized on such exchange (not including any portion of such gain which was treated as a dividend)

(2) The basis of any other property (except money) received by the bank or corporation shall be its fair market value.

(b) (1) Under regulations prescribed by the Franchise Tax Board, the basis determined under subsection (a) (1) shall be allocated among the properties permitted to be received without the recognition of gain or loss.

(2) In the case of an exchange to which Sections 24532 and 24533 (or so much of Section 24535 as relates to Section 24533) apply, then in making the allocation under paragraph (1) of this subdivision, there shall be taken into account not only the property so permitted to be received without the recognition of gain or loss, but also the stock or securities (if any) of the distributing bank or corporation which are retained, and the allocation of basis shall be made among all such properties.

(c) For purposes of this section, a distribution to which Section 24533 (or so much of Section 24535 as relates to Sections 24532 and 24533) applies shall be treated as an exchange, and for such purposes the stock and securities of the distributing bank or corporation which are retained shall be treated as surrendered, and received back, in the exchange.

(d) (1) Where, as part of the consideration to the bank or corporation, another party to the exchange assumed a liability of the bank or corporation or acquired from the bank or corporation property subject to a liability, such assumption or acquisition (in the amount of the liability) shall, for purposes of this section, be treated as money received by the bank or corporation on the exchange.

(2) Paragraph (1) shall not apply to the amount of any liability excluded under paragraph (3) of subdivision (c) of Section 24540.

(e) This section shall not apply to property acquired by a bank or corporation by the exchange of its stock or securities (or the stock or securities of a corporation which is in control of the acquiring corporation) as consideration in whole or in part for the transfer of the property to it.

SEC. 104. Section 24562 of the Revenue and Taxation Code is amended to read:

24562. (a) For purposes of Chapters 8 (commencing with Section 24451) and 9 (commencing with Section 24501) and this chapter, the term "reorganization" means—

(1) A statutory merger or consolidation;

(2) The acquisition by one corporation, in exchange solely for all or a part of its voting stock (or in exchange solely for all or a part of the voting stock of a corporation which is in control of the acquiring corporation), of stock of another corporation if, immediately after the acquisition, the acquiring corporation has control of such other corporation (whether or not such acquiring corporation had control immediately before the acquisition);

(3) The acquisition by one corporation, in exchange solely for all or a part of its voting stock (or in exchange solely for all or a part of the voting stock of a corporation which is in control of the acquiring corporation), of substantially all of the properties of another corporation, but in determining whether the exchange is solely for stock the assumption by the acquiring corporation of a liability of the other, or the fact that property acquired is subject to a liability, shall be disregarded;

(4) A transfer by a corporation of all or a part of its assets to another corporation if immediately after the transfer the transferor, or one or more of its shareholders (including persons who were shareholders immediately before the transfer), or any combination thereof, is in control of the corporation to which the assets are transferred; but only if, in pursuance of the plan, stock or securities of the corporation to which the assets are transferred are distributed in a transaction which qualifies under Section 24531, 24533, or 24535;

(5) A recapitalization; or

(6) A mere change in identity, form, or place of organization, however effected

(b) (1) If a transaction is described in both paragraph (3) and paragraph (4) of subdivision (a), then, for purposes of this chapter, such transaction shall be treated as described only in paragraph (4) of subdivision (a).

(2) If—

(A) One corporation acquires substantially all of the properties of another corporation;

(B) The acquisition would qualify under paragraph (3) of subdivision (a) but for the fact that the acquiring corporation exchanges money or other property in addition to voting stock; and

(C) The acquiring corporation acquires, solely for voting stock described in paragraph (3) of subdivision (a), property of the other corporation having a fair market value which is at least 80 percent of the fair market value of all of the property of the other corporation;

then such acquisition shall (subject to paragraph (1) of this subdivision) be treated as qualifying under paragraph (3) of subdivision (a) Solely for the purpose of determining whether subparagraph (C) of the preceding sentence applies, the amount of any liability assumed by the acquiring corporation, and the amount of any liability to which any property acquired by the acquiring corporation is subject, shall be treated as money paid for the property.

(3) A transaction otherwise qualifying under paragraph (1), paragraph (2) or paragraph (3) of subdivision (a) shall not be disqualified by reason of the fact that part or all of the assets or stock which were acquired in the transaction are transferred to a corporation controlled by the corporation acquiring such assets or stock.

(4) The acquisition by one corporation, in exchange for stock of a corporation (referred to in this paragraph as "controlling corporation") which is in control of the acquiring corporation, of substantially all of the properties of another corporation which in the transaction is merged into the acquiring corporation shall not disqualify a transaction under paragraph (1) of subdivision (a), if—

(A) Such transaction would have qualified under paragraph (1) of subdivision (a) if the merger had been into the controlling corporation, and

(B) No stock of the acquiring corporation is used in the transaction

(5) A transaction otherwise qualifying under paragraph (1) of subdivision (a) shall not be disqualified by reason of the fact that stock of a corporation (referred to in this paragraph as the "controlling corporation") which before the merger was in control of the merged corporation is used in the transaction, if—

(A) After the transaction, the corporation surviving the merger holds substantially all of its properties and of the properties of the merged corporation (other than stock of the controlling corporation distributed in the transaction), and

(B) In the transaction, former shareholders of the surviving corporation exchanged, for an amount of voting stock of the controlling corporation, an amount of stock in the surviving

corporation which constitutes control of such corporation.

(6) (A) If immediately before a transaction described in subdivision (a) (other than paragraph (5) thereof), two or more parties to the transaction were investment companies, then the transaction shall not be considered to be a reorganization with respect to any such investment company (and its shareholders and security holders) unless it was a regulated investment company, a real estate investment trust, or a corporation which meets the requirements of subparagraph (B).

(B) A corporation meets the requirements of this subparagraph if not more than 25 percent of the value of its total assets is invested in the stock and securities of any one issuer, and not more than 50 percent of the value of its total assets is invested in the stock and securities of five or fewer issuers. For purposes of this paragraph, all members of a controlled group of corporations (within the meaning of Section 1563(a) of the Internal Revenue Code of 1954) shall be treated as one issuer.

(C) For purposes of this paragraph the term "investment company" means a regulated investment company, a real estate investment trust, or a corporation 50 percent or more of the value of whose total assets are stock and securities and 80 percent or more of the value of whose total assets are assets held for investment. In making the 50-percent and 80-percent determinations under the preceding sentence, stock and securities in any subsidiary corporation shall be disregarded and the parent corporation shall be deemed to own its ratable share of the subsidiary's assets, and a corporation shall be considered a subsidiary if the parent owns 50 percent or more of the combined voting power of all classes of stock entitled to vote, or 50 percent or more of the total value of shares of all classes of stock outstanding.

(D) For purposes of this paragraph, in determining total assets there shall be excluded cash and cash items (including receivables), government securities, and, under regulations prescribed by the Franchise Tax Board, assets acquired (through incurring indebtedness or otherwise) for purposes of meeting the requirements of subparagraph (B) or ceasing to be an investment company.

(E) This paragraph shall not apply if the stock of each investment company is owned substantially by the same persons in the same proportions.

(F) If an investment company does not meet the requirements of subparagraph (B) acquires assets of another corporation, subparagraph (A) shall be applied to such investment company and its shareholders and security holders as though its assets had been acquired by such other corporation. If such investment company acquires stock of another corporation in a reorganization described in Section 24562(a)(2) (hereafter referred to as the "actual acquisition") subparagraph (A) shall be applied to the shareholders of such investment company as though they had exchanged with

such other corporation all of their stock in such investment company for stock having a fair market value equal to the fair market value of their stock of stock of such investment company immediately after the exchange.

(G) For purpose of subparagraph (b) and (c), the term "securities" includes obligations of state and local governments, commodity futures contracts, shares of regulated investment companies and real estate investment trusts, and other investments constituting a security within the meaning of the Investment Company Act of 1940, 15 U.S.C. 80a-2(36).

(c) The amendments made to this section by the 1971 First Extraordinary Session of the Legislature shall apply to statutory mergers occurring after December 31, 1970.

SEC. 105. Section 24609 of the Revenue and Taxation Code is amended to read:

24609. If there is no plan but a method of employer contributions or compensation has the effect of a stock bonus, pension, profit sharing, or annuity plan, or other plan deferring the receipt of compensation, Sections 24601 to 24608, inclusive, shall apply as if there were such a plan.

SEC. 106. Section 24610.5 is added to the Revenue and Taxation Code, to read:

24610.5. If a plan would be described in Section 24601 (as modified by Section 24609) but for the fact that there is no employer-employee relationship, the contributions or compensation—

(a) Shall not be deductible by the payer thereof under Section 24343, but

(b) Shall (if they would be deductible under Section 24343 but for subdivision (a)) be deductible under this section for the taxable year in which an amount attributable to the contribution or compensation is includable in the gross income of the persons participating in the plan

SEC. 107. Section 24611 of the Revenue and Taxation Code is repealed

SEC. 108. Section 24652 of the Revenue and Taxation Code is amended to read.

24652. (a) Except as otherwise provided by law, the income from farming of—

(1) A corporation engaged in the trade or business of farming, or

(2) A partnership engaged in the trade or business of farming, if a corporation is a partner in such partnership, shall be computed on an accrual method of accounting and with the capitalization of preproductive period expenses described in subdivision (b). This section shall not apply to the trade or business of operating a nursery or to the raising or harvesting of trees (other than fruit and nut trees).

(b) (1) For purposes of this section, the term "preproductive period expenses" means any amount which is attributable to crops,

animals, or any other property having a crop or yield during the preproductive period of such property.

(2) Paragraph (1) shall not apply—

(A) To taxes and interest, and

(B) To any amount incurred on account of fire, storm, flood, or other casualty or on account of disease or drought.

(3) For purposes of this subdivision, the term "preproductive period" means—

(A) In the case of property having a useful life of more than one year which will have more than one crop or yield, the period before the disposition of the first such marketable crop or yield, or

(B) In the case of any other property, the period before such property is disposed of.

For purposes of this section, the use by the taxpayer in the trade or business of farming of any supply produced in such trade or business shall be treated as a disposition.

(c) For purposes of subdivision (a), a corporation shall be treated as not being a corporation if it is—

(1) An electing small business corporation (within the meaning of Section 1371(b) of the Internal Revenue Code of 1954).

(2) A corporation of which at least 50 percent of the total combined voting power of all classes of stock entitled to vote, and at least 50 percent of the total number of shares of all other classes of stock of the corporation, are owned by members of the same family, or

(3) A corporation the gross receipts of which meet the requirements of subdivision (e).

(d) For purposes of subdivision (c)(2)—

(1) The members of the same family are an individual, such individual's brothers and sisters, the brothers and sisters of such individual's parents and grandparents, the ancestors and lineal descendants of any of the foregoing, a spouse of any of the foregoing, and the estate of any of the foregoing,

(2) Stock owned, directly or indirectly, by or for a partnership or trust shall be treated as owned proportionately by its partners or beneficiaries, and

(3) If 50 percent or more in value of the stock in a corporation (hereinafter in this paragraph referred to as "first corporation") is owned, directly or through paragraph (2), by or for members of the same family, such members shall be considered as owning each class of stock in a second corporation (or a wholly owned subsidiary of such second corporation) owned, directly or indirectly, by or for the first corporation, in that proportion which the value of the stock in the first corporation which such members so own bears to the value of all the stock in the first corporation.

For purposes of paragraph (1), individuals related by the half blood or by legal adoption shall be treated as if they were related by the whole blood

(e) A corporation meets the requirements of this subdivision if,

for each prior year beginning after December 31, 1976, such corporation (and any predecessor corporation) did not have gross receipts exceeding one million dollars ($1,000,000). For purposes of the preceding sentence, all corporations which are members of a controlled group of corporations (within the meaning of Section 1563(a) of the Internal Revenue Code of 1954) shall be treated as one corporation

(f) In the case of any taxpayer required by this section to change its method of accounting for any income year—

(1) Such change shall be treated as having been made with the consent of the Franchise Tax Board,

(2) For purposes of Section 24721(b), such change shall be treated as a change not initiated by the taxpayer, and

(3) Under regulations prescribed by the Franchise Tax Board, the net amount of adjustments required by Section 24721 to be taken into account by the taxpayer in computing income shall be taken into account in each of the 10 income years (or the remaining income years where there is a stated future life of less than 10 income years) beginning with the year of change.

(g) (1) If—

(A) For its 10 income years ending with its first income year beginning after December 31, 1976, a corporation used an annual accrual method of accounting with respect to its trade or business of farming.

(B) Such corporation raises crops which are harvested not less than 12 months after planting, and

(C) Such corporation has used such method of accounting for all income years intervening between its first income year beginning after December 31, 1976, and the income year,

such corporation may continue to employ such method of accounting for the income year with respect to its trade or business of farming.

(2) For purposes of paragraph (1), the term "annual accrual method of accounting" means a method under which revenues, costs, and expenses are computed on an accrual method of accounting and the preproductive period expenses incurred during the income year are charged to harvested crops or deducted in determining the income for such years

(3) For purposes of this subdivision, if a corporation acquired substantially all the assets of a farming trade or business from another corporation in a transaction in which no gain or loss was recognized to the transferor or transferee corporation, the transferee corporation shall be deemed to have computed its income on an annual accrual method of accounting during the period for which the transferor corporation computed its income from such trade or business on an annual accrual method

(h) (1) If—

(A) A corporation has computed its income on an annual accrual method of accounting together with a static value method of accounting for deferred costs of growing crops for the 10 income

years ending with its first income year beginning after December 31, 1976,

(B) Such corporation raises crops which are harvested not less than 12 months after planting, and

(C) Such corporation elects, within one year after the date of the enactment of this section and in such manner as the Franchise Tax Board prescribes, to change to the annual accrual method of accounting (within the meaning of subdivision (g) (2)) for income years beginning after December 31, 1977,

such change shall be treated as having been made with the consent of the Franchise Tax Board, and, under regulations prescribed by the Franchise Tax Board, the net amount of the adjustments required by Section 24721 to be taken into account by the taxpayer in computing income shall (except as otherwise provided in such regulations) be taken into account in each of the 10 income years beginning with the year of change

(2) A corporation which elects under paragraph (1) to change to the annual accrual method of accounting shall, for purposes of subdivision (g), be deemed to be a corporation which has computed its income on an annual accrual method of accounting for its 10 income years ending with its first income year beginning after December 31, 1976.

(3) For purposes of this subdivision, if a corporation acquired substantially all the assets of a farming trade or business from another corporation in a transaction in which no gain or loss was recognized to the transferor or transferee corporation, the transferee corporation shall be deemed to have computed its income on an annual accrual method of accounting together with a static value method of accounting for deferred costs of growing crops during the period for which the transferor corporation computed its income from such trade or business on such accrual and static value method.

SEC. 109 Section 24653 is added to the Revenue and Taxation Code, to read.

24653. (a) This section shall apply to a taxpayer who:

(1) Is a farmer, nurseryman, or florist,

(2) Is on an accrual method of accounting, and

(3) Is not required by Section 24652 to capitalize preproductive period expenses.

(b) A taxpayer to whom this section applies may not be required to inventory growing crops for any income year beginning after December 31, 1977.

(c) A taxpayer to whom this section applies may, for any income year beginning after December 31, 1977, and before January 1, 1981, change to the cash receipts and disbursements method of accounting with respect to any trade or business in which the principal activity is growing crops

(d) Any change in the way in which a taxpayer accounts for the costs of growing crops resulting from the application of subdivision (b) or (c).

(1) Shall not require the consent of the Franchise Tax Board, and

(2) Shall be treated, for purposes of Sections 24721 through 24724 as a change in the method of accounting and initiated by the taxpayer.

(e) For purposes of this section, "growing crops" does not include trees grown for lumber, pulp, or other nonlife purposes.

SEC. 110. Section 24676 5 is added to the Revenue and Taxation Code, to read:

24676.5 (a) A taxpayer who is on an accrual method of accounting may elect not to include in the gross income for the income year the income attributable to the qualified sale of any magazine, paperback, or record which is returned to the taxpayer before the close of the merchandise return period.

(b) For purposes of this section—

(1) The term "magazine" includes any other periodical.

(2) The term "paperback" means any book which has a flexible outer cover and the pages of which are affixed directly to such outer cover. Such term does not include a magazine.

(3) The term "record" means a disc, tape, or similar object on which musical, spoken, or other sounds are recorded.

(4) If a taxpayer makes qualified sales of more than one category of merchandise in connection with the same trade or business, this section shall be applied as if the qualified sales of each such category were made in connection with a separate trade or business. For purposes of the preceding sentence, magazines, paperbacks, and records shall each be treated as a separate category of merchandise.

(5) A sale of a magazine, paperback, or record is a qualified sale if—

(A) At the time of sale, the taxpayer has a legal obligation to adjust the sales price of such magazine, paperback, or record if it is not resold, and

(B) The sales price of such magazine, paperback, or record is adjusted by the taxpayer because of a failure to resell it.

(6) The amount excluded under this section with respect to any qualified sale shall be the lesser of—

(A) The amount covered by the legal obligation described in paragraph (5) (A), or

(B) The amount of the adjustment agreed to by the taxpayer before the close of the merchandise return period.

(7) (A) Except as provided in subparagraph (B), the term "merchandise return period" means, with respect to any income year—

(i) In the case of magazines, the period of 2 months and 15 days first occurring after the close of the income year, or

(ii) In the case of paperbacks and records, the period of 4 months and 15 days first occurring after the close of the income year.

(B) The taxpayer may select a shorter period than the applicable period set forth in subparagraph (A)

(C) Any change in the merchandise return period shall be treated

as a change in the method of accounting.

(8) As prescribed by the Franchise Tax Board, the taxpayer may substitute, for the physical return of magazines, paperbacks, or records required by subsection (a), certification or other evidence that the magazine, paperback, or record has not been resold and will not be resold if such evidence—

(A) Is in the possession of the taxpayer at the close of the merchandise return period, and

(B) Is satisfactory to the Franchise Tax Board

(9) A repurchase by the taxpayer shall be treated as an adjustment of the sales price rather than as a resale

(c) (1) This section shall apply to qualified sales of magazines, paperbacks, or records, as the case may be, if and only if the taxpayer makes an election under this section with respect to the trade or business in connection with which such sales are made An election under this section may be made without the consent of the Franchise Tax Board The election shall be made in such manner as the Franchise Tax Board may prescribe and shall be made for any taxable year not later than the time prescribed by law for filing the return for such income year (including extensions thereof).

(2) An election made under this section shall apply to all qualified sales of magazines, paperbacks, or records, as the case may be, made in connection with the trade or business with respect to which the taxpayer has made the election

(3) An election under this section shall be effective for the income year for which it is made and for all subsequent income years, unless the taxpayer secures the consent of the Franchise Tax Board to the revocation of such election.

(4) Except to the extent inconsistent with the provisions of this section, for purposes of this subtitle, the computation of taxable income under an election made under this section shall be treated as a method of accounting.

(d) In applying Section 24723 with respect to any election under this section which applies to magazines, the period of taking into account any decrease in taxable income resulting from the application of subdivision (b) of Section 24721 shall be the income year for which the election is made and the four succeeding income years

(e) (1) In the case of any election under this section which applies to paperbacks or records, in lieu of applying Sections 24721 through 24725, the taxpayer shall establish a suspense account for the trade or business for the income year for which the election is made.

(2) The opening balance of the account described in paragraph (1) for the first income year to which the election applies shall be the largest dollar amount of returned merchandise which would have been taken into account under this section for any of the three immediately preceding income years if this section had applied to such preceding three income years This paragraph and paragraph (3) shall be applied by taking into account only amounts attributable

to the trade or business for which such account is established.

(3) At the close of each taxable year the suspense account shall be—

(A) Reduced by the excess (if any) of—

(i) The opening balance of the suspense account for the income year, over

(ii) The amount excluded from gross income for the income year under subsection (a), or

(b) Increased (but not in excess of the initial opening balance) by the excess (if any) of—

(i) The amount excluded from gross income for the income year under subsection (a), over

(ii) The opening balance of the account for the income year.

(4) (A) In the case of any reduction under paragraph (3) (A) in the account for the income year, an amount equal to such reduction shall be excluded from gross income for such income year.

(B) In the case of any increase under paragraph (3) (B) in the account for the income year, an amount equal to such increase shall be included in gross income for such income year.

If the initial opening balance exceeds the dollar amount of returned merchandise which would have been taken into account under subsection (a) for the income year preceding the first income year for which the election is effective if this section had applied to such preceding income year, then an amount equal to the amount of such excess shall be included in gross income for such first income year.

(5) The application of this subsection with respect to a taxpayer which is a party to any transaction with respect to which there is nonrecognition of gain or loss to any party to the transaction by reason of Chapter 8 shall be determined as prescribed by the Franchise Tax Board.

(6) The amendments to this section made by the 1979–80 Regular Session of the Legislature shall apply to income years beginning on or after October 1, 1979.

SEC 111. Section 24687 is added to the Revenue and Taxation Code, to read:

24687. (a) At the election of a taxpayer whose taxable income is computed under an accrual method of accounting, the deduction allowable under this chapter for the redemption costs of qualified discount coupons shall be an amount equal to the sum of—

(1) Such costs incurred by the taxpayer with respect to coupons—

(A) Which were outstanding at the close of the income year, and

(B) Which were received by the taxpayer before the close of the redemption period for the income year, plus

(2) Such costs (other than costs properly taken into account under paragraph (1) for a prior income year) incurred by the taxpayer during the income year.

(b) For purposes of this section—

(1) The term "qualified discount coupon" means a discount coupon which—

(A) Was issued by the taxpayer,

(B) Is redeemable by the taxpayer, and

(C) Allows a discount on the purchase price of merchandise or other tangible personal property.

(2) The determination of whether or not a discount coupon is a qualified discount coupon shall be made without regard to whether the coupon was issued through a newspaper, magazine, or other publication, by mail, on the pack or in the pack of merchandise, or otherwise.

(3) A coupon shall not be a qualified discount coupon if—

(A) The face amount of such coupon is more than five dollars ($5), or

(B) Such coupon may be used with other coupons to bring about a price discount of more than five dollars ($5) with respect to any item.

(4) A coupon shall not be a qualified discount coupon if the issuer directly redeems such coupon from the person using the coupon to receive a price discount.

(5) A coupon is redeemable by the taxpayer if the terms of the coupon require the taxpayer to redeem the coupon when presented for redemption in accordance with its terms.

(c) For purposes of this section—

(1) The term "redemption cost" means, with respect to any coupon—

(A) The lesser of—

(i) The amount of the discount provided by the terms of the coupon, or

(ii) The amount incurred by the taxpayer for paying such discount, plus

(B) The amount incurred by the taxpayer for a payment to the retailer (or other person redeeming the coupon from the person receiving the price discount), but only if the amount so payable is stated on the coupon.

(2) (A) Except as provided in subparagraph (B), the redemption period for any income year is the six-month period immediately following the close of the income year.

(B) The taxpayer may select a redemption period which is shorter than six months.

(C) Any change in the redemption period shall be treated as a change in the method of accounting.

(d) (1) This section shall apply to qualified discount coupons if and only if the taxpayer makes an election under this section with respect to the trade or business in connection with which such coupons are issued An election under this section may be made without the consent of the Franchise Tax Board The election shall be made in such manner as the Franchise Tax Board may by regulations prescribe and shall be made for any income year not later than the time prescribed by law for filing the return for such income year (including extensions thereof).

(2) An election made under this section shall apply to all qualified discount coupons issued in connection with the trade or business

with respect to which the taxpayer has made the election.

(3) An election under this section shall apply to the income year for which it is made and for all subsequent income years, unless the taxpayer secures the consent of the Franchise Tax Board to the revocation of such election.

(4) Except to the extent inconsistent with the provisions of this section, for purposes of this part, the computation of taxable income under an election made under this section shall be treated as a method of accounting.

(e) (1) In the case of any election under this section which (but for this subsection) would result in a net decrease in taxable income under subdivision (b) of Section 24721, in lieu of applying Sections 24721 through 24724, the taxpayer shall establish a suspense account for the trade or business for the income year for which the election is made.

(2) The initial opening balance of the account described in paragraph (1) for the first income year to which the election applies shall be the amount by which—

(A) The largest dollar amount which would have been taken into account under subsection (a) (1) for any of the three immediately preceding income years if this section had applied to such three preceding income years, exceeds

(B) The sum of the increases in income (and the decreases in deductions) which (but for this subsection) would result under subdivision (b) of Section 24721 for such first income years.

This subsection shall be applied by taking into account only amounts attributable to the trade or business for which such account is established.

(3) At the close of each income year, the suspense account shall beg balance of the suspense account for the income year, over

(ii) The amount deducted for the income year under subsection (a) (1), *or*

(B) Increased (but not in excess of the initial opening balance) by the excess (if any) of—

(i) The amount deducted for the income year under subsection (a) (1), over

(ii) The opening balance of the suspense account for the income year

(4) (A) In the case of any reduction under paragraph (3) (A) in the account for the income year, an amount equal to such reduction shall be allowed as a deduction for such income year

(B) In the case of any increase under paragraph (3) (B) in the account for the income year, an amount equal to such increase shall be included in gross income for such income year

If the amount described in paragraph (2) (A) exceeds the dollar amount which would have been taken into account under subsection (a) (1) for the income year preceding the first income year for which the election is effective if this section had applied to such preceding income year, then an amount equal to the amount of such excess shall

be included in gross income for such first income year.

(5) The application of this subsection with respect to a taxpayer which is a party to any transaction with respect to which there is nonrecognition of gain or loss to any party to the transaction by reason of Chapter 8 shall be determined under regulations prescribed by the Franchise Tax Board.

(f) In the case of any election under this section which results in a net increase in taxable income under subdivision (b) of Section 24721 under regulations prescribed by the Franchise Tax Board such next increase shall (except as otherwise provided in such regulations) be taken into account by the taxpayer in computing taxable income in each of the 10 income years beginning with the year for which the election is made

SEC. 112 Section 24832 of the Revenue and Taxation Code is amended to read:

24832 (a) In the case of oil, gas, and geothermal wells the allowance for depletion under Section 24835 shall be 22 percent of the gross income from the property during the income year, excluding from such gross income an amount equal to any rents or royalties paid or incurred by the taxpayer in respect of the property. Such allowance shall not exceed 50 percent of the net income of the taxpayer (computed without allowance for depletion) from the property, except that in no case shall the depletion allowance under Section 24835 be less than it would be if computed without reference to this section.

(b) Where the total accumulated amount of deduction allowed or allowable for depletion exceeds an amount equal to the adjusted cost of the taxpayer's interest in any property which is subject to recovery through depletion under this part, percentage depletion shall be allowed in respect to such interests in such property, subject to the limitations and adjustments of subdivisions (c) and (d).

(c) Where the total depletion allowance for all properties in subdivision (b) exceeds one million five hundred thousand dollars ($1,500,000), the allowance in subdivision (b) shall be reduced by 125 percent of the excess.

(d) When either (1) the income from sources within this state of two or more corporations which are commonly owned or controlled is determined in accordance with Chapter 17 (commencing with Section 25101) of this part or Part 18 (commencing with Section 38001) of this division, or (2) two or more commonly owned or controlled corporations derive income from sources solely within this state, whose business activities are such that if conducted within and without this state, the income derived from sources within this state would be determined in accordance with Chapter 17 (commencing with Section 25101) of this part or Part 18 (commencing with Section 38001) of this division (hereinafter referred to as "wholly intrastate corporations"), then such corporations shall determine the percentage depletion prescribed in subdivision (b) as if such corporations were one corporation As to "wholly intrastate

corporations", if subdivision (c) applies, then the amount of percentage depletion (as adjusted and limited by subdivision (c)) shall be prorated among them in the ratio to which the percentage depletion of each prescribed in subdivision (b) (before the application of subdivision (c)) bears to the total percentage depletion prescribed in subdivision (b) for all corporations (before the application of subdivision (c)).

(e) For purposes of this section, a "geothermal deposit" means a geothermal reservoir consisting of natural heat which is stored in rocks or in an aqueous liquid or vapor (whether or not under pressure).

SEC. 113 Section 24834 of the Revenue and Taxation Code is amended to read:

24834. For purposes of this section and Section 24833—

(a) The term "gross income from the property" means, in the case of a property other than an oil, gas, or geothermal well, the gross income from mining.

(b) The term "mining" includes not merely the extraction of the ores or minerals from the ground but also the treatment processes considered as mining described in paragraph (d) (and the treatment processes necessary or incidental thereto), and so much of the transportation of ores or minerals (whether or not by common carrier) from the point of extraction from the ground to the plants or mills in which such treatment processes are applied thereto as is not in excess of 50 miles unless the Franchise Tax Board finds that the physical and other requirements are such that the ore or mineral must be transported a greater distance to such plants or mills.

(c) The term "extraction of the ores or minerals from the ground" includes the extraction by mine owners or operators of ores or minerals from the waste or residue of prior mining. The preceding sentence shall not apply to any such extraction of the mineral or ore by a purchaser of such waste or residue or of the rights to extract ores or minerals therefrom.

(d) The following treatment processes where applied by the mine owner or operator shall be considered as mining to the extent they are applied to the ore or mineral in respect of which it is entitled to a deduction for depletion under Section 24833, 24834 and 24835:

(1) In the case of coal—cleaning, breaking, sizing, dust allaying, treating to prevent freezing, and loading for shipment;

(2) In the case of sulfur recovered by the Frasch process—cleaning, pumping to vats, cooling, breaking, and loading for shipment;

(3) In the case of iron ore, bauxite, ball and sagger clay, rock asphalt, and ores or minerals which are customarily sold in the form of a crude mineral product—sorting, concentrating, sintering, and substantially equivalent processes to bring to shipping grade and form, and loading for shipment,

(4) In the case of lead, zinc, copper, gold, silver, uranium, or fluorspar ores, potash, and ores or minerals which are not customarily

sold in the form of the crude mineral product—crushing, grinding, and benefication by concentration (gravity, flotation, amalgamation, electrostatic, or magnetic), cyanidation, leaching, crystallization, precipitation (but not including electrolytic deposition, roasting, thermal or electric smelting, or refining), or by substantially equivalent processes or combination of processes used in the separation or extraction of the product or products from the ore or the mineral or minerals from other material from the mine or other natural deposit;

(5) The pulverization of talc, the burning of magnesite, the sintering and nodulizing of phosphate rock, and the furnacing of quicksilver ores,

(6) In the case of calcium carbonates and other minerals when used in making cement—all processes (other than preheating of the kiln feed) applied prior to the introduction of the kiln feed into the kiln, but not including any subsequent process;

(7) In the case of clay used, or sold for use, in the manufacture of building or paving brick, drainage and roofing tile, sewer pipe, flowerpots and kindred products—crushing, grinding, and separating the mineral from waste, but not including any subsequent process; and

(8) Any other treatment process provided for by regulations prescribed by the Franchise Tax Board which, with respect to the particular ore or mineral, is not inconsistent with the preceding provisions of this paragraph.

(e) Unless such processes are otherwise provided for in subdivision (d) (or are necessary or incidental to processes so provided for), the following treatment processes shall not be considered as "mining": electrolytic deposition, roasting, calcining, thermal or electric smelting, refining, polishing, fine pulverization, blending with other materials, treatment effecting a chemical change, thermal action, and molding or shaping.

SEC. 114. Section 24835 of the Revenue and Taxation Code is amended to read:

24835. In the case of mines, oil, gas, and geothermal wells, other natural deposits and timber, a reasonable allowance for depletion and for depreciation of improvements according to the peculiar conditions in each case, such reasonable allowance in all cases to be made under rules and regulations to be prescribed by the Franchise Tax Board. In any case in which it is ascertained as a result of operations or of development work that the recoverable units are greater or less than the prior estimate thereof, then such prior estimate (but not the basis for depletion) shall be revised and the allowance under this section for subsequent income years shall be based upon such revised estimate In the case of leases the deductions shall be equitably apportioned between the lessor and the lessees.

SEC 115 Section 24835.5 of the Revenue and Taxation Code is amended to read·

24835 5. Notwithstanding the provisions of any section in this

chapter, the total accumulated amount of deduction allowed or allowable for depletion, with respect to oil, gas, and geothermal wells, shall be limited to an amount equal to the adjusted cost of the taxpayer's interest in such property which is subject to recovery through depletion under this part, except as provided in Section 24832.

SEC. 116. Section 24949.3 is added to the Revenue and Taxation Code, to read·

24949.3. For purposes of Sections 24943 through 24946, if, because of soil contamination or other environmental contamination, it is not feasible for the taxpayer to reinvest the proceeds from compulsorily or involuntarily converted livestock in property similar or related in use to the livestock so converted, other property (including real property) used for farming purposes shall be treated as property similar or related in service or use to the livestock so converted

SEC 117 Section 157 of Chapter 1079 of the Statutes of 1977 is amended to read.

Sec. 157. (a) All sections of this act affecting changes to the Personal Income Tax Law, unless otherwise specified in such sections, shall be applied in the computation of taxes for taxable years beginning after December 31, 1976.

(b) Sections 95 and 96 of this act shall apply to taxable years beginning after December 31, 1979.

SEC. 118. The Legislature finds and declares that Sections 36, 37, 70, 71, 72, 73, 73.5, 77, and 117 of this act shall serve a public purpose by providing the California Legislature time to reconsider the impact of revising the basis of property acquired from decedents on the state economy and to relieve taxpayers of the burden of such provisions, which were amended by the provisions of Chapter 1079 of the Statutes of 1977 for the purpose of conforming to the federal income tax law. The operative effect of the federal income tax law has now been delayed until December 31, 1979, by the Congress of the United States, which has determined that such delay in applying such amendments to the method of determining basis has been made necessary due to the need to reconsider the effect of such change in the income tax levels.

SEC 119. 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 beginning on or after the first day of the calendar year in which this act becomes effective provided the effective date is more than 90 days prior to the last day of the calendar year If the effective date is 90 days or less prior to the last day of the calendar year, the provisions of this act shall apply in the computation of taxes for taxable years beginning on or after the first day of the calendar year following the effective date

CHAPTER 1169

An act to add Section 380 to the Penal Code, relating to poisons.

[Approved by Governor September 29, 1979 Filed with Secretary of State September 30, 1979]

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

SECTION 1. Section 380 is added to the Penal Code, to read:

380. (a) Every person who sells, dispenses or distributes toluene, or any substance or material containing toluene, to any person who is less than 18 years of age shall be guilty of a misdemeanor, and upon conviction shall be fined in a sum of not less than one thousand dollars ($1,000), nor more than two thousand five hundred dollars ($2,500), or by imprisonment for not less than six months nor more than one year.

(b) The court shall order the suspension of the business license, for a period of one year, of a person who knowingly violates any of the provisions of this section after having been previously convicted of a violation of this section unless the owner of such business license can demonstrate a good faith attempt to prevent illegal sales or deliveries by employees. The provisions of this subdivision shall become operative on July 1, 1980.

(c) The provisions of this section shall apply to, but are not limited to, the sale or distribution of glue, cement, dope, paint thinners, paint, and any combination of hydrocarbons either alone or in combination with any substance or material including, but not limited to, paint, paint thinners, shellac thinners, and solvents which, when inhaled, ingested or breathed, can cause a person to be under the influence of, or intoxicated from, any such combination of hydrocarbons.

This section shall not prohibit the sale of gasoline or other motor vehicle fuels to persons less than 18 years of age.

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

CHAPTER 1170

An act to add Section 5127 6 to, and to repeal Section 209 of, the Civil Code, to add Sections 396 and 396.5 to the Penal Code, and to amend Sections 10951, 11004, 11483, 18904, and 18904.1 of, to add Sections 10605, 11250.5, and 11261 to, and to repeal Sections 10605 and 18910 of, the Welfare and Institutions Code, relating to public social

services.

[Approved by Governor September 29, 1979 Filed with Secretary of State September 30, 1979]

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

SECTION 1. This act shall be known and may be cited as the Welfare Reform Act of 1979.

SEC. 1.3 Section 209 of the Civil Code is repealed.

SEC. 2. Section 5127.6 is added to the Civil Code, to read:

5127.6. Notwithstanding Section 5127.5, the community property interest of a natural or adoptive parent in the income of his or her spouse shall be considered unconditionally available for the care and support of any child who resides with the child's natural or adoptive parent who is married to such spouse. The amount arising from such duty to care for and support shall be reduced by the amount of any existing previously court ordered child support obligations of such spouse.

Any contribution for care and support provided by a spouse who is not a natural or adoptive parent of the child shall not be considered a change in circumstances that would affect a court ordered support obligation of a natural or adoptive parent for that child.

SEC. 3. Section 396 is added to the Penal Code, to read:

396. Whoever knowingly uses, transfers, acquires, or possesses food stamps or authorizations to participate in the federal Food Stamp Program in any manner not authorized by Chapter 10 (commencing with Section 18900), Part 6, Division 9 of the Welfare and Institutions Code or by the Food Stamp Act of 1964 (Public Law 88-525 and all amendments made thereto) is guilty of a misdemeanor if the face value of the food stamps or the authorizations to participate is two hundred dollars ($200) or less; or is guilty of a felony if the face value of the food stamps or the authorizations to participate exceeds two hundred dollars ($200), or if the cumulative face value of the food stamps used, transferred, acquired, or possessed in such manner over any period no longer than two years exceeds two hundred dollars ($200).

Whoever knowingly uses, transfers, acquires, or possesses blank authorizations to participate in the federal Food Stamp Program in any manner not authorized by Chapter 10 with the intent to defraud is guilty of a felony

Whoever counterfeits or alters or knowingly uses, transfers, acquires, or possesses counterfeited or altered authorizations to participate in the federal Food Stamp Program or food stamps in any manner not authorized by the Food Stamp Act of 1964 (Public Law 88-525 and all amendments made thereto) or the federal regulations pursuant to the act is guilty of forgery

Whoever fraudulently appropriates food stamps or authorizations to participate with which he has been entrusted pursuant to his

duties as a public employee is guilty of embezzlement of public funds.

SEC 4. Section 396.5 is added to the Penal Code, to read:

396 5 It shall be unlawful for any retail food store or wholesale food concern, as defined in Section 3(k) of the federal Food Stamp Act of 1977 (Public Law 95-113), or any person, to sell, furnish or give away any goods or services, other than those items authorized by the Food Stamp Act of 1964, as amended (Public Law 88-525), in exchange for food stamps issued pursuant to Chapter 10 (commencing with Section 18900), Part 6, Division 9 of the Welfare and Institutions Code

Any violator of this section is guilty of a misdemeanor and shall be punished by a fine of not more than five thousand dollars ($5,000) or by imprisonment in the county jail not exceeding 90 days, or by both such fine and imprisonment.

SEC. 5. Section 10605 of the Welfare and Institutions Code is repealed

SEC 6 Section 10605 is added to the Welfare and Institutions Code, to read:

10605 If the director believes that a county is substantially failing to comply with any provision of this code or any regulation pertaining to any program administered by the department, and he determines that formal action may be necessary to secure compliance, he shall inform the county welfare director and the board of supervisors of such failure. The notice to the county welfare director and board of supervisors shall be in writing and shall allow the county a specified period of time, not less than 30 days, to correct its failure to comply with the law or regulations. If within the specified period the county does not comply or provide reasonable assurances in writing that it will comply within such additional time as the director may allow, the director may take one or both of the following actions.

(a) Bring an action for injunctive relief to secure immediate compliance

Any county which is found to be failing in a substantial manner to comply with the law or regulations pertaining to any program administered by the department may be enjoined by any court of competent jurisdiction The court may make such orders or judgments as may be necessary to secure county compliance.

(b) Order the county to appear at a hearing before the director with the State Social Services Advisory Board to show cause why the director should not take administrative action to secure compliance. The county hearings shall be conducted pursuant to the rules and regulations of the department.

If the director determines based on the record established at the hearing and the advice of the State Social Services Advisory Board that the county is failing to comply with the provisions of this code or the regulations of the department, or if the State Personnel Board certifies to the director that a county is not in conformity with

established merit system standards under Part 2.5 (commencing with Section 19800) of Division 5 of Title 2 of the Government Code, and that administrative sanctions are necessary to secure compliance, the director may invoke either of the following sanctions:

(1) Withhold all or part of state and federal funds from such county until the county demonstrates to the director that it has complied.

(2) Assume, temporarily, direct responsibility for the administration of all or part of any or all programs administered by the department in such county until such time as the county provides reasonable assurances to the director of its intention and ability to comply. During such period of direct state administrative responsibility, the director or his authorized representative shall have all of the powers and responsibilities of the county director, except that he shall not be subject to the authority of the board of supervisors.

In the event that the director invokes sanctions pursuant to this section, the county shall be responsible for providing such funds as may be necessary for the continued operation of all programs administered by the department in such county. If a county fails or refuses to provide such funds, including a sufficient amount to reimburse any and all costs incurred by the department in directly administering any program in the county, the Controller may deduct an amount certified by the director as necessary for the continued operation of such programs by the department from any state or federal funds payable to the county for any purpose.

Nothing in this section shall be construed as preventing a county from seeking judicial review under Section 1094.5 of the Code of Civil Procedure of any final decision of the director made after a hearing conducted under this section. Such review shall be the exclusive remedy available to the county for review of the director's decision.

Nothing in this section shall be construed as preventing the director from bringing an action for writ of mandamus or such other action in court as may be appropriate to insure that there is no interruption in the provision of benefits to any person eligible therefor under the provisions of this code or the regulations of the department.

SEC. 7. Section 10951 of the Welfare and Institutions Code is amended to read.

10951 No person shall be entitled to a hearing pursuant to this chapter unless he files his request for the same within 90 days after the order or action complained of.

SEC 9 Section 11004 of the Welfare and Institutions Code is amended to read:

11004 The provisions of this code relative to public social services for which state grants-in-aid are made to the counties shall be administered fairly to the end that all persons who are eligible and

apply for such public social services shall receive the assistance to which they are entitled promptly, with due consideration for the needs of applicants and the safeguarding of public funds.

(a) Any applicant for, or recipient or payee of, such public social services shall be informed as to the provisions of eligibility and his responsibility for reporting facts material to a correct determination of eligibility and grant.

(b) Any applicant for, or recipient or payee of, such public social services shall be responsible for reporting accurately and completely within his competence those facts required of him pursuant to subdivision (a) and to report promptly any changes in those facts.

(c) Any person who makes full and complete disclosure of those facts as explained to him pursuant to subdivision (a) is entitled to rely upon the award of public social services as being accurate, and that the warrant he receives correctly reflects the award made, except that the county providing the social services shall be allowed a period of six months following the month of payment, or six months following the hearing provided in subdivision (f), within which to adjust any errors or changes in amount of grant resulting from changes in income or need which occur too late to be reflected in the grant for the current month. Whenever possible, adjustments or overpayments shall be prorated evenly over the adjustment period.

(d) If any overpayment results because of a willful failure to report facts in accordance with subdivision (b) or because of any willfully fraudulent device, the county providing the social services shall be allowed a period of two years following the month of the discovery of the overpayment, or two years following the hearing provided in subdivision (f), to adjust current grants to recover the overpayment. Such adjustment shall be permitted concurrently with any suit for restitution, and recovery of overpayment by adjustment shall reduce by the amount of such recovery the extent of liability for restitution.

For purposes of this section, "willful failure to report facts" means the failure to report facts under circumstances where the person had been informed of the reporting requirements and such person knew or should have known of such reporting requirements, but failed to report facts as required by subdivision (b).

(e) If the department determines after a hearing that an overpayment has resulted because of the willful failure to report facts in accordance with subdivision (b) or because of any willfully fraudulent device, the county providing the public social services shall seek to recover in accordance with subdivision (d) all or any portion of any grant amount paid to the recipient, including any amount paid while the hearing process was pending.

(f) Current grants may be reduced because of prior overpayments only if the recipient has income or resources available in the amount by which the county proposes to reduce payment; except that, where evidence establishes that a recipient willfully withheld information about his income or resources, such income or

resources may be considered in the determination of need to reduce the amount of the grant in current or future periods. Prior to effecting any reduction of current grants to recover prior overpayments, the recipient shall be advised of the proposed reduction and of his entitlement to a hearing on the propriety of the reduction When recoupments are made from current assistance payments, the department shall on a case-by-case basis limit the proportion of such payments that may be deducted so as not to cause undue hardship to recipients. In no event shall the grant to a needy child be reduced unless the parents or other responsible persons have sufficient available resources or income to meet the current needs of the needy child according to the department standard during the period of reduction. For purposes of this subdivision, reduction of the grant to a needy child below the department standard when resources or income are not available to meet the current needs of a needy child shall constitute undue hardship.

(g) If it is found that a recipient or a family was possessed of property in excess of the amount permitted by law, and it cannot be established that the recipient or family received such public social service in bad faith, without honestly believing eligibility was properly established, the amount collectible shall be limited to an amount equal to the market value of the excess property or the value of the public social service granted during the period the excess property was held, whichever is the lesser

(h) No civil or criminal action may be commenced against any person based on alleged unlawful application for or receipt of public social services, where the case record of such person has been destroyed after the expiration of the four-year retention period pursuant to Section 10851

(i) When an underpayment or denial of public social service occurs because of an administrative error or inadvertence on the part of a county, and as a result the applicant or recipient does not receive the amount to which he is entitled, the county shall provide public social services equal to the full amount of the underpayment which occurred during the period of one year immediately preceding the date the error or inadvertence is discovered

(j) This subdivision shall be applicable only to applicants, recipients and payees under Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of this code. Any suits to recover overpayments described in subdivision (d) shall be brought on behalf of the county by the county counsel unless the board of supervisors delegates such duty to the district attorney by ordinance or resolution

SEC 10 Section 11250 5 is added to the Welfare and Institutions Code, to read

11250 5 In order to maximize federal financial participation for families eligible pursuant to Section 11201, a child whose unemployed parent does not satisfy the requirements for federal financial participation set forth in Section 407(b) (1) of Title IV-A of

the federal Social Security Act shall, to the extent permitted under federal law, be paid emergency assistance to needy families with children as provided in Section 406(e) of that act.

SEC. 11 Section 11261 is added to the Welfare and Institutions Code, to read·

11261. Notwithstanding Section 5127.5 of the Civil Code and to the extent permitted by federal law, the community property interest of a natural or adoptive parent in the income of his or her spouse shall be considered unconditionally available for the care and support of any child who resides with the child's natural or adoptive parent who is married to such spouse. The amount arising from such duty to care for and support shall be reduced by the amount of any existing previously court ordered child support obligations of such spouse.

Any contribution for care and support provided by a spouse who is not a natural or adoptive parent of the child shall not be considered a change in circumstances that would affect a court ordered support obligation of a natural or adoptive parent for that child.

SEC. 12. Section 11483 of the Welfare and Institutions Code is amended to read:

11483. Whenever any person has, by means of false statement or representation or by impersonation or other fraudulent device, obtained aid for a child not in fact entitled thereto, the person obtaining such aid shall be punished as follows:

(1) If the amount obtained or retained is two hundred dollars ($200) or less, by imprisonment in the county jail for a period of not more than six months, a fine of not more than five hundred dollars ($500), or by both such imprisonment and fine.

(2) If the amount obtained or retained during any period no longer than two years is more than two hundred dollars ($200), by imprisonment in the state prison, or by imprisonment in the county jail for not more than one year.

When the alleged violation is limited to failure to report income or resources, or the presence of an additional person or persons in the household, and results in an overpayment of not more than two thousand dollars ($2,000), all actions necessary to secure restitution shall be brought against persons in such a violation of this section, pursuant to this paragraph. Restitution shall be sought by request, civil action, or other suitable means prior to the bringing of a criminal complaint. Such action for restitution may be satisfied by sending a registered letter requesting restitution to the last address at which the person was receiving public assistance

SEC. 13. Section 18904 of the Welfare and Institutions Code is amended to read·

18904. Regulations, orders or standards of general application to implement, interpret or make specific the law relating to this chapter shall be adopted, amended or repealed only in accordance with Section 10554. The director shall also provide for the two methods as described in subdivision (a) of Section 18904 1 by which

a county welfare department shall distribute food stamps to eligible households. To the extent permitted by federal law, the director may, at county request, waive use of mail or over-the-counter issuance.

SEC. 14. Section 18904.1 of the Welfare and Institutions Code is amended to read.

18904.1. The director, to the extent permitted by federal law, shall establish methods for food stamp issuance in all counties which guarantee to low-income households the health-vital nutritional benefits available under this chapter and to achieve the most efficient system for program administration so as to minimize administrative costs

(a) The director shall immediately establish methods for over-the-counter and mail issuance of food stamps in all counties.

(b) The director of a county welfare department may seek a waiver of mail or over-the-counter issuance if the county director establishes that reasonable access is afforded recipients by the other method of issuing food stamps. The request for a waiver shall be in writing and shall describe the reasons for the request. The county director shall submit a copy of the waiver request to the county board of supervisors

(c) Upon receipt of a waiver request from a county, the director shall decide whether to grant the waiver in accordance with the following procedure. The director shall consider the waiver in light of the facts presented in the waiver request. If the director finds that the facts presented in the waiver request establish that the conditions in subdivision (b) of this section exist in the county and that waiver of mail or over-the-counter method of food stamp issuance will not substantially impair the ability of eligible households to obtain food stamps, he may waive the use of that method of food stamp issuance in the county. The director shall notify the county welfare director of this decision within 60 days of the receipt of the request, and shall send a copy of his decision to the county board of supervisors.

The director shall establish in all counties methods for mail issuance of food stamps and methods for over-the-counter issuance which guarantee program accessibility in all cases where a household has been found to be in immediate need of food assistance or where a household has been determined to be eligible for the replacement of a previous issuance.

SEC. 15 Section 18910 of the Welfare and Institutions Code is repealed.

SEC. 16 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 1171

An act to amend Section 11483 of the Welfare and Institutions Code, relating to public social services

[Approved by Governor September 28, 1979 Filed with Secretary of State September 30, 1979]

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

SECTION 1. Section 11483 of the Welfare and Institutions Code is amended to read

11483. Whenever any person has, by means of false statement or representation or by impersonation or other fraudulent device, obtained aid for a child not in fact entitled thereto, the person obtaining such aid shall be punished as follows:

(1) If the amount obtained or retained is two hundred dollars ($200) or less, by imprisonment in the county jail for a period of not more than six months, a fine of not more than five hundred dollars ($500), or by both such imprisonment and fine

(2) If the amount obtained or retained is more than two hundred dollars ($200), by imprisonment in the state prison, or by imprisonment in the county jail for not more than one year.

When the allegation is limited to failure to report not more than two thousand dollars ($2,000) of income or resources, or the failure to report the presence of an additional person or persons in the household, all actions necessary to secure restitution shall be brought against persons in violation of this section as provided in Sections 12250 and 12850. Such action for restitution may be satisfied by sending a registered letter requesting restitution to the last address at which the person was receiving public assistance.

CHAPTER 1172

An act to amend and repeal Section 11836 of, to add Section 4012 4 to, the Health and Safety Code and to add Section 5656 5 to the Welfare and Institutions Code, relating to alcoholism and mental health programs, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1979 Filed with Secretary of State September 30, 1979]

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

SECTION 1. Section 11836 of the Health and Safety Code, as amended by Section 58 of Chapter 282 of the Statutes of 1979, is amended to read

11836. Each county shall provide matching funds for programs and services provided by the county under this part, as follows:

(a) During the 1979–80, 1980–81, and 1981–82 fiscal years, the required county match for local participation under this chapter shall be waived except for state hospital services provided on and after January 1, 1980. The required county match for state hospital services under this chapter shall only be waived until January 1, 1980.

(b) From January 1, 1980, through June 30, 1982, state hospital programs shall be funded on the basis of 90 percent state funds and 10 percent county funds.

(c) Commencing with the 1982–83 fiscal year and for every fiscal year thereafter, 90 percent state funds and 10 percent county funds shall be required for support of programs and services provided by a county under this part, unless a later enacted statute which is chaptered before July 1, 1982, provides a different arrangement for state and county matching funds Alcohol programs and services financed through other public or private sources as provided in the county program budget shall not be considered for purposes of state and county matching funds under this part.

If Assembly Bill 272 of the 1979–80 Regular Session is chaptered, whether prior or subsequent to the act of the 1979–80 Regular Session by which this section is amended, and becomes effective on or before January 1, 1980, this section shall remain in effect only until January 1, 1980, and on such date is repealed, unless a later enacted statute, which is chaptered on or before January 1, 1980, deletes or extends such date.

If Assembly Bill 272 of the 1979–80 Regular Session is not chaptered in 1979, this section shall remain in effect only until July 1, 1982, and on that date is repealed unless a later enacted statute, which is chaptered before July 1, 1982, deletes or extends such date.

SEC. 1 5. Section 11836 of the Health and Safety Code, as added by Section 58.5 of Chapter 282 of the Statutes of 1979, is amended to read:

11836. The cost of all services specified in the approved county program budget shall be financed on a basis of 90 percent state funds and 10 percent county funds, except that services to be financed from other public or private sources as provided for in the county program budget shall not be considered for purposes of state and county matching funds under this part. Where the services specified in the approved program budget are provided pursuant to other general health or social programs, only that portion of the service dealing with the prevention of alcoholism, and the treatment and rehabilitation of alcoholics and their families may be financed under this division

For the purposes of this section, "county program budget" shall mean the total of state funds to be advanced to the county and the required county match.

If Assembly Bill 272 of the 1979–80 Regular Session of the Legislature is not chaptered or, if chaptered, does not become effective on or before January 1, 1980, this section shall become operative on July 1, 1982. If Assembly Bill 272 of the 1979–80 Regular Session is chaptered, whether prior or subsequent to the act of the 1979–80 Regular Session by which this section is amended, and becomes effective on or before January 1, 1980, this section shall not become operative, and shall be repealed January 1, 1980, unless a later enacted statute, which is chaptered on or before January 1, 1980, deletes or extends such date.

SEC 2 Section 4012.4 is added to the Welfare and Institutions Code, to read·

4012.4. The department shall develop a statewide mental health prevention program directed toward a reduction in the need for utilization of the treatment system and the development and strengthening of community support and self-help networks.

SEC. 3 Section 5656.5 is added to the Welfare and Institutions Code, to read:

5656 5. The State Department of Mental Health shall submit to the Legislature, by December 31, 1979, a preliminary design for a statewide system of electronic data collection and analysis of mental health information. The system shall be designed to:

(a) Meet the routine information needs of the Legislature, including those of the Legislative Analyst, Budget Committees and Policy Committees, and the routine needs of the Department of Finance, the Department of Mental Health, Office of Statewide Health Planning, and county mental health programs.

(b) Contain the kinds of information that will be produced for each of the users of the system specified in subdivision (a).

(c) Be capable of interfacing with existing county-based management information systems.

(d) Be implemented in modules so that such components as a patient registry, case-management, billing, and medication history can be added independently depending on county and state needs.

(e) Have strict access, security, and confidentiality provisions. No personally identifiable data shall be forwarded to state or regional levels. All unique identifiers shall be scrambled at the local level before data access is given to the regional or state level

(f) Include uniform definitions of services.

The preliminary design shall include a plan and schedule for further development of the system, implementation of the system, and detailed cost estimates for implementation of the system.

(g) Be tested with sample-based trials before full implementation. In particular, suitability for small and rural counties shall be tested before implementation.

The department shall contract with an independent contractor for

development of the management information system design. The contractor shall consult with representatives of all potential users of the information as specified in subdivision (a).

SEC 4. There is hereby appropriated to the State Department of Mental Health the sum of sixteen million fifty thousand dollars ($16,050,000) from the following funds and for the following purposes:

(a) The funds held in reserve in category (d) of Item 275 of the Budget Act of 1979 are appropriated upon receipt by the Legislature of the report as required in Item 275 for disbursal to the counties subject to the following conditions:

(1) The amount specified in category (d) shall be used solely for the development and operation of local 24-hour nonhospital treatment programs and community support services that will permit diversion to local facilities for minors or for persons described in Sections 5150, 5250, 5260, 5300, 5358, and 6000 of the Welfare and Institutions Code or Section 4011.6 of the Penal Code who would be otherwise served through local or state hospitals; and provided, that no county shall receive an allocation from category (d) unless the county maintains its expenditures for 24-hour, nonhospital treatment programs and community support services at the levels at which they were funded by the state and county in the 1978–79 fiscal year; except that counties may use savings due to delays in the startup of local 24-hour nonhospital treatment programs from within the counties' allocation of funds under category (d) upon approval of the county Short-Doyle plan and demonstration that specific plans are in process and approved by the county board of supervisors by July 30, 1979, and that completion will be delayed in fiscal year 1979–80, to provide for the care and treatment of persons described above in other alternative programs to the state hospital use; and provided further, that such funds shall be allocated on the basis of county plans approved by the State Department of Mental Health and upon approval of the Department of Finance.

(2) Counties which submit a plan by September 1, 1979, shall receive notification from the State Department of Mental Health with the approval of the Department of Finance of their approval or disapproval no later than October 15, 1979, and the funds shall be allocated by November 1, 1979.

(3) The State Department of Mental Health, in consultation with the Conference of Local Mental Health Directors, shall develop guidelines for the allocation of funds specified in category (d) which provide for allocation on the basis of demonstrated need, taking into consideration the number of patients who are inappropriately placed in local acute care hospital or state hospital care.

(4) The State Department of Mental Health may reallocate funds appropriated in category (d) if any county does not submit a final county Short-Doyle plan requesting these funds with appropriate documentation as to how funds will be spent by September 1, 1979. The Director of Mental Health may, in consultation with the

conference of Local Mental Health Directors, reallocate surplus funds from counties failing to submit final county Short-Doyle plans by September 1, 1979; and provided further, that such funds shall be reallocated on the basis of county plans approved by the State Department of Mental Health and upon approval of the Department of Finance

(5) The Legislature intends that any county Short-Doyle plan may include requests for additional funds under category (d) in excess of the funds initially allocated to the county under that category.

(6) It is the intent of the Legislature that funds appropriated under category (d) of Item 275 be expended in accordance with the principle of "least restrictive alternative" and that a full continuum of 24-hour residential care is needed to assure the availability of appropriate and cost-effective placement alternatives.

(7) Each county receiving funds from category (d) of Item 275 shall, until September 30, 1980, make a report to the State Department of Mental Health every three months detailing the expenditures made with these funds, explaining any deviation from their approved plan. The State Department of Mental Health shall, every three months thereafter, until September 30, 1980, report to the Department of Finance and the appropriate committees of the Legislature detailing the expenditures of the funds under this section

(8) Notwithstanding any other provision of law, if any county expends the funds for purposes not approved in their plan, or fails to report as required by this section, the Director of Mental Health, with the approval of the Director of Finance, shall withhold an amount equal to the amount allocated to that county under this section from next year's regular Short-Doyle allocation to that county

(9) County plans shall include performance standards approved by the State Department of Mental Health for evaluation of programs under this section. The evaluation shall include for each participating county: (A) The number of persons served; (B) The average length of service provided; (C) The cost of service provided; and, (D) The mode of service provided The State Department of Mental Health with the approval of the Department of Finance shall conduct or contract for an assessment of the results of programs initiated or operated under category (d) within 12 months of the initiation of such programs By December 31, 1980, the State Department of Mental Health, in consultation with the Department of Finance, shall transmit an interim report on the performance of such programs to the Joint Legislative Budget Committee. Programs failing to demonstrate successful results based upon established performance standards shall not be renewed.

(b) Three hundred thousand dollars ($300,000) from the General Fund to the State Department of Mental Health for the purposes of Section 5656 5 of the Welfare and Institutions Code

(c) Seven hundred fifty thousand dollars ($750,000) from the

General Fund to the State Department of Mental Health for the purposes of Section 4012.4 of the Welfare and Institutions Code.

SEC. 5. Section 1 of this act shall apply retroactively to July 1, 1979.

SEC. 6. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because the Legislature finds and declares that there are no new duties, obligations, or responsibilities imposed on local government by this act that require reimbursement. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 7. 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 act, which would provide for the waiver of the required county matching funds for its alcoholism programs and would make funds available to initiate a community-based management information and data retrieval system for mental health programs and to develop alternatives to hospitalization, may be made effective at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 1173

An act to amend Sections 11580.1 and 11580.2 of the Insurance Code, relating to insurance.

[Approved by Governor September 29, 1979 Filed with Secretary of State September 30, 1979]

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

SECTION 1. Section 11580 1 of the Insurance Code is amended to read

11580 1. (a) No policy of automobile liability insurance described in Section 16054 of the Vehicle Code covering liability arising out of the ownership, maintenance, or use of any motor vehicle shall be issued or delivered in this state on or after the effective date of this section unless it contains the provisions set forth in subdivision (b). However, none of the requirements of subdivision (b) shall apply to the insurance afforded under any such policy (1) to the extent that such insurance exceeds the limits specified in subdivision (a) of Section 16056 of the Vehicle Code, or (2) if such policy contains an underlying insurance requirement, or provides for a retained limit of self-insurance, equal to or greater than the limits specified in subdivision (a) of Section 16056 of the Vehicle Code.

(b) Every policy of automobile liability insurance to which subdivision (a) applies shall contain all of the following provisions.

(1) Coverage limits not less than the limits specified in subdivision (a) of Section 16056 of the Vehicle Code

(2) Designation by explicit description of, or appropriate reference to, the motor vehicles or class of motor vehicles to which coverage is specifically granted

(3) Designation by explicit description of the purposes for which coverage for such motor vehicles is specifically excluded.

(4) Provision affording insurance to the named insured with respect to any motor vehicle covered by such policy, and to the same extent that insurance is afforded to the named insured, to any other person using, or legally responsible for the use of, such motor vehicle, provided such use is by the named insured or with his permission, express or implied, and within the scope of such permission, except that. (i) with regard to insurance afforded for the loading or unloading of any such motor vehicle, the insurance may be limited to apply only to the named insured, a relative of the named insured who is a resident of the named insured's household, a lessee or bailee of the motor vehicle, or an employee of any such person; and (ii) the insurance afforded to any person other than the named insured need not apply to: (A) any employee with respect to bodily injury sustained by a fellow employee injured in the scope and course of his employment, or (B) any person, or to any agent or employee thereof, employed or otherwise engaged in the business of selling, repairing, servicing, delivering, testing, road testing, parking, or storing automobiles with respect to any accident arising out of the maintenance or use of a motor vehicle in connection therewith.

(c) In addition to any exclusion as provided in paragraph (3) of subdivision (b), the insurance afforded by any such policy of automobile liability insurance to which subdivision (a) applies may, by appropriate policy provision, be made inapplicable to any or all of the following·

(1) Liability assumed by the insured under contract

(2) Liability for bodily injury or property damage caused intentionally by or at the direction of the insured.

(3) Liability imposed upon or assumed by the insured under any workers' compensation law

(4) Liability for bodily injury to any employee of the insured arising out of and in the course of his employment

(5) Liability for bodily injury to an insured

(6) Liability for damage to property owned, rented to, transported by, or in charge of, an insured.

(7) Liability for any bodily injury or property damage with respect to which insurance is or can be afforded under a nuclear energy liability policy

(8) Any motor vehicle or class of motor vehicles, as described or designated in the policy, with respect to which coverage is explicitly excluded, in whole or in part

The term "the insured" as used in paragraphs (1), (2), (3), and (4) shall mean only that insured under the policy against whom the particular claim is made or suit brought. The term "an insured" as used in paragraphs (5) and (6) shall mean any insured under the policy

(d) Notwithstanding the provisions of paragraph (4) of subdivision (b), or the provisions of Article 2 (commencing with Section 16450) of Chapter 3 of Division 7, or Article 2 (commencing with Section 17150) of Chapter 1 of Division 9, of the Vehicle Code, the insurer and any named insured may, by the terms of any policy of automobile liability insurance to which subdivision (a) applies, or by a separate writing relating thereto, agree as to either or both of the following limitations, such agreement to be binding upon every insured to whom such policy applies and upon every third party claimant:

(1) That coverage and the insurer's obligation to defend under such policy shall not apply nor accrue to the benefit of any insured or any third party claimant while any insured motor vehicle is being used or operated by a natural person or persons designated by name. The insurer shall have an obligation to defend the named insured when all of the following apply to such designated natural person:

1 He or she is a resident of the same household as the named insured

2 As a result of operating the insured motor vehicle of the named insured, he or she is jointly sued with the named insured.

3 He or she is an insured under a separate automobile liability insurance policy issued to him as a named insured, which policy does not provide a defense to the named insured.

Such agreement shall remain in force as long as the policy remains in force, and shall apply to any continuation, renewal, or replacement of such policy by the named insured, or reinstatement of such policy within 30 days of any lapse thereof.

(2) That with regard to any such policy issued to a named insured engaged in the business of selling, repairing, servicing, delivering, testing, road testing, parking, or storing automobiles, coverage shall not apply to any person other than the named insured or his agent or employee, except to the extent that the limits of liability of any other valid and collectible insurance available to such person are not equal to the limits of liability specified in subdivision (a) of Section 16056 of the Vehicle Code.

(e) Nothing in this section or in Section 16054 or 16450 of the Vehicle Code shall be construed to constitute a homeowner's policy, personal and residence liability policy, personal and farm liability policy, general liability policy, comprehensive personal liability policy, manufacturers' and contractors' policy, premises liability policy, special multiperil policy, or any policy or endorsement where automobile liability coverage is offered as incidental to some other basic coverage as an "automobile liability policy" within the meaning of Section 16054 of the Vehicle Code, or as a "motor vehicle liability

policy" within the meaning of Section 16450 of the Vehicle Code, nor shall any provision of this section apply to a policy which provides insurance covering liability arising out of the ownership, maintenance, or use of any motor vehicle in the Republic of Mexico issued or delivered in this state by a nonadmitted Mexican insurer, notwithstanding that any such policy may provide automobile or motor vehicle liability coverage on insured premises or the ways immediately adjoining.

(f) On and after January 1, 1976, no policy of automobile liability insurance described in subdivision (a) shall be issued, amended, or renewed in this state if it contains any provision which expressly or impliedly excludes from coverage under such policy the operation or use of an insured motor vehicle by the named insured in the performance of volunteer services for a nonprofit charitable organization or governmental agency by providing transportation to senior citizens or physically or mentally handicapped persons. This subdivision shall not apply in any case in which the named insured receives any remuneration of any kind other than reimbursement for actual mileage driven in the performance of such services at a rate not to exceed twenty-two cents ($0.22) per mile actually driven. As used in this section, "senior citizen" means a person 60 years of age or older.

(g) Notwithstanding the provisions of paragraph (4) of subdivision (b) of this section, or the provisions of Article 2 (commencing with Section 16450) of Chapter 3 of Division 7 of, or Article 2 (commencing with Section 17150) of Chapter 1 of Division 9 of, the Vehicle Code, a Mexican nonadmitted insurer and any named insured may, by the terms of any policy of automobile insurance for use solely in the Republic of Mexico to which subdivision (a) applies, or by a separate writing relating thereto, agree to the limitation that coverage under such policy shall not apply to any person riding in or occupying a vehicle owned by the insured or driven by another person with the permission of the insured. Such agreement shall be binding upon every insured to whom any such policy applies and upon any third party claimant.

(h) No policy of automobile insurance which provides insurance covering liability arising out of the ownership, maintenance or use of any motor vehicle solely in the Republic of Mexico issued by a nonadmitted Mexican insurance company, shall be subject to, or provide coverage for, those coverages provided in Section 11580.2

SEC. 2 Section 11580.2 of the Insurance Code is amended to read:

11580 2. (a) (1) No policy of bodily injury liability insurance covering liability arising out of the ownership, maintenance, or use of any motor vehicle, except for policies which provide insurance in the Republic of Mexico issued or delivered in this state by nonadmitted Mexican insurers, shall be issued or delivered in this state to the owner or operator of a motor vehicle, or shall be issued or delivered by any insurer licensed in this state upon any motor

vehicle then principally used or principally garaged in this state, unless the policy contains, or has added to it by endorsement, a provision with coverage limits at least equal to the financial responsibility requirements specified in Section 16056 of the Vehicle Code insuring the insured, his heirs or his legal representative for all sums within such limits which he or they, as the case may be, shall be legally entitled to recover as damages for bodily injury or wrongful death from the owner or operator of an uninsured motor vehicle. The insurer and any named insured, prior to or subsequent to the issuance or renewal of a policy, may, by agreement in writing, in the form specified in paragraph (2), delete the provision covering damage caused by an uninsured motor vehicle (1) completely, or (2) with respect to a natural person or persons designated by name when operating a motor vehicle. Either of such deletions by any named insured shall be binding upon every insured to whom such policy or endorsement provisions apply while such policy is in force, and shall continue to be so binding with respect to any continuation, renewal, or replacement of such policy by the named insured, or with respect to reinstatement of such policy within 30 days of any lapse thereof. A policy shall be excluded from the application of this section if the only coverage with respect to the use of any motor vehicle is limited to the contingent liability arising out of the use of nonowned motor vehicles

(2) The agreement specified in paragraph (1) shall be in the following form:

"The California Insurance Code requires an insurer to provide uninsured motorists coverage in each bodily injury liability insurance policy it issues covering liability arising out of the ownership, maintenance, or use of a motor vehicle. Such section also permits the insurer and the applicant to delete such coverage completely or with respect to one or more natural persons designated by name when operating a motor vehicle. Uninsured motorists coverage insures the insured, his heirs, or legal representatives for all sums within the financial responsibility limits which such person or persons are legally entitled to recover as damages for bodily injury, including any resulting sickness, disease, or death, to him from the owner or operator of an uninsured motor vehicle not owned or operated by the insured "

Such agreement may contain additional statements not in derogation of or conflict with the foregoing. The execution of such agreement shall relieve the insurer of liability under this section while such agreement remains in effect

(b) As used in (a) above, "bodily injury" includes sickness or disease, including death, resulting therefrom; the term "named insured" means only the individual or organization named in the declarations of the policy of motor vehicle bodily injury liability insurance referred to in (a) above, as used in (a) above the term "insured" means the named insured and the spouse of the named insured and, while residents of the same household, relatives of

either while occupants of a motor vehicle or otherwise, heirs and any other person while in or upon or entering into or alighting from an insured motor vehicle and any person with respect to damages he is entitled to recover for care or loss of services because of bodily injury to which the policy provisions or endorsement apply; the term "insured motor vehicle" means the motor vehicle described in the underlying insurance policy of which the uninsured motorist endorsement or coverage is a part, a temporary substitute or a newly acquired automobile for which liability coverage is provided in the policy if the motor vehicle is used by the named insured or with his permission or consent, express or implied, and any other automobile not owned by the named insured or any resident of the same household while being operated by the named insured or his spouse if a resident of the same household, but the term "insured motor vehicle" shall not include any automobile while used as a public or livery conveyance. As used in this section, the term "uninsured motor vehicle" means a motor vehicle with respect to the ownership, maintenance or use of which there is no bodily injury liability insurance or bond applicable at the time of the accident, or there is such applicable insurance or bond but the company writing the same denies coverage thereunder or refuses to admit coverage thereunder except conditionally or with reservation, or a motor vehicle used without the permission of the owner thereof if there is no bodily injury liability insurance or bond applicable at the time of the accident with respect to the owner or operator thereof, or the owner or operator thereof be unknown, provided that, with respect to an "uninsured motor vehicle" whose owner or operator is unknown:

(A) The bodily injury has arisen out of physical contact of such automobile with the insured or with an automobile which the insured is occupying.

(B) The insured or someone on his behalf shall have reported the accident within 24 hours to the police department of the city where the accident occurred or, if the accident occurred in unincorporated territory then either the sheriff of the county where the accident occurred or the local headquarters of the California Highway Patrol, and have filed with the insurer within 30 days thereafter a statement under oath that the insured or his legal representative has or the insured's heirs have a cause of action arising out of such accident for damages against a person or persons whose identity is unascertainable and set forth facts in support thereof. As used in this section, the term "uninsured motor vehicle" shall not include an automobile owned by the named insured or any resident of the same household or self-insured within the meaning of the Safety Responsibility Law of the state in which the motor vehicle is registered or which is owned by the United States of America, Canada, a state or political subdivision of any such government or an agency of any of the foregoing, or a land motor vehicle or trailer operated on rails or crawler treads or while located for use as a residence or premises and not as a vehicle, or a farm-type tractor or

equipment designed for use principally off public roads, except while actually upon public roads.

As used in this section, the term "uninsured motor vehicle" also means an insured motor vehicle where the liability insurer thereof is unable to make payment with respect to the legal liability of its insured within the limits specified therein because of insolvency. An insurer's solvency protection shall be applicable only to accidents occurring during a policy period in which its insured's motor vehicle coverage is in effect where the liability insurer of the tortfeasor becomes insolvent within one year of such accident. In the event of payment to any person under the coverage required by this section and subject to the terms and conditions of such coverage, the insurer making such payment, shall to the extent thereof, be entitled to any proceeds which may be recoverable from the assets of the insolvent insurer through any settlement or judgment of such person against the insolvent insurer

(c) The insurance coverage provided for in this section does not apply either as primary or as excess coverage to:

(1) To property damage sustained by the insured.

(2) To bodily injury of the insured while in or upon or while entering into or alighting from an automobile other than the described automobile if the owner thereof has insurance similar to that provided in this section.

(3) To bodily injury of the insured with respect to which the insured or his representative shall, without the written consent of the insurer, make any settlement with or prosecute to judgment any action against any person who may be legally liable therefor.

(4) In any instance where it would inure directly or indirectly to the benefit of any workers' compensation carrier or to any person qualified as a self-insurer under any workers' compensation law, or directly to the benefit of the United States, or any state or any political subdivision thereof.

(5) To establish proof of financial responsibility as provided in subdivisions (a), (b), and (c) of Section 16054 of the Vehicle Code.

(6) To bodily injury of the insured while occupying a motor vehicle owned by an insured, unless the occupied vehicle is an insured motor vehicle.

(7) To bodily injury of the insured when struck by a vehicle owned by an insured.

(d) Subject to paragraph (2) of subdivision (c), the policy or endorsement may provide that if the insured has insurance available to him under more than one uninsured motorist coverage provision, any damages shall not be deemed to exceed the higher of the applicable limits of the respective coverages, and such damages shall be prorated between the applicable coverages as the limits of each coverage bears to the total of such limits.

(e) The policy or endorsement added thereto may provide that if the insured has valid and collectible automobile medical payment insurance available to him, the damages which he shall be entitled

to recover from the owner or operator of an uninsured motor vehicle shall be reduced for purposes of uninsured motorist coverage by the amounts paid or due to be paid under such automobile medical payment insurance. This subdivision shall become operative on January 1, 1971.

(f) The policy or an endorsement added thereto shall provide that the determination as to whether the insured shall be legally entitled to recover damages, and if so entitled, the amount thereof, shall be made by agreement between the insured and the insurer or, in the event of disagreement, by arbitration. The arbitration shall be conducted by a single neutral arbitrator. An award or a judgment confirming an award shall not be conclusive on any party in any action or proceeding between (i) the insured, his insurer, his legal representative, or his heirs and (ii) the uninsured motorist to recover damages arising out of the accident upon which the award is based. If the insured has or may have rights to benefits, other than nonoccupational disability benefits, under any workers' compensation law, the arbitrator shall not proceed with the arbitration until the insured's physical condition is stationary and ratable. In those cases in which the insured claims a permanent disability, such claims shall, unless good cause be shown, be adjudicated by award or settled by compromise and release before the arbitration may proceed. Any demand or petition for arbitration shall contain a declaration, under penalty of perjury, stating whether (i) the insured has a workers' compensation claim; (ii) such claim has proceeded to findings and award or settlement on all issues reasonably contemplated to be determined in that claim; and (iii) if not, what reasons amounting to good cause are grounds for the arbitration to proceed immediately. The provisions of Article 3 (commencing with Section 2016) of Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure shall be applicable to such determinations, and all rights, remedies, obligations, liabilities and procedures set forth in such Article 3 shall be available to both the insured and the insurer at any time after the accident, both before and after the commencement of arbitration, if any, with the following limitations:

(1) Whenever in such Article 3, reference is made to the court in which the action is pending, or provision is made for application to the court or obtaining leave of court or approval by the court, the court which shall have jurisdiction for the purposes of this section shall be the superior court of the State of California, in and for any county which is a proper county for the filing of a suit for bodily injury arising out of the accident, against the uninsured motorist, or any county specified in the policy or an endorsement added thereto as a proper county for arbitration or action thereon.

(2) Any such proper court to which application is first made by either the insured or the insurer under the provisions of such Article 3 for any discovery or other relief or remedy, shall thereafter be the only court to which either of the parties shall make any applications

under such Article 3 with respect to the same accident, subject, however, to the right of such court to grant a change of venue after a hearing upon notice, upon any of the grounds upon which change of venue might be granted in an action filed in the superior court.

(3) A deposition pursuant to the provisions of Section 2016 of the Code of Civil Procedure may be taken without leave of court, except that leave of court, granted with or without notice and for good cause shown, must be obtained if the notice of the taking of the deposition is served by either party within 20 days after the accident.

(4) The provisions of paragraph (4) of subdivision (a) of Section 2019 of the Code of Civil Procedure shall not be applicable to discovery under this section.

(5) For the purposes of discovery under this section, the insured and the insurer shall each be deemed to be "a party to the record of any civil action or proceedings," where that phrase is used in paragraph (2) of subdivision (b) of Section 2019 of the Code of Civil Procedure.

(6) Interrogatories under the provisions of Section 2030 of the Code of Civil Procedure and requests for admission under Section 2033 of the Code of Civil Procedure may be served by either the insured or the insurer upon the other at any time more than 20 days after the accident without leave of court.

(7) Nothing in this section shall be construed to limit the rights of any party to discovery in any action pending or which may hereafter be pending in any court.

(g) The insurer paying a claim under an uninsured motorist endorsement or coverage shall be entitled to be subrogated to the rights of the insured to whom such claim was paid against any person causing such injury or death to the extent that payment was made. Such action may be brought within three years from the date that payment was made hereunder.

(h) An insured entitled to recovery under the uninsured motorist endorsement or coverage shall be reimbursed within the conditions stated herein without being required to sign any release or waiver of rights to which he may be entitled under any other insurance coverage applicable; nor shall payment under this section to such insured be delayed or made contingent upon the decisions as to liability or distribution of loss costs under other bodily injury liability insurance or any bond applicable to the accident. Any loss payable under the terms of the uninsured motorist endorsement or coverage to or for any person may be reduced:

(1) By the amount paid and the present value of all amounts payable to him, his executor, administrator, heirs, or legal representative under any workers' compensation law, exclusive of nonoccupational disability benefits.

(2) By the amount the insured is entitled to recover from any other person insured under the underlying liability insurance policy of which the uninsured motorist endorsement or coverage is a part.

(i) No cause of action shall accrue to the insured under any policy

or endorsement provision issued pursuant to this section unless within one year from the date of the accident:

(1) Suit for bodily injury has been filed against the uninsured motorist, in a court of competent jurisdiction, or

(2) Agreement as to the amount due under the policy has been concluded, or

(3) The insured has formally instituted arbitration proceedings.

(j) Notwithstanding the provisions of subdivisions (b) and (i), in the event the accident occurs in any other state or foreign jurisdiction to which coverage is extended under the policy and the insurer of the tortfeasor becomes insolvent, any action authorized pursuant to the provisions of this section may be maintained within three months of the insolvency of the tortfeasor's insurer, but in no event later than the pertinent period of limitation of the jurisdiction in which the accident occurred.

(k) Notwithstanding the provisions of subdivision (i), any insurer whose insured has made a claim under his or her uninsured motorist coverage, and such claim is pending, shall, at least 30 days before the expiration of the applicable statute of limitation, notify its insured in writing of the statute of limitation applicable to such injury or death. Failure of the insurer to provide such written notice shall operate to toll any applicable statute of limitation or other time limitation for a period of 30 days from the date such written notice is actually given.

(*l*) As used in subdivision (b), "public or livery conveyance," or terms of similar import, shall not include the operation or use of a motor vehicle by the named insured in the performance of volunteer services for a nonprofit charitable organization or governmental agency by providing transportation to senior citizens or physically or mentally handicapped persons This subdivision shall not apply in any case in which the named insured receives any remuneration of any kind other than reimbursement for actual mileage driven in the performance of such services at a rate not to exceed fifteen cents ($0 15) per mile actually driven. As used in this section, "senior citizen" means a person 60 years of age or older. This subdivision shall apply only to policies of insurance issued, amended, or renewed on or after January 1, 1976.

CHAPTER 1174

An act to add Section 131.7 to the Code of Civil Procedure, to amend Sections 1203, 1203h and 1203.2 of the Penal Code, relating to probation.

[Approved by Governor September 29, 1979 Filed with Secretary of State September 30, 1979]

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

SECTION 1. Section 131 7 is added to the Code of Civil Procedure, to read:

131.7. Upon a determination that, in his opinion, staff and financial resources available to him are insufficient to meet his statutory or court-ordered responsibilities, the probation officer may notify the presiding judge of the superior court of the county in writing. Such notification shall explain which responsibilities cannot be met and what resources are necessary in order that statutory or court-ordered responsibilities can be properly discharged.

SEC. 2. Section 1203 of the Penal Code is amended to read:

1203. (a) As used in this code, "probation" shall mean the suspension of the imposition or execution of a sentence and the order of conditional and revocable release in the community. Except as otherwise provided in this code, persons placed on probation by the court shall be under the supervision of the probation officer.

(b) In every case in which a person is convicted of a felony and is eligible for probation, before judgment is pronounced, the court shall immediately refer the matter to the probation officer to investigate and report to the court, at a specified time, upon the circumstances surrounding the crime and the prior history and record of the person, which may be considered either in aggravation or mitigation of the punishment. The probation officer shall immediately investigate and make a written report to the court of his findings and recommendations, including his recommendations as to the granting or denying of probation and the conditions of probation, if granted. 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 attorneys which is filed with the court or an oral stipulation in open court which is made and entered upon the minutes of the court. At a time fixed by the court, the court shall hear and determine the application, if one has been made, or, in any case, the suitability of probation in the particular case. At the hearing, the court shall consider any report of the probation officer and shall

make a statement that it has considered such report which shall be filed with the clerk of the court as a record in the case. If the court determines that there are circumstances in mitigation of the punishment prescribed by law or that the ends of justice would be subserved by granting probation to the person, it may place him on probation If probation is denied, the clerk of the court shall immediately send a copy of the report to the Department of Corrections at the prison or other institution to which the person is delivered.

(c) If a defendant is not represented by an attorney, the court shall order the probation officer who makes the probation report to discuss its contents with the defendant.

(d) In every case in which a person is convicted of a misdemeanor, the court may either refer the matter to the probation officer for an investigation and a report or summarily grant or deny probation. If such a case is not referred to the probation officer, in sentencing the person, the court may consider any information concerning him which could have been included in a probation report The court shall inform the person of the information to be considered and permit him to answer or controvert it. For this purpose, upon the request of the person, the court shall grant a continuance before the judgment is pronounced.

(e) Except in unusual cases where the interests of justice would best be served if the person is granted probation, probation shall not be granted to any of the following persons:

(1) Unless he had a lawful right to carry a deadly weapon, other than a firearm, at the time of the perpetration of the crime or his arrest, any person who has been convicted of arson, robbery, burglary, burglary with explosives, rape with force or violence, murder, assault with intent to commit murder, attempt to commit murder, trainwrecking, kidnapping, escape from the state prison, or a conspiracy to commit one or more of such crimes and was armed with such weapon at either of such times.

(2) Any person who used or attempted to use a deadly weapon upon a human being in connection with the perpetration of the crime of which he has been convicted.

(3) Any person who willfully inflicted great bodily injury or torture in the perpetration of the crime of which he has been convicted

(4) Any person who has been previously convicted twice in this state of a felony or in any other place of a public offense which, if committed in this state, would have been punishable as a felony.

(5) Unless he has never been previously convicted once in this state of a felony or in any other place of a public offense which, if committed in this state, would have been punishable as a felony, any person who has been convicted of burglary with explosives, rape with force or violence, murder, attempt to commit murder, assault with intent to commit murder, trainwrecking, extortion, kidnapping, escape from the state prison, a violation of Section 286, 288, or 288a,

or a conspiracy to commit one or more of such crimes.

(6) Any person who has been previously convicted once in this state of a felony or in any other place of a public offense which, if committed in this state, would have been punishable as a felony, if he committed any of the following acts:

(i) Unless he had a lawful right to carry a deadly weapon at the time of the perpetration of such previous crime or his arrest for such previous crime, he was armed with such weapon at either of such times

(ii) He used or attempted to use a deadly weapon upon a human being in connection with the perpetration of such previous crime.

(iii) He willfully inflicted great bodily injury or torture in the perpetration of such previous crime.

(7) Any public official or peace officer of this state or any city, county, or other political subdivision who, in the discharge of the duties of his public office or employment, accepted or gave or offered to accept or give any bribe, embezzled public money, or was guilty of extortion.

(f) When probation is granted in a case which comes within the provisions of subdivision (e), the court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by such a disposition.

(g) If a person is not eligible for probation, the judge may, in his discretion, refer the matter to the probation officer for an investigation of the facts relevant to the sentencing of the person. Upon such referral, the probation officer shall immediately investigate the circumstances surrounding the crime and the prior record and history of the person and make a written report to the court of his findings.

(h) In any case in which a defendant is convicted of a felony and a probation report is prepared pursuant to subdivision (a) or (g), the probation officer shall obtain and include in such report a statement of the comments of the victim concerning the offense. The court may direct the probation officer not to obtain such a statement in any case where the victim has in fact testified at any of the court proceedings concerning the offense.

(i) No probationer shall be released to enter another state unless his case has been referred to the Administrator, Interstate Probation and Parole Compacts, pursuant to the Uniform Act for Out-of-State Probationer or Parolee Supervision (Article 3 (commencing with Section 11175) of Chapter 2 of Title 1 of Part 4)

SEC. 2.5. Section 1203 of the Penal Code as amended by Senate Bill 749 of the 1979–80 Regular Session of the Legislature is amended to read.

1203. (a) As used in this code "probation" shall mean the suspension of the imposition or execution of a sentence and the order of conditional and revocable release in the community. Except as otherwise provided in this code, persons placed on probation by the court shall be under the supervision of the probation officer

(b) In every case in which a person is convicted of a felony and is eligible for probation, before judgment is pronounced, the court shall immediately refer the matter to the probation officer to investigate and report to the court, at a specified time, upon the circumstances surrounding the crime and the prior history and record of the person, which may be considered either in aggravation or mitigation of the punishment. The probation officer shall immediately investigate and make a written report to the court of his findings and recommendations, including his recommendations as to the granting or denying of probation and the conditions of probation, if granted. The probation officer shall include in his report the information required pursuant to subdivision (d) of Section 2900.5 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.

(c) If a defendant is not represented by an attorney, the court shall order the probation officer who makes the probation report to discuss its contents with the defendant.

(d) In every case in which a person is convicted of a misdemeanor, the court may either refer the matter to the probation officer for an investigation and a report or summarily grant or deny

probation. If such a case is not referred to the probation officer, in sentencing the person, the court may consider any information concerning him which could have been included in a probation report. The court shall inform the person of the information to be considered and permit him to answer or controvert it. For this purpose, upon the request of the person, the court shall grant a continuance before the judgment is pronounced.

(e) Except in unusual cases where the interests of justice would best be served if the person is granted probation, probation shall not be granted to any of the following persons:

(1) Unless he had a lawful right to carry a deadly weapon, other than a firearm, at the time of the perpetration of the crime or his arrest, any person who has been convicted of arson, robbery, burglary, burglary with explosives, rape with force or violence, murder, assault with intent to commit murder, attempt to commit murder, trainwrecking, kidnapping, escape from the state prison, or a conspiracy to commit one or more of such crimes and was armed with such weapon at either of such times.

(2) Any person who used or attempted to use a deadly weapon upon a human being in connection with the perpetration of the crime of which he has been convicted.

(3) Any person who willfully inflicted great bodily injury or torture in the perpetration of the crime of which he has been convicted.

(4) Any person who has been previously convicted twice in this state of a felony or in any other place of a public offense which, if committed in this state, would have been punishable as a felony.

(5) Unless he has never been previously convicted once in this state of a felony or in any other place of a public offense which, if committed in this state, would have been punishable as a felony, any person who has been convicted of burglary with explosives, rape with force or violence, murder, attempt to commit murder, assault with intent to commit murder, trainwrecking, extortion, kidnapping, escape from the state prison, a violation of Section 286, 288, or 288a, or a conspiracy to commit one or more of such crimes.

(6) Any person who has been previously convicted once in this state of a felony or in any other place of a public offense which, if committed in this state, would have been punishable as a felony, if he committed any of the following acts:

(i) Unless he had a lawful right to carry a deadly weapon at the time of the perpetration of such previous crime or his arrest for such previous crime, he was armed with such weapon at either of such times.

(ii) He used or attempted to use a deadly weapon upon a human being in connection with the perpetration of such previous crime

(iii) He willfully inflicted great bodily injury or torture in the perpetration of such previous crime.

(7) Any public official or peace officer of this state or any city, county, or other political subdivision who, in the discharge of the

duties of his public office or employment, accepted or gave or offered to accept or give any bribe, embezzled public money, or was guilty of extortion.

(f) When probation is granted in a case which comes within the provisions of subdivision (e), the court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by such a disposition.

(g) If a person is not eligible for probation, the judge may, in his discretion, refer the matter to the probation officer for an investigation of the facts relevant to the sentencing of the person. Upon such referral, the probation officer shall immediately investigate the circumstances surrounding the crime and the prior record and history of the person and make a written report to the court of his findings.

(h) In any case in which a defendant is convicted of a felony and a probation report is prepared pursuant to subdivision (a) or (g), the probation officer shall obtain and include in such report a statement of the comments of the victim concerning the offense. The court may direct the probation officer not to obtain such a statement in any case where the victim has in fact testified at any of the court proceedings concerning the offense.

(i) No probationer shall be released to enter another state unless his case has been referred to the Administrator, Interstate Probation and Parole Compacts, pursuant to the Uniform Act for Out-of-State Probationer or Parolee Supervision (Article 3 (commencing with Section 11175) of Chapter 2 of Title 1 of Part 4).

SEC 3. Section 1203.2 of the Penal Code is amended to read·

1203 2 (a) At any time during the probationary period of a person released on probation under the care of a probation officer pursuant to this chapter, any probation or peace officer may, without warrant or other process and at any time until the final disposition of the case, rearrest the person and bring him before the court or the court may, in its discretion, issue a warrant for his rearrest. Upon such rearrest, or upon the issuance of a warrant for rearrest the court may revoke and terminate such probation if the interests of justice so require and the court, in its judgment, has reason to believe from the report of the probation officer or otherwise that the person has violated any of the conditions of his probation, has become abandoned to improper associates or a vicious life, or has subsequently committed other offenses, regardless whether he has been prosecuted for such offenses. Such revocation, summary or otherwise, shall serve to toll the running of the probationary period.

(b) Upon its own motion or upon the petition of the probationer, probation officer or the district attorney of the county in which the probationer is supervised, the court may modify, revoke, or terminate the probation of the probationer pursuant to this subdivision. The court shall give notice of its motion, and the probation officer or the district attorney shall give notice of his petition to the probationer, his attorney of record, and the district

attorney or the probation officer, as the case may be. The probationer shall give notice of his petition to the probation officer and notice of any such motion or petition shall be given to the district attorney in all cases. The court shall refer its motion or the petition to the probation officer. After the receipt of a written report from the probation officer, the court shall read and consider the report and either its motion or the petition and may modify, revoke, or terminate the probation of the probationer upon the grounds set forth in subdivision (a) if the interests of justice so require.

The notice required by this subdivision may be given to the probationer upon his first court appearance in such proceeding. Upon the agreement by the probationer in writing to the specific terms of a modification or termination of a specific term of probation, any requirement that the probationer make a personal appearance in court for the purpose of such modification or termination shall be waived Prior to such modification or termination and waiver of appearance, the probationer shall be informed of his right to consult with counsel, and if indigent the right to secure court appointed counsel If the probationer waives his right to counsel a written waiver shall be required. If probationer consults with counsel and thereafter agrees to a modification or termination of the term of probation and waiver of personal appearance, such agreement shall be signed by counsel showing approval for such modification or termination and waiver

(c) Upon any revocation and termination of probation the court may, if the sentence has been suspended, pronounce judgment for any time within the longest period for which the person might have been sentenced. However, if the judgment has been pronounced and the execution thereof has been suspended, the court may revoke such suspension and order that the judgment shall be in full force and effect. In either case, the person shall be delivered over to the proper officer to serve his sentence, less any credits herein provided for.

(d) In any case of revocation and termination of probation, including, but not limited to, cases in which the judgment has been pronounced and the execution thereof has been suspended, upon such revocation and termination, the court may, in lieu of any other sentence, commit the person to the Department of the Youth Authority if he is otherwise eligible for such commitment.

(e) If probation has been revoked before the judgment has been pronounced, the order revoking probation may be set aside for good cause upon motion made before pronouncement of judgment. If probation has been revoked after the judgment has been pronounced, the judgment and the order which revoked the probation may be set aside for good cause within 30 days after the court has notice that the execution of the sentence has commenced. If an order setting aside the judgment, the revocation of probation, or both is made after the expiration of the probationary period, the court may again place the person on probation for such period and with such terms and conditions as it could have done immediately

following conviction.

SEC 4 Section 1203h of the Penal Code is amended to read:

1203h If the court initiates an investigation pursuant to subdivision (a) or (d) of Section 1203 and the convicted person was convicted of violating any section of this code in which a minor is a victim of an act of abuse or neglect, then the investigation shall include a psychological evaluation to determine the extent of counseling necessary for successful rehabilitation and which may be mandated by the court during the term of probation. Such evaluation may be performed by psychiatrists, psychologists, or licensed clinical social workers. The results of the examination shall be included in the probation officer's report to the court.

SEC. 5 It is the intent of the Legislature, if this bill and Senate Bill 749 are both chaptered and become effective on or before January 1, 1980, both bills amend Section 1203 of the Penal Code, and this bill is chaptered after Senate Bill 749, that Section 1203 of the Penal Code, as amended by Section 1 of Senate Bill 749, 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 1203 proposed by this bill. Therefore, if this bill and Senate Bill 749 are both chaptered and become effective on or before January 1, 1980, and Senate Bill 749 is chaptered before this bill and amends Section 1203, Section 2.5 of this act shall become operative on the effective date of this act and Section 2 of this act shall not become operative.

SEC. 6. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, there shall be no appropriation pursuant to those sections made by this act because there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs. It is recognized, however, that a local agency or school district may pursue any other remedies available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 1175

An act to amend Section 1203 of the Penal Code, relating to drug offenses.

[Approved by Governor September 28, 1979 Filed with Secretary of State September 30, 1979]

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 upon a human being in connection with the perpetration of the crime of which he has been convicted.

(3) Any person who willfully inflicted great bodily injury or torture in the perpetration of the crime of which he has been convicted.

(4) Any person who has been previously convicted twice in this state of a felony or in any other place of a public offense which, if committed in this state, would have been punishable as a felony.

(5) Unless he has never been previously convicted once in this state of a felony or in any other place of a public offense which, if committed in this state, would have been punishable as a felony, any person who has been convicted of burglary with explosives, rape with force or violence, murder, attempt to commit murder, assault with intent to commit murder, trainwrecking, extortion, kidnapping, escape from the state prison, a violation of Section 286, 288, or 288a, or a conspiracy to commit one or more of such crimes.

(6) Any person who has been previously convicted once in this state of a felony or in any other place of a public offense which, if committed in this state, would have been punishable as a felony, if he committed any of the following acts:

(i) Unless he had a lawful right to carry a deadly weapon at the time of the perpetration of such previous crime or his arrest for such previous crime, he was armed with such weapon at either of such times

(ii) He used or attempted to use a deadly weapon upon a human being in connection with the perpetration of such previous crime.

(iii) He willfully inflicted great bodily injury or torture in the perpetration of such previous crime.

(7) Any public official or peace officer of this state or any city, county, or other political subdivision who, in the discharge of the duties of his public office or employment, accepted or gave or offered to accept or give any bribe, embezzled public money, or was guilty of extortion

(8) Any person who knowingly manufactures phencyclidine. Should the court grant probation, it shall specify the reason or reasons for such order On appeal by the people from such a grant of probation, it shall be conclusively presumed that such order was

made only for the reasons specified in such order, and such order shall be reversed if there is no substantial basis in the record for any of such reasons

(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) As used in this code, "probation" shall mean the suspension of the imposition or execution of a sentence and the order of conditional and revocable release in the community. Except as otherwise provided in this code, persons placed on probation by the court shall be under the supervision of the probation officer

(b) In every case in which a person is convicted of a felony and is eligible for probation, before judgment is pronounced, the court shall immediately refer the matter to the probation officer to investigate and report to the court, at a specified time, upon the circumstances surrounding the crime and the prior history and record of the person, which may be considered either in aggravation or mitigation of the punishment The probation officer shall immediately investigate and make a written report to the court of his findings and recommendations, including his recommendations as to the granting or denying of probation and the conditions of probation, if granted The probation officer shall also include in his report his determination of whether the defendant is a person who is required to pay a fine pursuant to Section 13967 of the Government Code The probation officer shall also include in his report for the court's consideration whether the court shall require, as a condition of probation, restitution to the victim or to the Indemnity Fund if assistance has been granted to the victim pursuant to Article 1

(commencing with Section 13959) of Chapter 5 of Part 4 of Division 3 of Title 2 of the Government Code, a recommendation thereof, and if so, the amount thereof, and the means and manner of payment. The report shall be made available to the court and the prosecuting and defense attorney at least nine days prior to the time fixed by the court for the hearing and determination of the report, and shall be filed with the clerk of the court as a record in the case at the time of the hearing. The time within which the report shall be made available and filed may be waived by written stipulation of the prosecuting and defense attorney which is filed with the court or an oral stipulation in open court which is made and entered upon the minutes of the court. At a time fixed by the court, the court shall hear and determine the application, if one has been made, or, in any case, the suitability of probation in the particular case. At the hearing, the court shall consider any report of the probation officer and shall make a statement that it has considered such report which shall be filed with the clerk of the court as a record in the case. If the court determines that there are circumstances in mitigation of the punishment prescribed by law or that the ends of justice would be subserved by granting probation to the person, it may place him on probation. If probation is denied, the clerk of the court shall immediately send a copy of the report to the Department of Corrections at the prison or other institution to which the person is delivered.

(c) If a defendant is not represented by an attorney, the court shall order the probation officer who makes the probation report to discuss its contents with the defendant.

(d) In every case in which a person is convicted of a misdemeanor, the court may either refer the matter to the probation officer for an investigation and a report or summarily grant or deny probation. If such a case is not referred to the probation officer, in sentencing the person, the court may consider any information concerning him which could have been included in a probation report The court shall inform the person of the information to be considered and permit him to answer or controvert it. For this purpose, upon the request of the person, the court shall grant a continuance before the judgment is pronounced.

(e) Except in unusual cases where the interests of justice would best be served if the person is granted probation, probation shall not be granted to any of the following persons:

(1) Unless he had a lawful right to carry a deadly weapon, other than a firearm, at the time of the perpetration of the crime or his arrest, any person who has been convicted of arson, robbery, burglary, burglary with explosives, rape with force or violence, murder, assault with intent to commit murder, attempt to commit murder, trainwrecking, kidnapping, escape from the state prison, or a conspiracy to commit one or more of such crimes and was armed with such weapon at either of such times.

(2) Any person who used or attempted to use a deadly weapon

upon a human being in connection with the perpetration of the crime of which he has been convicted.

(3) Any person who willfully inflicted great bodily injury or torture in the perpetration of the crime of which he has been convicted

(4) Any person who has been previously convicted twice in this state of a felony or in any other place of a public offense which, if committed in this state, would have been punishable as a felony.

(5) Unless he has never been previously convicted once in this state of a felony or in any other place of a public offense which, if committed in this state, would have been punishable as a felony, any person who has been convicted of burglary with explosives, rape with force or violence, murder, attempt to commit murder, assault with intent to commit murder, trainwrecking, extortion, kidnapping, escape from the state prison, a violation of Section 286, 288, or 288a, or a conspiracy to commit one or more of such crimes.

(6) Any person who has been previously convicted once in this state of a felony or in any other place of a public offense which, if committed in this state, would have been punishable as a felony, if he committed any of the following acts:

(i) Unless he had a lawful right to carry a deadly weapon at the time of the perpetration of such previous crime or his arrest for such previous crime, he was armed with such weapon at either of such times.

(ii) He used or attempted to use a deadly weapon upon a human being in connection with the perpetration of such previous crime.

(iii) He willfully inflicted great bodily injury or torture in the perpetration of such previous crime.

(7) Any public official or peace officer of this state or any city, county, or other political subdivision who, in the discharge of the duties of his public office or employment, accepted or gave or offered to accept or give any bribe, embezzled public money, or was guilty of extortion.

(8) Any person who knowingly manufactures phencyclidine. Should the court grant probation, it shall specify the reason or reasons for such order. On appeal by the people from such a grant of probation, it shall be conclusively presumed that such order was made only for the reasons specified in such order, and such order shall be reversed if there is no substantial basis in the record for any of such reasons

(f) When probation is granted in a case which comes within the provisions of subdivision (e), the court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by such a disposition

(g) If a person is not eligible for probation, the judge may, in his discretion, refer the matter to the probation officer for an investigation of the facts relevant to the sentencing of the person Upon such referral, the probation officer shall immediately investigate the circumstances surrounding the crime and the prior

record and history of the person and make a written report to the court of his findings.

(h) In any case in which a defendant is convicted of a felony and a probation report is prepared pursuant to subdivision (a) or (g), the probation officer shall obtain and include in such report a statement of the comments of the victim concerning the offense. The court may direct the probation officer not to obtain such a statement in any case where the victim has in fact testified at any of the court proceedings concerning the offense.

(i) No probationer shall be released to enter another state unless his case has been referred to the Administrator, Interstate Probation and Parole Compacts, pursuant to the Uniform Act for Out-of-State Probationer or Parolee Supervision (Article 3 (commencing with Section 11175) of Chapter 2 of Title 1 of Part 4).

SEC. 3. It is the intent of the Legislature, if this bill and Senate Bill 966 are both chaptered and become effective January 1, 1980, both bills amend Section 1203 of the Penal Code, and this bill is chaptered after Senate Bill 966, 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 966 are both chaptered and become effective January 1, 1980, both amend Section 1203, and this bill is chaptered after Senate Bill 966, in which case Section 1 of this act shall not become operative.

CHAPTER 1176

An act to add Section 68083 to the Education Code, relating to education, and making an appropriation therefor.

[Approved by Governor September 29, 1979 Filed with Secretary of State September 30, 1979]

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

SECTION 1. Section 68083 is added to the Education Code, to read:

68083. (a) A community college may classify a student who is a peace officer employed by a public agency as a resident for purposes of enrollment in and completion of police academy training at a community college

(b) As used in this section, "public agency" means the state or any city, county, district, or other local authority or public body of or within the state

SEC 2. (a) Notwithstanding the provisions of Item 316 1 of the Budget Act of 1978 (Chapter 359 of the Statutes of 1978), the provisions of Item 338 of the Budget Act of 1979 (Chapter 259 of the Statutes of 1979), the provisions of Chapter 38 of the Statutes of 1979,

or any other provision of law, if the Superintendent of Public Instruction has determined that a school district or a county superintendent of schools did not maintain the required level of service in each program for the 1978–79 school year, as specified in Item 316.1 of the Budget Act of 1978 (Chapter 359 of the Statutes of 1978) and has withheld 1978–79 fiscal year apportionments accordingly, the 1979–80 fiscal year apportionments shall be recalculated so that the 1979–80 fiscal year apportionment shall restore the funding withheld in the 1978–79 fiscal year which exceeded four times the expenditure level for those students not served at the required average daily attendance and expenditure level

(b) However, if a school district or county superintendent of schools which did not maintain the required level of service in the 1978–79 school year for adult education programs for substantially handicapped persons provides in the 1979–80 school year for comparable supplementary program expenditures for adult education programs for substantially handicapped persons, in addition to expenditures for services otherwise required to be rendered in the 1979–80 school year, for students denied instruction in such programs in the 1978–79 school year pursuant to a plan approved by the Superintendent of Public Instruction, the 1979–80 fiscal year apportionments shall be recalculated so that the 1979–80 fiscal year apportionment shall restore an amount equal to the entire amount of funding withheld in or for the 1978–79 fiscal year minus 10 percent of an amount equal to four times the expenditure level for those students not served at the required average daily attendance and expenditure level in the 1978–79 fiscal year.

(c) Expenditure reductions attributable to apportionments withheld in or for the 1978–79 fiscal year pursuant to subdivision (b) shall be reflected to the greatest extent possible in a corresponding reduction in the amounts allocated for administrative costs and shall not adversely affect instructional programs of any noncomplying district or county superintendent The determination of such reductions shall be made at a public hearing by the appropriate governing body

(d) Comparable supplementary program expenditures for adult education programs for substantially handicapped persons pursuant to subdivision (b) shall be for additional instructional programs in the 1979–80 fiscal year (1) which serve only those students denied such specified instruction in the 1978–79 fiscal year, (2) which provide content similar to that which would have been provided in the instructional programs denied in the 1978–79 fiscal year, and (3) which are specifically designed to supplement instructional programs otherwise provided such students in the 1979–80 fiscal year

SEC 3 The sum of two million dollars ($2,000,000) is hereby appropriated for support of the Trustees of the California University and Colleges, and for the California State University and Colleges for

the 1979–80 fiscal year. Such funds are to be used to lessen the negative impact of enrollment declines and budget restrictions on the instructional programs and, to the maximum extent feasible, to lessen the negative impact on the upward mobility and affirmative action programs.

CHAPTER 1177

An act to amend Section 707 of the Welfare and Institutions Code, relating to juvenile court law.

[Approved by Governor September 29, 1979 Filed with Secretary of State September 30, 1979]

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

SECTION 1. Section 707 of the Welfare and Institutions Code is amended to read:

707. (a) In any case in which a minor is alleged to be a person described in Section 602 by reason of the violation, when he or she was 16 years of age or older, of any criminal statute or ordinance except those listed in subdivision (b), upon motion of the petitioner made prior to the attachment of jeopardy the court shall cause the probation officer to investigate and submit a report on the behavioral patterns and social history of the minor being considered for a determination of unfitness. Following submission and consideration of the report, and of any other relevant evidence which the petitioner or the minor may wish to submit, the juvenile court may find that the minor is not a fit and proper subject to be dealt with under the juvenile court law if it concludes that the minor would not be amenable to the care, treatment, and training program available through the facilities of the juvenile court, based upon an evaluation of the following criteria:

(1) The degree of criminal sophistication exhibited by the minor.

(2) Whether the minor can be rehabilitated prior to the expiration of the juvenile court's jurisdiction.

(3) The minor's previous delinquent history.

(4) Success of previous attempts by the juvenile court to rehabilitate the minor.

(5) The circumstances and gravity of the offense alleged to have been committed by the minor.

A determination that the minor is not a fit and proper subject to be dealt with under the juvenile court law may be based on any one or a combination of the factors set forth above, which shall be recited in the order of unfitness. In any case in which a hearing has been noticed pursuant to this section, the court shall postpone the taking of a plea to the petition until the conclusion of the fitness hearing, and no plea which may already have been entered shall constitute

evidence at such hearing.

(b) The provisions of subdivision (c) shall be applicable in any case in which a minor is alleged to be a person described in Section 602 by reason of the violation, when he or she was 16 years of age or older, of any one of the following offenses:

(1) Murder.

(2) Arson of an inhabited building.

(3) Robbery while armed with a dangerous or deadly weapon.

(4) Rape with force or violence or threat of great bodily harm

(5) Kidnapping for ransom.

(6) Kidnapping for purpose of robbery.

(7) Kidnapping with bodily harm

(8) Assault with intent to murder or attempted murder.

(9) Assault with a firearm or destructive device.

(10) Assault by any means of force likely to produce great bodily injury

(11) Discharge of a firearm into an inhabited or occupied building.

(12) Any offense described in Section 1203.09 of the Penal Code.

(c) With regard to a minor alleged to be a person described in Section 602 by reason of the violation, when he or she was 16 years of age or older, of any of the offenses listed in subdivision (b), upon motion of the petitioner made prior to the attachment of jeopardy the court shall cause the probation officer to investigate and submit a report on the behavioral patterns and social history of the minor being considered for a determination of unfitness. Following submission and consideration of the report, and of any other relevant evidence which the petitioner or the minor may wish to submit, the minor shall be presumed to be not a fit and proper subject to be dealt with under the juvenile court law unless the juvenile court concludes, based upon evidence, which evidence may be of extenuating or mitigating circumstances, that the minor would be amenable to the care, treatment, and training program available through the facilities of the juvenile court based upon an evaluation of each of the following criteria.

(1) The degree of criminal sophistication exhibited by the minor.

(2) Whether the minor can be rehabilitated prior to the expiration of the juvenile court's jurisdiction.

(3) The minor's previous delinquent history

(4) Success of previous attempts by the juvenile court to rehabilitate the minor.

(5) The circumstances and gravity of the offenses alleged to have been committed by the minor.

A determination that the minor is a fit and proper subject to be dealt with under the juvenile court law shall be based on a finding of amenability after consideration of the criteria set forth above, and findings therefor recited in the order as to each of the above criteria that the minor is fit and proper under each and every one of the above criteria. In making a finding of fitness, the court may consider

extenuating or mitigating circumstances in evaluating each of the above criteria. In any case in which a hearing has been noticed pursuant to this section, the court shall postpone the taking of a plea to the petition until the conclusion of the fitness hearing and no plea which may already have been entered shall constitute evidence at such hearing.

SEC 2 Section 707 of the Welfare and Institutions Code is amended to read·

707. (a) In any case in which a minor is alleged to be a person described in Section 602 by reason of the violation, when he or she was 16 years of age or older, of any criminal statute or ordinance except those listed in subdivision (b), upon motion of the petitioner made prior to the attachment of jeopardy the court shall cause the probation officer to investigate and submit a report on the behavioral patterns and social history of the minor being considered for a determination of unfitness. Following submission and consideration of the report, and of any other relevant evidence which the petitioner or the minor may wish to submit, the juvenile court may find that the minor is not a fit and proper subject to be dealt with under the juvenile court law if it concludes that the minor would not be amenable to the care, treatment, and training program available through the facilities of the juvenile court, based upon an evaluation of the following criteria

(1) The degree of criminal sophistication exhibited by the minor.

(2) Whether the minor can be rehabilitated prior to the expiration of the juvenile court's jurisdiction.

(3) The minor's previous delinquent history

(4) Success of previous attempts by the juvenile court to rehabilitate the minor

(5) The circumstances and gravity of the offense alleged to have been committed by the minor

A determination that the minor is not a fit and proper subject to be dealt with under the juvenile court law may be based on any one or a combination of the factors set forth above, which shall be recited in the order of unfitness. In any case in which a hearing has been noticed pursuant to this section, the court shall postpone the taking of a plea to the petition until the conclusion of the fitness hearing, and no plea which may already have been entered shall constitute evidence at such hearing.

(b) The provisions of subdivision (c) shall be applicable in any case in which a minor is alleged to be a person described in Section 602 by reason of the violation, when he or she was 16 years of age or older, of one of the following offenses

(1) Murder,

(2) Arson of an inhabited building,

(3) Robbery while armed with a dangerous or deadly weapon,

(4) Rape with force or violence or threat of great bodily harm,

(5) Sodomy by force, violence, duress, menace, or threat of great bodily harm,

(6) Lewd or lascivious act as provided in subdivision (b) of Section 288 of the Penal Code;

(7) Oral copulation by force, violence, duress, menace, or threat of great bodily harm;

(8) Any offense specified in Section 289 of the Penal Code;

(9) Kidnapping for ransom;

(10) Kidnapping for purpose of robbery;

(11) Kidnapping with bodily harm;

(12) Assault with intent to murder or attempted murder;

(13) Assault with a firearm or destructive device;

(14) Assault by any means of force likely to produce great bodily injury,

(15) Discharge of a firearm into an inhabited or occupied building;

(16) Any offense described in Section 1203.09 of the Penal Code.

(c) With regard to a minor alleged to be a person described in Section 602 by reason of the violation, when he or she was 16 years of age or older, of any of the offenses listed in subdivision (b), upon motion of the petitioner made prior to the attachment of jeopardy the court shall cause the probation officer to investigate and submit a report on the behavioral patterns and social history of the minor being considered for a determination of unfitness. Following submission and consideration of the report, and of any other relevant evidence which the petitioner or the minor may wish to submit the minor shall be presumed to be not a fit and proper subject to be dealt with under the juvenile court law unless the juvenile court concludes, based upon evidence, which evidence may be of extenuating or mitigating circumstances, that the minor would be amenable to the care, treatment, and training program available through the facilities of the juvenile court based upon an evaluation of each of the following criteria·

(1) The degree of criminal sophistication exhibited by the minor.

(2) Whether the minor can be rehabilitated prior to the expiration of the juvenile court's jurisdiction

(3) The minor's previous delinquent history.

(4) Success of previous attempts by the juvenile court to rehabilitate the minor

(5) The circumstances and gravity of the offenses alleged to have been committed by the minor.

A determination that the minor is a fit and proper subject to be dealt with under the juvenile court law shall be based on a finding of amenability after consideration of the criteria set forth above, and findings therefor recited in the order as to each of the above criteria that the minor is fit and proper under each and every one of the above criteria. In making a finding of fitness, the court may consider extenuating or mitigating circumstances in evaluating each of the above criteria In any case in which a hearing has been noticed pursuant to this section, the court shall postpone the taking of a plea to the petition until the conclusion of the fitness hearing and no plea

which may already have been entered shall constitute evidence at such hearing.

SEC. 3. It is the intent of the Legislature, if this bill and Senate Bill No. 13 are both chaptered and become effective January 1, 1980, both bills amend Section 707 of the Welfare and Institutions Code, and this bill is chaptered after Senate Bill No. 13, that the amendments to Section 707 proposed by both bills be given effect and incorporated in Section 707 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. 13 are both chaptered and become effective January 1, 1980, both amend Section 707, and this bill is chaptered after Senate Bill No. 13, in which case Section 1 of this act shall not become operative.

SEC. 4. The provisions of this act shall not be operative unless Senate Bill 196 is chaptered.

CHAPTER 1178

An act relating to the Public Employees' Retirement System.

[Approved by Governor September 29, 1979 Filed with Secretary of State September 30, 1979]

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

SECTION 1. Notwithstanding Section 20461.5 of the Government Code, a contracting agency which is a city may amend its contract with the Board of Administration of the Public Employees' Retirement System to rescind any amendments to its contract which became effective on December 16, 1977. Such rescission shall only apply to benefits receivable on and after its effective date and shall not affect the validity of any benefits received between December 16, 1977, and such effective date.

If a city rescinds the amendments to its contract pursuant to this section, the next subsequent amendment to its contract which provides additional benefits to its employees shall provide such additional benefits not only with respect to members, but also, prospectively from the date of such subsequent contract amendment, with respect to benefits paid on account of a member who retired or died between December 16, 1977, and the date of such subsequent amendment.

A city which rescinds benefits pursuant to this section shall further amend its contract prior to July 1, 1980, to provide additional benefits, otherwise, the rescinded benefits shall be amended back into its contract to provide such benefits as if there had been no break in such benefits.

It is the intent of the Legislature in enacting this section to correct a serious mistake of fact, as follows:

The City Council of Paramount, in enacting an ordinance authorizing a contract amendment with the Public Employees' Retirement System effective December 16, 1977, relied upon representations that the increased cost would be approximately 2 percent of its annual contract expenditure. If the amendment is not rescinded, the actual increase will be 5 percent rather than 2 percent

An administrative law judge of the Office of Administrative Hearings has ruled that grounds exist to allow the rescission of the City of Paramount's December 16, 1977, contract amendment pursuant to the provisions of subdivision (b) of Section 1689 of the Civil Code.

This section shall remain in effect only until July 1, 1980, and shall have no force or effect on or after that date.

CHAPTER 1179

An act to amend Sections 12403.7 and 12435 of the Penal Code, relating to tear gas.

[Approved by Governor September 29, 1979 Filed with Secretary of State September 30, 1979]

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

SECTION 1 Section 12403 7 of the Penal Code is amended to read·

12403.7 (a) Notwithstanding any other provision of law, any person may purchase, possess or use tear gas and tear gas weapons for the projection or release of tear gas if such tear gas and tear gas weapons are approved by the Department of Justice and are used solely for self-defense purposes, subject to the following requirements.

(1) No person convicted of a felony under the laws of the United States, of the State of California, or any other state, government, or country shall purchase, possess, or use tear gas or tear gas weapons.

(2) No person who is addicted to any narcotic drug shall purchase, possess, or use tear gas or tear gas weapons.

(3) No person shall sell or furnish any tear gas or tear gas weapon to a minor

(4) (i) No person shall purchase, possess or use any tear gas weapon which expels a projectile, or which expels the tear gas by any method other than an aerosol spray, or which is of a type, or size of container, other than authorized by regulation of the Department of Justice

(ii) The department, with the cooperation of the State Department of Health Services, shall develop standards and promulgate regulations regarding the type of tear gas and tear gas weapons which may lawfully be purchased, possessed, and used

pursuant to this section.

(iii) The regulations of the department shall include a requirement that every tear gas container and tear gas weapon which may be lawfully purchased, possessed, and used pursuant to this section have a label which states. "WARNING: The use of this substance or device for any purpose other than self-defense is a felony under the law The contents are dangerous—use with care."

(5) (i) No person shall purchase, possess, or use any tear gas or any tear gas weapon who has not completed a course certified by the Department of Justice in the use of tear gas and tear gas weapons pursuant to which a card is issued identifying the person who has completed such a course Such a course shall be taken under the auspices of any institution approved by the Department of Justice to offer tear gas training. Such a training institution is authorized to charge a fee covering the actual cost of such training.

(ii) The Department of Justice, in cooperation with the Commission on Peace Officer Standards and Training, shall develop standards for a course in the use of tear gas and tear gas weapons.

(6) No person shall purchase, possess or use any tear gas or tear gas weapon if such person has not been issued a permit by a licensed vendor. A licensed vendor shall issue a permit to any person who has completed the course of training specified in paragraph (5), and who meets the following criteria

(i) Is not a minor

(ii) Has not been convicted of a felony.

(iii) Is not addicted to any narcotic drug.

(iv) Has not been convicted of any crime involving assault.

(v) Has not been convicted of misuse of tear gas under paragraph (8).

(7) If an application for a permit is denied, the vendor denying such permit shall inform the applicant in writing of the reason for such denial. The valid permit shall be carried on the person when carrying tear gas or tear gas weapons and shall be presented for examination to the vendor from whom any tear gas or tear gas weapons are purchased. The sale of tear gas or tear gas weapons by a vendor to a person who fails to present an identifying permit is a violation of Section 12420.

(8) Any person who has a valid permit, who uses tear gas or tear gas weapons except in self-defense or as authorized for training purposes by the department is guilty of a public offense and is punishable by imprisonment in a state prison for 16 months, or two or three years or in a county jail not to exceed one year or by fine not to exceed one thousand dollars ($1,000) or by both such fine and imprisonment

(9) No person shall purchase, possess, or use any tear gas or tear gas weapon pursuant to this section prior to July 1, 1977.

(b) Such permit shall be valid for a period of seven years unless revoked because the person no longer meets the criteria specified under paragraph (6), and shall be nontransferable.

Applications and permits shall be uniform throughout the state on forms prescribed by the Department of Justice

The Department of Justice may adopt and promulgate such regulations concerning the purchase and disposal of self-defense tear gas weapons, the standards for tear gas training courses, and the approval of facilities at which such training shall occur as are necessary to insure the safe use and possession of such tear gas weapons by permit holders.

(c) Any person who successfully completes training under this section for which the course and training facility must be approved by the Department of Justice is entitled to receive a certificate of completion issued by the Department of Justice. A fee shall be charged by the Department of Justice for the certificate The fee shall be no more than is necessary to reimburse the Department of Justice for the costs of approving the courses, the facilities, maintaining control of the quality of the courses, and issuing the certificate of completion. The Department of Justice may provide by regulation the manner in which the fee is collected and paid

SEC. 2. Section 12435 of the Penal Code is amended to read·

12435 The Department of Justice may grant licenses in a form to be prescribed by it effective for not more than one year from the date of issuance, to permit the sale at retail of tear gas or tear gas weapons, and to permit the installation and maintenance of protective systems involving the use of tear gas or tear gas weapons subject to all of the following conditions upon breach of any of which the license shall be subject to forfeiture:

(a) Under a general sales license for the sale of tear gas or tear gas weapons issued by the department, the business shall be carried on only in the building designated in the license, except that such products may be sold at the place of instruction.

(b) The license or certified copy thereof shall be displayed on the premises in a place where it may easily be read.

(c) No tear gas or tear gas weapon shall be delivered to any person not authorized to possess or transport the same under the provisions of this chapter No protective system involving the use of tear gas or tear gas weapons shall be installed, nor shall supplies be sold for the maintenance of such system, unless the licensee has personal knowledge of the existence of a valid permit for the operation and maintenance of the system.

(d) A complete record shall be kept of sales made under the authority of the license, showing the name and address of the purchaser, the quantity and description of the articles purchased, together with the serial number, the number and date of issue of the purchaser's permit, and the signature of the purchaser or purchasing agent No sale shall be made unless the permit authorizing possession and transportation of tear gas or tear gas weapons is displayed to the seller and the information required by this section is copied therefrom This record shall be open to the inspection of any peace officer or other person designated by the Attorney General

A copy of the sales record of each transaction shall be furnished to the chief of police or sheriff who has jurisdiction over the purchaser's place of residence.

(e) Each applicant for the tear gas sales license described in this section shall pay at the time of filing his application for such license a fee determined by the Department of Justice, not to exceed fifty dollars ($50) for an initial application and twenty-five dollars ($25) for an application to renew an existing license.

(f) All fees received by the department under this section are hereby appropriated without regard to fiscal years for the support of the Department of Justice in addition to such other funds as may be appropriated therefor by the Legislature.

SEC. 3 Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because the duties, obligations, or responsibilities imposed on local agencies or school districts by this act are such that related costs are incurred as part of their normal operating procedures. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 1180

An act to add Section 15606.1 to the Government Code, to add Sections 18613.1 and 18613.2 to the Health and Safety Code, to amend Sections 480, 482, and 17053.5 of, and to add Sections 109 8, 6012 9, 6379, 10759, 10785, 11914, and 20501.5 to, the Revenue and Taxation Code, and to add Section 5357 to, and to add Article 11 (commencing with Section 5400) to Chapter 1 of Division 3 of, the Vehicle Code, relating to mobilehomes, and making an appropriation therefor

[Approved by Governor September 29, 1979. Filed with Secretary of State September 30, 1979.]

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

SECTION 1. The Legislature finds and declares that there is an inadequate supply of housing to meet the public requirements, that the cost of such housing exceeds the reasonable financial resources of the majority of our citizens, that mobilehomes are a solution to the many citizens of our state who cannot afford the high cost of our present housing stock, that many citizens find mobilehomes meet their needs but have no place to site them when purchased due to restrictive zoning and the present inequitable taxing structure, that there are approximately 100,000 mobilehomes sited in California which pay no tax at all, and the Department of Motor Vehicles computer, as of March 1, 1979, has 43,919 unregistered mobilehomes

listed.

The Legislature further finds that the Department of Motor Vehicles loses approximately one million dollars ($1,000,000) annually through the loss of registration fees and that local entities lose approximately ten million dollars ($10,000,000) annually through loss of vehicle license fees due to lack of enforcement by the State of California.

The Legislature, therefore, declares there is an urgent need to treat mobilehomes for purposes of taxation in the same manner as any other housing. The Legislature deems it to be in the public interest to establish a mechanism whereby mobilehomes are treated the same as any other owner-occupied housing in California.

SEC. 2. Section 15606.1 is added to the Government Code, to read:

15606.1. The duties, rules, regulations, and instructions as specified in Section 15606 shall include provisions for mobilehomes which are subject to local property taxations.

SEC. 3. Section 18613.1 is added to the Health and Safety Code, to read

18613.1. The requirements for any installation of a mobilehome shall not exceed the requirements set forth in Section 18613.

SEC. 4. Section 18613.2 is added to the Health and Safety Code, to read:

18613.2. When the enforcement agency issues an installation permit for a new mobilehome, beginning on July 1, 1980, a copy of such permit shall be delivered to the county or city assessor having jurisdiction where the mobilehome is to be sited.

SEC. 5. Section 109.8 is added to the Revenue and Taxation Code, to read:

109 8. (a) Any new mobilehome sold on or after July 1, 1980, which is installed for occupancy as a residence, in accordance with Section 18613 of the Health and Safety Code, and which is subject to taxation, shall be subject to local property taxation.

(b) A mobilehome, as described in subdivision (a), shall be subject to the registration requirements set forth in Article 11 (commencing with Section 5400) of Chapter 1 of Division 3 of the Vehicle Code.

(c) The assessment of any mobilehome subject to local property taxation under this section shall be entered on the secured roll and shall be subject to all provisions of law applicable to taxes on such roll, except that·

(1) If the taxes on any mobilehome are not a lien on real property of the owner of the mobilehome and are unpaid when the last installment of taxes on the secured roll become delinquent, the tax collector may use the procedures applicable to the collection of delinquent taxes on the unsecured roll; and

(2) If the taxes on any mobilehome which are not a lien on real property of the owner of the mobilehome remain unpaid at the time set for the sale of the mobilehome on the secured roll to the state for delinquent taxes, the mobilehome and the taxes on such

mobilehome, together with any penalties and costs which may have accrued thereon while on the secured roll, shall be transferred to the unsecured roll.

(d) For the purposes of this section, a "mobilehome" is defined in Sections 18008 and 18211 of the Health and Safety Code.

SEC 5 3 Section 480 of the Revenue and Taxation Code is amended to read.

480. Whenever any change in ownership of real property or of a mobilehome subject to local property taxation occurs, the transferee shall file a signed change in ownership statement in the county where the real property or mobilehome is located, as provided for in subdivision (b).

(a) The change in ownership statement shall be declared to be true under penalty of perjury and shall give such information relative to the real property or mobilehome acquisition transaction as the board shall prescribe after consultation with the California Assessors' Association. Such information shall include, but not be limited to, a description of the property, the parties to the transaction, the date of acquisition, the amount, if any, of the consideration paid for the property, whether paid in money or otherwise, and the terms of the transaction. The change in ownership statement shall not include any question which is not germane to the assessment function. The statement shall contain a notice that is printed, with the title in at least 14-point boldface type and the body in at least 10-point boldface type, in the following form:

"Important Notice"

"The law requires any person acquiring an interest in real property or mobilehome subject to local property taxation to file a change in ownership statement with the county recorder or assessor. The change in ownership statement must be filed within 45 days of the date of recording or, if the transfer is not recorded, within 45 days of the date of the change in ownership. The failure to file a change in ownership statement within 45 days after receipt of a written request by the assessor results in a penalty of one hundred dollars ($100) or 10 percent of the current year's taxes on the real property or mobilehome, whichever is greater. This penalty will be added to the roll and shall be treated and collected like, and shall be subject to the same penalties for delinquency as, all other taxes on the roll on which it is entered "

(b) If the document evidencing a change in ownership is recorded in the county recorder's office, then the statement shall be filed either with the recorder at the time of recordation or with the assessor within 45 days from the date of recordation. If the document evidencing a change in ownership is not recorded, then the statement shall be filed with the assessor no later than 45 days from the date the change in ownership occurs.

(c) Whenever a change in ownership statement is filed with the

county recorder's office, the recorder shall transmit, as soon as possible, the original statement or a true copy thereof to the assessor along with a copy of every recorded document as required by Section 255.7.

(d) The change in ownership statement may be filed with the assessor through the United States mail, properly addressed with the postage prepaid

(e) Upon receipt of a change in ownership statement which has either been transmitted by the county recorder's office or been filed directly by the transferee, the assessor shall enter the prior assessment year value and an indication as to whether a change in ownership, as defined in Section 60, has occurred on the statement.

(f) In the case of a corporate transferee of property, the change in ownership statement shall be signed either by an officer of the corporation or an employee or agent who has been designated in writing by the board of directors to sign such statements on behalf of the corporation.

SEC. 5.5 Section 482 of the Revenue and Taxation Code is amended to read:

482. If any person who is requested by the assessor to make a change in ownership statement fails to file such statement within 45 days from the date of request, a penalty of the greater of one hundred dollars ($100) or 10 percent of the current year's taxes on the real property or mobilehome shall be added to the assessment made on the current roll. The penalty shall be added in the same manner prescribed in Article 4 (commencing with Section 531) of this chapter for the addition of escape assessments, and shall be treated and collected like, and shall be subject to the same penalties for the delinquency as, all other taxes on the roll in which it is entered.

Notice of any penalty added to the roll pursuant to this section shall be mailed by the assessor to the assessee at his address as contained in any recorded instrument or document evidencing a change in ownership or at any address reasonably known to the assessor.

SEC. 6. Section 6012.9 is added to the Revenue and Taxation Code, to read·

6012.9 (a) For the purposes of this part, "gross receipts" from the sale of a mobilehome, and the "sale price" of a mobilehome sold or stored, used or otherwise consumed in this state shall be 80 percent of the sales price of the mobilehome to the retailer, if such mobilehome is sold by the retailer to the purchaser for installation for occupancy as a residence pursuant to the requirements of Section 18613 of the Health and Safety Code, and is thereafter subject to property taxation, and the retailer shall be considered to be the consumer for purposes of this part.

(b) For the purpose of this section, a "mobilehome" is defined in Sections 18008 and 18211 of the Health and Safety Code.

(c) If a purchaser certifies in writing to a retailer that the mobilehome purchased will be consumed in a manner or for a

purpose entitling the retailer to exclude 20 percent of the gross receipts or sales price to the retailer from the measure of tax, and uses the property in some other manner or for some other purpose which would not be subject to any other exclusion or exemption under this part, the purchaser shall be liable for payment of tax measured by the amount of the sales price to the purchaser minus an amount equal to the sales price of the mobilehome to the retailer.

(d) Any subsequent sale of a mobilehome, for which the provisions of this section apply, after the initial sale shall be exempt from the taxes imposed by this part.

SEC. 7. Section 6379 is added to the Revenue and Taxation Code, to read:

6379. There are exempted from the taxes imposed by this part the gross receipts from the resale of and the storage, use, or other consumption in this state of mobilehomes, as defined in Sections 18008 and 18211 of the Health and Safety Code, which were originally sold new on and after July 1, 1980.

SEC 8. Section 10759 is added to the Revenue and Taxation Code, to read:

10759 (a) Notwithstanding the provisions of Section 10758, any mobilehome on or after July 1, 1980, which the owner has allowed the registration to lapse for a period of 120 days or more, shall no longer be subject to the provisions of this part Instead, such mobilehome shall be subject to the provisions of law governing local property taxation.

(b) The provisions of subdivision (a) do not apply to mobilehomes which are subject to any probate proceedings in this state.

(c) With regard to any mobilehome subject to local property taxation pursuant to the provisions of subdivision (a), the delinquent taxes and fees due to the Department of Motor Vehicles shall be added to the applicable property tax bill, collected therewith, and distributed in the same manner as property taxes.

(d) The State Board of Equalization shall adopt and amend as necessary rules and regulations to carry out as well as enforce the provisions of this section.

SEC 9. Section 10785 is added to the Revenue and Taxation Code, to read:

10785 (a) The license fee imposed by this part shall not apply to any new mobilehome as defined in Sections 18008 and 18211 of the Health and Safety Code, which is sold and installed for occupancy as a residence, in accordance with Section 18613 of the Health and Safety Code, on or after July 1, 1980.

(b) Any new mobilehome exempted from the provisions of this part shall be subject to local property taxation.

SEC. 10. Section 11914 is added to the Revenue and Taxation Code, to read

11914. The purchaser of a new mobilehome which is sold and installed for occupancy as a residence in accordance with Section 18613 of the Health and Safety Code, on or after July 1, 1980, shall be

subject to the tax imposed pursuant to this chapter. Mobilehomes held in the mobilehome dealer's inventory shall be exempt from the provisions of this chapter.

SEC. 10.5. Section 17053.5 of the Revenue and Taxation Code is amended to read:

17053.5. (a) For taxable years beginning after December 31, 1975, in the case of qualifed renters, there shall be allowed credits against the tax computed under this part, minus all other credits provided for in this part except the credit provided in Section 18551.1 (relating to withholding credit) and the credit provided in Section 17061 (relating to excess tax credit). The credit shall be in the amount of thirty-seven dollars ($37).

Except as provided in subdivision (b) of this section a husband and wife shall receive but one credit under this section. If the husband and wife file separate returns, the credit may be taken by either or equally divided between them, except as follows:

(A) If one spouse was a resident for the entire taxable year and the other spouse was a nonresident for part or all of the taxable year, the resident spouse shall be allowed the full credit.

(B) If both spouses were nonresidents for part of the taxable year, the credit shall be divided equally between them subject to the proration provided in subdivision (d) of this section.

(b) In the case of a husband and wife, if each spouse maintained a separate place of residence and resided in this state during the entire taxable year, each spouse will be allowed the full credit provided in subdivision (a).

(c) For purposes of this section, a "qualified renter" means an individual who on March 1 of the taxable year—

(1) Was a resident of this state, as defined in Section 17014, and

(2) On such date rented and occupied premises in this state which constitute his principal place of residence.

The term "qualified renter" does not include an individual who on March 1 of the taxable year rented and occupied premises which were exempt from property taxes, except that an individual, otherwise qualified, shall be deemed a qualified renter if he is required to pay property taxes on his possessory interest in a residence that is otherwise tax exempt during the taxable year.

The term "qualified renter" does not include an individual whose principal place of residence is with any other person who claimed such individual as a dependent for income tax purposes.

The term "qualified renter" does not include an individual who has been granted or whose spouse has been granted the homeowners' property tax exemption during the taxable year. This paragraph shall not apply in the case of an individual whose spouse has been granted the homeowners' property tax exemption if each spouse maintained a separate residence for the entire taxable year.

(d) Any individual who is a nonresident for any portion of the taxable year shall claim the credits set forth in subdivision (a) at the rate of one-twelfth of such credits for each full month such individual

resided within this state during the taxable year.

(e) Every person claiming the credit provided in this section shall, as part of such claim, and under penalty of perjury, furnish such information as the Franchise Tax Board prescribes on a form supplied by such board.

(f) The credit provided in this section shall be claimed on returns in such form as the Franchise Tax Board may from time to time prescribe, and shall be filed with the Franchise Tax Board on the date prescribed by Section 18432.

(g) For the purposes of this section, the term "premises" means a house or a dwelling unit used to provide living accomodations in a building or structure and the land incidental thereto, but does not include land only, except in the case where the dwelling unit is a mobilehome not subject to local property taxation.

(h) In the case of qualified renters whose credits provided in this section exceed their tax liability computed under this part, minus all other credits provided for in this part except the credits provided in Section 18551.1 and Section 17061, the qualified renter shall be allowed a credit to the extent of his tax liability plus a refund in excess of that amount up to a combined credit and refund equal to the credit otherwise provided in this section.

(i) The changes made to paragraph (2) of subdivision (c) of this section by the 1977–78 Legislature shall be applied with respect to taxable years beginning on January 1, 1979, and thereafter.

SEC. 11. Section 20501.5 is added to the Revenue and Taxation Code, to read:

20501.5. An individual who is the owner and occupier of a mobilehome subject to property taxation, but who rents or leases the land where the mobilehome is located, shall only qualify for the homeowner's assistance relief under this part.

SEC. 12. Section 5357 is added to the Vehicle Code, to read:

5357. The department shall furnish a listing on a monthly basis of all mobilehomes for which the registration has lapsed for a period of 120 days or more, as provided for in Section 10759 of the Revenue and Taxation Code, to the county assessor in which the mobilehome is sited.

SEC. 13. Article 11 (commencing with Section 5400) is added to Chapter 1 of Division 3 of the Vehicle Code, to read:

Article 11. Registration of Mobilehomes Subject to Local Property Taxation

5400 On or after July 1, 1980, all new mobilehomes which are sold and installed for occupancy as a residence in accordance with Section 18613 of the Health and Safety Code and which are subject to local property taxation, shall be subject to vehicle registration only at the time of initial sale, resale, or transfer of title.

5401. The provisions of Article 10 (commencing with Section 5350) of this chapter shall apply to mobilehomes described in Section

5400 to the extent the provisions are not in conflict. with the provisions of this article

5402 (a) For the purposes of registration of mobilehomes pursuant to this article, "mobilehome" shall include, as a single unit with one registration, two or more units that are manufactured or fabricated for use as a single unit.

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

5403. A dealer shall be required to complete all documents pursuant to the requirements of this article in the same manner as is prescribed under Article 10 (commencing with Section 5350).

5404. The assessee of mobilehomes subject to local property taxation shall report changes in ownership information to the assessor in the county where the mobilehome is sited, as provided in Article 2.5 (commencing with Section 480) of Chapter 3 of Part 2 of Division 1 of the Revenue and Taxation Code.

SEC. 14 It is the intent of the Legislature that any new mobilehome sold on or after July 1, 1980, which is installed for occupancy as a residence in accordance with Section 18613 of the Health and Safety Code, and which is subject to local property taxation, shall be a qualified dwelling for purposes of homeowners' property tax exemption eligibility pursuant to Section 218 of the Revenue and Taxation Code.

SEC 15. It is the intent of the Legislature that for purposes of transfer of title or for purposes of resolving disputes regarding ownership or property interests, including foreclosure of mortgages, that any new mobilehome sold on or after July 1, 1980, which is installed for occupancy as a residence in accordance with Section 18613 of the Health and Safety Code, and which is subject to local property taxation, shall be deemed to be personal property.

SEC 16. Section 6 of this act shall apply to the sale or use of a mobilehome therein described on or after July 1, 1980.

SEC. 17. Section 10.5 of this act shall be applied in the computation of taxes for taxable years beginning after December 31, 1979

SEC. 18. (a) No appropriation is made by this act, nor is any obligation created thereby, pursuant to Section 2231 or 2234 of the Revenue and Taxation Code. Moreover, no claim shall be considered with respect to this act by the State Board of Control pursuant to Section 905.2 of the Government Code or Section 2250 of the Revenue and Taxation Code, and the Department of Finance shall not review or report on this act pursuant to Section 2246 of the Revenue and Taxation Code.

(b) Notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to this section because the initial reduction in existing sales tax revenues caused by this bill will be more than offset in future years by the increases in property tax revenue provided by this act and therefore local

governments will experience no undue hardships.

CHAPTER 1181

An act to add and repeal Chapter 2.7 (commencing with Section 9900) to Division 3 of the Unemployment Insurance Code, relating to employment, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1979 Filed with Secretary of State September 30, 1979.]

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

SECTION 1. Chapter 2.7 (commencing with Section 9900) is added to Division 3 of the Unemployment Insurance Code, to read:

CHAPTER 2.7. CALIFORNIA WORK-SITE EDUCATION AND TRAINING ACT

9900. This chapter shall be known and may be cited as the California Work-Site Education and Training Act of 1979

9901. (a) The Legislature finds and declares that existing classroom and work-site training programs are not sufficient to solve the employment problems of urban and rural economically disadvantaged, youths, displaced workers, and other persons with obsolete or inadequate job skills in that:

(1) Current linkages between on-the-job training and vocational/technical education need to be improved to assure that individuals are properly trained for the thousands of jobs which remain unfilled even during periods of high unemployment among youth, disadvantaged persons, displaced workers, and persons with obsolete or inadequate job skills.

(2) Job training programs need to reallocate sufficient resources to career-oriented upgrading of skills

(3) Current programs for upgrading skills and career advancement need to involve employers in complimentary work-site training to a greater extent.

(4) Workers with obsolete or inadequate skills are often required to quit a job or accept part-time employment to participate in upgrading training

(b) To remedy the problems specified in subdivision (a), the Legislature hereby declares it the policy of the State of California to provide job training programs which integrate classroom instruction with entry level and career worksite training in order to provide effective opportunities for youth and the economically disadvantaged to enter into career employment and advancement. To develop such integrated programs, this chapter is intended to

encourage local educational and training agencies, employee organizations, and employers to coordinate their efforts under the administration of the Employment Development Department working in concert with the Department of Industrial Relations, the Department of Education, and the Chancellor's Office of the Community Colleges.

It is further the intention of the Legislature that programs developed pursuant to this chapter shall not replace, parallel, supplant, compete with or duplicate in any way already existing approved apprenticeship programs.

9902. As used in this chapter:

(a) "Career work-site training" means the progressive development of skills associated with a defined set of work processes to be covered sequentially in the course of employment in an occupation, trade, or industry. Such training shall be upgrading in nature, shall be integrated with and supplemented by classroom instruction as deemed necessary and appropriate, and shall be consistent with a career pattern of advancement, as measured by skill proficiency and the progression of earnings and related benefits that is recognized with the occupation, trade, or industry. Career work-site training includes apprenticeship and on-the-job training programs developed in accordance with the provisions of Chapter 4 (commencing with Section 3070) of Division 3 of the Labor Code.

(b) "Entry level training" means instruction conducted in the classroom, work-site, or in any combination thereof which is short-term in nature and is either preparatory for employment or an integral part of employment in an entry classification in a particular occupation or industry, when such entry level training is directly linked to a specific career work-site training program or when the entry classification is the source of entry into a career work-site training program.

(c) "Classroom instruction" means job-related instruction on or off the job site, the provision of which is normally outside of scheduled working hours and is neither in the course of production nor in the course of rendering a service. When used in the context of being "integrated" with or "supplemental" to work-site training it means classroom instruction that is specifically linked to training on the job and phased with the work process covered, so that the skills acquired both in the classroom and on the job are mutually reinforced in a manner that enhances the career education and the productivity of the trainee. An individual involved in classroom instruction, as defined in this section, shall be exempt from the requirements of any interdistrict agreement.

(d) "Covered costs of classroom instruction" means costs incurred in the provision of classroom instruction for both entry level and career work-site training, and may include specifically identified costs incurred for instructors, classroom space and facilities, liability insurance, administrative support services, and related costs, which together, do not exceed the amount normally allowed for the support

of vocational and technical classes as determined on the basis of criteria developed pursuant to Section 9903. To the extent possible, funds allocated from other sources shall be utilized in the provision of classroom training. Costs such as those for specialized equipment and materials not appropriately attributable to classroom training shall not be allowed.

(e) "Department" means the Employment Development Department.

(f) "Director" means the Director of the Employment Development Department

(g) "Eligible applicant" means an applicant who may apply for funds that are made available through this chapter for the support of classroom and work-site components of both "entry level training" and "career work-site training" as those terms are defined in this section. Eligible applicants shall include local education agencies, employers, employee organizations, Comprehensive Employment and Training Act prime sponsors, community based organizations, and other providers of training of demonstrated effectiveness, or any combination thereof, when programs supported by funds available to them or through them are integrated with programs supported under the provisions of this chapter. No party to a collective bargaining agreement shall be an eligible applicant unless all parties to the agreement agree in writing.

(h) "Added costs to employers" means, as specified by regulations or guidelines established pursuant to this chapter, the actual increased costs incurred by employers when they assume the responsibility for career work-site training. Such increased costs must be specifically identified, and may include such costs as those incurred for training supervision, for maintaining training records, for monitoring the progress of training and implementing performance standards, for the additional costs of production time allocated for training on the job, and for similar functions essential to career work-site training programs.

(i) "Participant stipend" means, when provided under this chapter, a form of financial support to trainees that is limited to covering lost earnings when, for reasons related to the nature of a particular program, the classroom instruction that is integrated with a career work-site training program cannot be provided outside of regular working hours, or in the case of economically disadvantaged participants, limited payments for entry level training that is directly linked to career work-site training programs. Participant stipends, as specified by regulations or guidelines established pursuant to this chapter, may be augmented to provide transportation costs and relocation assistance only where other federal and state resources are not available. Relocation assistance may be provided in the form of loans, grants, or both, and shall only be available to involuntarily unemployed individuals who cannot reasonably be expected to secure full-time employment in the community in which they reside or secure bona fide offers of employment, other than temporary or

seasonal employment. Nothing in this chapter shall limit stipends provided through a program supported pursuant to the Comprehensive Employment Training Act which is coordinated with a program supported under this chapter, or which are provided by other funds.

(j) "Local education agency" means a board of education or other legally constituted local school authority having administrative control and direction of public elementary or secondary schools in a city, county, township, school district, or political subdivision of the state, or any other public or private educational institution or agency having administrative control and direction of a vocational education program.

9903. The director shall carry out the provisions of this chapter and adopt rules, regulations and guidelines as necessary to implement and administer the program. The director may enter into agreements with eligible applicants for the purpose of funding approved programs. Such activities shall be carried out in consultation with the entities listed below. The director in concert with the Department of Industrial Relations, the Chancellor's Office of the Community Colleges, and the Department of Education shall develop criteria and priorities for disbursing and redirecting resources to accomplish the purposes of this chapter, for reaching implementing agreements with applicants, and for evaluating program performance. In the case of apprenticeship programs supported under this chapter, special arrangements shall be made with the Department of Industrial Relations to ensure the adherence to apprenticeship standards and to provide timely notice to sponsors of apprenticeship programs of any proposals for funding under this chapter that may affect the standards of an existing apprenticeship program. In order to assure timely coordination and cooperation between the state, local training providers, employee organizations, employers, and industry representatives, the Governor shall appoint a program coordinator who shall be exempt from civil service.

9904. The department may make funds available to eligible applicants upon the approval of program plans, submitted pursuant to Section 9908, which satisfy the criteria developed pursuant to Section 9903. Such criteria shall include requirements that programs.

(a) Successfully integrate classroom training with career work-site training, addressing specific skill requirements on the job and providing complementary classroom instruction which enhances the trainee's career opportunities and productivity

(b) Provide specific skills for career advancement or, in the case of programs for entry level positions, training and job opportunities which are preparatory for and lead directly to entry level jobs with definite career potential

(c) (1) Recruit and upgrade the skills of workers who possess obsolete or inadequate job skills or who occupy entry level positions with few normal advancement opportunities, or

(2) Recruit and train unemployed, underemployed, or in-school

persons for entry level positions consistent with subdivision (b).

(d) Meet such other conditions or criteria which the department may establish, pursuant to Section 9903, consistent with the purposes of this chapter.

9905. No program shall be approved, nor funds made available to an eligible applicant, unless and until the applicant provides assurances satisfactory to the department, including recordkeeping and reporting requirements as required by the department, that:

(a) Programs funded under this chapter shall supplement and not supplant the vocational training or apprenticeship programs and services provided by employers and employee organizations in calendar year 1978, and that such training programs will be maintained at their normal level of support without use of funds provided under this chapter.

(b) Programs funded under this chapter shall supplement and not supplant training programs which meet the criteria of this chapter and which were provided by community colleges and K—12 institutions in calendar year 1978, and that such training programs will be maintained at their normal level of support without use of funds provided under this chapter.

(c) Applicants shall jointly and severally assure that employers pay participants' wages in accord with orders of the Industrial Welfare Commission, collective bargaining agreements, prevailing wage determinations of the Director of Industrial Relations, or federal wage and hours laws, as may be applicable to the individual job, and otherwise comply with all applicable state and federal labor laws.

(d) Applicants and participating agencies seeking funding under this chapter shall comply with the California Occupational Information System data reporting requirements established by the California Occupational Information Coordinating Committee.

9906. Local education agencies may also apply for funds under this chapter for programs designed to upgrade the skills of classroom instructors who will be providing training under this chapter. Such programs need not comply with the requirements of Section 9904 or 9905.

9907. The department shall administer funds appropriated for the purposes of this chapter, and any other funds available to the department for the purpose of carrying out the intent of this chapter. Ninety percent of all such funds shall be allocated to urban areas, as defined by the department, and 10 percent to rural areas. Funds may be made available for added costs to employers, participant stipends, for the costs of upgrading and retraining the classroom instructors who will be providing training under this chapter, and the covered costs of classroom instruction, provided that priority for funding classroom instruction be given to community colleges and high school and unified school districts.

9908. In order to receive financial assistance under this chapter, eligible applicants shall submit a locally developed California

Worksite Education and Training Plan. Such plans shall be sufficiently detailed to provide an understanding of local labor market conditions and the programmatic, administrative, and financial arrangements necessary to ensure that training programs are conducted in accord with this chapter. The formulation of the plan shall, to the extent practicable, involve the participation of local education agencies, employers, employee organizations, representatives of appropriate state agencies, including the Employment Development Department, the Department of Industrial Relations, the Chancellor's Office of the Community Colleges, the Department of Education, Comprehensive Employment and Training Act prime sponsors, and other appropriate local employment and training providers. Program plans shall:

(a) Describe local labor market conditions, including the potential for job growth in private sector business and industry including identification of specific job openings utilizing California Occupational Information System as appropriate.

(b) Describe classroom and work-site training components, including the length of time to be spent in classroom and work-site training. Classroom training should be based on the minimum feasible time necessary for occupational preparedness as described by employers

(c) Describe the institutional arrangements between participating training deliverers.

(d) Describe arrangements with employers for work-site training including employer commitments to hire as a result of entry level or upgrading training and the potential for promotion or career advancement.

(e) Identify local resources, including, but not limited to, funds, equipment, tools, and laboratories, which will be used to support the training as well as the resources of other federal or state employment and training agencies or the Department of Industrial Relations.

(f) Describe a process for evaluation which may include the use of independent contractors for the development or conduct of such evaluation.

(g) Describe arrangements to ensure that training be provided on a priority basis to the economically disadvantaged, youths, displaced workers, and persons with obsolete or inadequate job skills, including, but not limited to, those lacking high school diplomas and those needing basic or upgraded skills training.

(h) Describe, where appropriate, the arrangements for upgrading the skills of classroom instructors who will be providing training under this chapter.

9909 The department shall provide for evaluation studies to determine the effectiveness of the program enacted by this chapter The department shall report annually on the scope of the program and its impact on reducing the gaps between classroom and on-the-job training, employment opportunities, and skills required

by employers. The report shall compare the cost-effectiveness of this program with traditional on-the-job training (OJT) programs provided under the Work Incentive program (WIN) and with the new Comprehensive Employment Training Act (CETA) program aimed at involving the private sector in the training and employment of the economically disadvantaged (Title VII). The department shall submit its evaluation design to the Joint Legislative Budget Committee for review 30 days prior to the initiation of the program. A preliminary report shall be submitted to the Joint Legislative Budget Committee by March 15, 1980. The annual reports shall be submitted to the Legislature and other interested parties on December 15, 1980, 1981, and 1982, respectively. State and local workshops may be conducted to utilize the findings of this program for improving vocational education and employment and training planning and budgetary procedures.

9910. This chapter shall remain in effect for three years after the date it becomes effective and operative, and as of such date is repealed, unless a later enacted statute deletes or extends such date.

SEC. 2. The sum of twenty-five million dollars ($25,000,000) is hereby appropriated without regard to fiscal year from the General Fund to the Employment Development Department for the purposes of carrying out the provisions of this 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 as follows:

In order to provide employment opportunities to those persons in greatest need and thereby reduce unemployment in this state at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 1182

An act to add Section 17053.7 to, and to add Article 4 (commencing with Section 24330) of Chapter 6 of Part 11 of Division 2 of, the Revenue and Taxation Code, and to add Section 328 to the Unemployment Insurance Code, relating to taxation, and making an appropriation therefor, to take effect immediately, tax levy.

[Approved by Governor September 29, 1979. Filed with Secretary of State September 30, 1979.]

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

SECTION 1. This act may be referred to as the "California Jobs Tax Credit Act of 1979."

SEC. 2. It is the purpose of this act to establish a program which will encourage, through the use of state tax credits, the private sector

employment of economically disadvantaged and disabled Californians who are dependent upon public aid. It is apparent to the Legislature that private sector jobs for California recipients of Aid to Families with Dependent Children, Supplemental Security Income/State Supplementary Program for the Aged, Blind, and Disabled, and General Assistance will not only provide income to such individuals but will at the same time save California tax dollars that would otherwise be spent on public assistance. It is also apparent to the Legislature that a tax credit program will provide incentives to private sector employers to hire public assistance recipients.

It is the expectation of the Legislature that the revenue reduction resulting from the tax credits provided herein and the administrative costs of the tax credit program will be more than offset by the reduction in public aid expenditures. It is therefore the intent of the Legislature that every effort be made to maximize participation in this program

SEC. 3. Section 17053.7 is added to the Revenue and Taxation Code, to read:

17053 7 (a) There shall be allowed as a credit against the "net tax" an amount equal to 10 percent of the amount of wages paid to each employee who is certified by the Employment Development Department to meet the requirements of Section 328 of the Unemployment Insurance Code.

(b) The credit under this section shall not apply to wages paid in excess of three thousand dollars ($3,000) during a taxable year by a taxpayer to the same individual.

(c) The credit under this section shall be in addition to any deduction under this part to which the taxpayer may be entitled, if any.

(d) The credit provided by this section shall be applied to wages paid to each qualifying employee during the taxable year in which such employee is hired and to wages paid to such employee during the immediately succeeding taxable year.

(e) For the purposes of this section, "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).

SEC. 4. Article 4 (commencing with Section 24330) is added to Chapter 6 of Part 11 of Division 2 of the Revenue and Taxation Code, to read.

Article 4 Credits Against Tax

24330. (a) There shall be allowed as a credit against the taxes imposed by this part (except the minimum franchise tax and the tax on preference income) an amount equal to 10 percent of the amount of wages paid to each employee who is certified by the Employment

Development Department to meet the requirements of Section 328 of the Unemployment Insurance Code.

(b) The credit under this section shall not apply to wages paid in excess of three thousand dollars ($3,000) during an income year by a taxpayer to the same individual.

(c) The credit under this section shall be in addition to any deduction under this part to which the taxpayer may be entitled, if any.

(d) The credit provided by this section shall be applied to wages paid to each qualifying employee during the income year in which such employee is hired and to wages paid to such employee during the immediately succeeding income year.

SEC. 5. Section 328 is added to the Unemployment Insurance Code, to read:

328. (a) The department shall administer the California Jobs Tax Credit Act of 1979 as provided in this section, except those functions reserved to the Franchise Tax Board by Section 17053.7 or Section 24330 of the Revenue and Taxation Code. The department shall develop administrative procedures and guidelines necessary to carry out the intent of such act, including, but not limited to, the means to monitor and measure its effectiveness.

(b) The department shall certify, upon the request of any applicant, for the purposes of Section 17053.7 or 24330 of the Revenue and Taxation Code, that any individual, at the time of his or her hiring by such applicant, meets any of the following criteria:

(1) He or she is a recipient of aid under the Aid to Families with Dependent Children program pursuant to Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code, for not less than 90 days immediately preceding his or her date of hire.

(2) He or she is a registrant in a work incentive program established pursuant to Section 5200.

(3) He or she is a recipient of aid under the Supplemental Security Income/State Supplementary Program for the Aged, Blind, and Disabled pursuant to Chapter 3 (commencing with Section 12000) of Part 3 of Division 9 of the Welfare and Institutions Code for any month which falls within the 60-day period immediately preceding his or her date of hire.

(4) He or she is a recipient, for at least 30 days during the 60-day period immediately preceding his or her date of hire, of general assistance (county aid and relief to indigents) pursuant to Part 5 (commencing with Section 17000) of Division 9 of the Welfare and Institutions Code, from a county whose program has been certified by the Internal Revenue Service for purposes of the federal Targeted Jobs Tax Credit program under Section 321 of Public Law 95-600

SEC 6. This act shall remain in effect only until December 31, 1984, and as of such date is repealed, unless a later enacted statute, which is chaptered before December 31, 1984, deletes or extends such date, except that for the targeted groups of Supplemental

Security Income/State Supplementary Program for the Aged, Blind, and Disabled recipients and general assistance recipients, this act shall be operative during such time as the federal Targeted Jobs Tax Credit program, Section 321 of Public Law 95-600, is in effect. The Employment Development Department shall report annually to the Legislature beginning on December 31, 1981, providing such information as may be required to evaluate the performance of the program in encouraging the employment of public aid recipients and in reducing public aid costs and shall report its recommendations to the Legislature no later than December 31, 1981, concerning the extension of this act beyond December 31, 1984.

SEC. 7. The sum of two hundred fifty thousand dollars ($250,000) is hereby appropriated without regard to fiscal year from the General Fund for the purposes of carrying out the provisions of this act, and shall be allocated as follows:

(a) The Employment Development Department.....	$200,000
(b) The Franchise Tax Board.....	50,000
Total.....	$250,000

SEC. 8. 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 income years beginning on or after the first day of the calendar year in which this act becomes effective provided the effective date is more than 90 days prior to the last day of the calendar year. If the effective date is 90 days or less prior to the last day of the calendar year, the provisions of this act shall apply in the computation of taxes for income years beginning on or after the first day of the calendar year following the effective date.

CHAPTER 1183

An act to add Section 15338 to the Government Code, relating to economic and business development.

[Approved by Governor September 29, 1979 Filed with Secretary of State September 30, 1979]

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

SECTION 1 Section 15338 is added to the Government Code, to read·

15338 All public agencies in the exercise of their statutory responsibilities shall consider, when relevant, the policies of this chapter and specific recommendations or comments made by the department pursuant to its authority granted by this chapter.

SEC. 2. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to those sections because the duties, obligations, or responsibilities imposed on local agencies or school districts by this act are such that related costs are incurred as part of their normal operating procedures. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 1184

An act to amend Sections 8564 and 8590 of, and to add Sections 8551.5, 8564.5, 8565.5, and 8593 to, the Business and Professions Code, relating to structural pest control, and making an appropriation therefor.

[Approved by Governor September 29, 1979 Filed with Secretary of State September 30, 1979]

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

SECTION 1. Section 8551.5 is added to the Business and Professions Code, to read:

8551.5. No unlicensed person in the employ of a licensee shall apply any insecticide, pesticide, rodenticide, fumigant, or allied chemicals or substances for the purpose of eliminating, exterminating, controlling or preventing infestation or infections of such pests, or organisms included in Branch 2 or Branch 3 unless such person has successfully passed an examination conducted by the board pursuant to Section 8564.5.

SEC. 2 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 or her

(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 or her a license as a field representative in the branch of pest control for which he or she 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 or she 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.

The board shall not accept any application for a field representative license in Branch 2 unless the applicant submits proof satisfactory to the board that he or she has had training and experience in the practice of pesticide application, Branch 2 pest identification and biology, pesticide application equipment, and pesticide hazards and safety practice under the immediate supervision of an operator or field representative licensed in Branch 2, or the equivalent of such training and experience.

The board shall not accept any application for a field representative license in Branch 3 unless the applicant submits proof satisfactory to the board that he or she has had training and experience in the practice of pesticide application, Branch 3 pest identification and biology, pesticide application equipment, pesticide hazards and safety practices, structural repairs, and structural inspection procedures and report writing under the immediate supervision of an operator or field representative licensed in Branch 3, or the equivalent of such training and experience.

SEC. 3. Section 8564 5 is added to the Business and Professions Code, to read:

8564 5 Prior to the application of any chemical substance included in Branch 2 or Branch 3 by any unlicensed person in the employ of a licensee, as specified in Section 8551.5, the board shall ascertain by written examination that such person has sufficient knowledge in pesticide equipment, pesticide mixing and formulation, pesticide application procedures and pesticide label directions.

The board may charge a fee for any examination required by this section in an amount sufficient to cover the cost of administering such examination, provided, however, that such fee shall not exceed fifteen dollars ($15)

SEC 4. Section 8565.5 is added to the Business and Professions Code, to read

8565 5 (a) An applicant for a Branch 1 operator's license shall demonstrate to the board that he or she has passed satisfactorily board-approved courses in the following areas·

(1) Pesticides.

(2) Pest identification and biology

(3) Contract law

(4) Rules and regulations.
(5) Business practices.
(6) Fumigation safety

(b) An applicant for a Branch 2 operator's license shall demonstrate to the board that he or she has passed satisfactorily board-approved courses in the following areas:
(1) Pesticides.
(2) Pest identification and biology.
(3) Contract law.
(4) Rules and regulations.
(5) Business practices.

(c) An applicant for a Branch 3 operator's license shall demonstrate to the board that he or she has passed satisfactorily board-approved courses in the following areas:
(1) Pesticides
(2) Pest identification and biology.
(3) Contract law.
(4) Rules and regulations.
(5) Business practices.
(6) Construction repair and preservation techniques.

The board shall develop a correspondence course or courses with such educational institution or institutions as it deems appropriate. Such a course may be used to fulfill the requirements of this section. The institution may charge a reasonable fee for each such course.

This section shall become operative on July 1, 1981.

SEC. 5. Section 8590 of the Business and Professions Code is amended to read

8590 Except as otherwise provided herein, all licenses and principal and branch office registrations issued under the provisions of this chapter shall expire on June 30th of every third year. In 1981, the board shall divide the licenses and registrations issued under this chapter so that one-third expire in June 1981, one-third in June 1982, and one-third in June 1983 Thereafter each shall expire on June 30th of every third year

Every operator and every field representative shall pay a fee for the renewal of his, her, or its license and for renewal of principal and branch office registrations, if any

The board shall on or before the first day of June of each year mail to each operator and field representative whose license or registration will expire in such year, addressed to him or her at his or her last known address, a notice that his or her renewal fee or fees are due and payable and that, if not paid by the 30th of June, a penalty will be added thereto.

In no case shall the penalty be waived

Upon the receipt of the fee or fees, the board shall cause the renewal certificate or certificates to be issued

SEC 6 Section 8593 is added to the Business and Professions Code, to read

8593 On and after July 1, 1981, the board shall require, as a

condition to the renewal of each license granted pursuant to the provisions of this chapter, that the holder thereof submit proof satisfactory to the board that he or she has informed himself or herself of developments in the field of pest control either by completion of courses of continuing education in pest control approved by the board or equivalent activity approved by the board. In lieu of submitting such proof, the license holder, if he or she so desires, may take and successfully complete an examination given by the board, designed to test his or her knowledge of developments in the field of pest control since the issuance of his or her license.

The board shall develop a correspondence course or courses with such educational institution or institutions as it deems appropriate. Such a course may be used to fulfill the requirements of this section. The institution may charge a reasonable fee for each such course.

The board may charge a fee for the taking of an examination pursuant to this section in an amount sufficient to cover the cost of administering such examination, provided, however, that in no event shall such fee exceed fifty dollars ($50).

SEC. 7. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 1185

An act to amend Section 798.56 of, and to add Sections 798.79, and Chapter 2.6 (commencing with Section 799.20) to Title 2 of Part 2 of Division 2 of, the Civil Code, relating to landlord and tenant

[Approved by Governor September 29, 1979 Filed with Secretary of State September 30, 1979]

The people of the State of California do enact as follows

SECTION 1. Section 798.56 of the Civil Code is amended to read:

798.56. A tenancy shall be terminated by the management only for one or more of the following reasons:

(a) Failure of the tenant to comply with a local ordinance or state law or regulation relating to mobilehomes within a reasonable time after the tenant receives a notice of noncompliance from the appropriate governmental agency.

(b) Conduct by the tenant, upon the park premises, which constitutes a substantial annoyance to other tenants

(c) Failure of the tenant to comply with a reasonable rule or

regulation of the park as set forth in the rental agreement or any amendment thereto.

No act or omission of the tenant shall constitute such a failure to comply unless and until the management has given the tenant written notice of the alleged rule or regulation violation and the tenant has failed to adhere to the rule or regulation within seven days.

(d) Nonpayment of rent, utility charges, or reasonable incidental service charges; provided, that the tenant shall be given a three-day written notice to pay the amount due or to vacate the tenancy. The three-day written notice shall be given to the tenant in the manner prescribed by Section 1162 of the Code of Civil Procedure. Such notice may be given at the same time as the 60 days' notice required for termination of the tenancy. Payment by the tenant prior to the expiration of the three-day notice period shall cure a default under this subdivision with respect to such payment. The tenant shall remain liable for all payments due up until the time the tenancy is vacated.

(e) Condemnation of the park.

(f) Change of use of the park, provided:

(1) The management gives the tenants written notice of the proposed change 12 months or more before the date of the proposed change.

(2) The management gives each proposed tenant whose tenancy will commence within 12 months of the proposed change, written notice thereof prior to the inception of his tenancy.

The notice requirements for termination of tenancy set forth in Sections 798.55, 798 56, and 798.57 shall be followed if the proposed change actually occurs

SEC 1.5. Section 798 56 of the Civil Code is amended to read:

798 56. A tenancy shall be terminated by the management only for one or more of the following reasons:

(a) Failure of the tenant to comply with a local ordinance or state law or regulation relating to mobilehomes within a reasonable time after the tenant receives a notice of noncompliance from the appropriate governmental agency.

(b) Conduct by the tenant, upon the park premises, which constitutes a substantial annoyance to other tenants.

(c) Failure of the tenant to comply with a reasonable rule or regulation of the park as set forth in the rental agreement or any amendment thereto

No act or omission of the tenant shall constitute such a failure to comply unless and until the management has given the tenant written notice of the alleged rule or regulation violation and the tenant has failed to adhere to the rule or regulation within seven days

(d) Nonpayment of rent, utility charges, or reasonable incidental service charges, provided, that the tenant shall be given a three-day written notice to pay the amount due or to vacate the tenancy The

three-day written notice shall be given to the tenant in the manner prescribed by Section 1162 of the Code of Civil Procedure. Such notice may be given at the same time as the 60 days' notice required for termination of the tenancy. Payment by the tenant prior to the expiration of the three-day notice period shall cure a default under this subdivision with respect to such payment. The tenant shall remain liable for all payments due up until the time the tenancy is vacated

(e) Condemnation of the park.

(f) Change of use of the park or any portion thereof, provided·

(1) The management gives the tenants at least 15 days' written notice that the management will be appearing before a local governmental board, commission, or body to request permits for a change of use of the mobilehome park.

(2) The management gives the tenants 12 months' or more written notice of the proposed change after the management has made initial application to the local governmental board, commission, or body requesting a change of use. Provided, however, that no tenant shall be required to vacate until all required permits for a change of use have been obtained. After all required permits have been obtained and the 12-month or more period specified in the notice has elapsed, the notice specified in Section 798.55 may be given

If the change of use requires no local governmental permits, then notice shall be given 12 months or more prior to the management's determination that a change of use will occur. The management in the notice shall disclose and describe in detail the nature of the change of use

(3) The management gives each proposed tenant written notice thereof prior to the inception of his tenancy that the management is requesting a change of use before local governmental bodies or that a change of use request has been granted.

(4) The notice requirements for termination of tenancy set forth in Sections 798.55, 798.56, and 798.57 shall be followed if the proposed change actually occurs

(5) A notice of a proposed change of use given prior to January 1, 1980, which conforms to the requirements in effect at that time shall be valid The requirements for a notice of a proposed change of use imposed by this subdivision shall only apply to notices given on or after January 1, 1980

SEC 2 Section 798 79 is added to the Civil Code, to read

798 79. Any legal owner who has repossessed a mobilehome located in a mobilehome park shall have the right to sell the mobilehome within the park to a third party in accordance with the provisions of this article, but only if all the tenant's responsibilities and liabilities to the management regarding rent and utilities are satisfied by the legal owner

SEC 3 Chapter 2 6 (commencing with Section 799 20) is added to Title 2 of Part 2 of Division 2 of the Civil Code, to read

CHAPTER 2.6. RECREATIONAL VEHICLE PARK OCCUPANCY LAW

Article 1. General Provisions

799.20. This chapter shall be known and may be cited as the "Recreational Vehicle Park Occupancy Law."

799.21. Unless the provisions or context otherwise requires, the following definitions shall govern the construction of this chapter.

799.22. "Recreational vehicle" means a motorhome, travel trailer, truck camper, or camping trailer, with or without motive power, designed for human habitation for recreational or emergency occupancy, with a living area less than 220 square feet, excluding built-in equipment such as wardrobes, closets, cabinets, kitchen units or fixtures, bath and toilet rooms.

799.23. "Recreational vehicle park" means either of the following:

(a) An area or tract of land, within an area zoned for recreational use, where one or more lots are occupied by owners or users of recreational vehicles or tents and which is customarily occupied for temporary purposes and where there is displayed in plain view on the property a sign indicating that the recreational vehicle may be removed from the premises for the reasons specified in Section 799 24 and containing the telephone number of the local traffic law enforcement agency.

(b) An area or tract of land or a separate designated section within a mobilehome park where one or more lots are occupied by owners or users of recreational vehicles used for travel or recreational purposes and where there is displayed in plain view in that area or tract of land or separate section within a mobilehome park a sign indicating that the recreational vehicle may be removed from the premises for the reasons specified in Section 799.24 and containing the telephone number of the local traffic law enforcement agency.

799.24. "Defaulting occupant" means the owner or operator of a recreational vehicle who has been an occupant in a recreational vehicle park for less than 30 days and who fails to pay for his or her occupancy in a recreational vehicle park or who fails to comply with reasonable written rules and regulations of the recreational vehicle park given to the occupant upon registration.

799.25. The rights created by this chapter shall be cumulative and in addition to any other legal rights the manager or owner of a recreational vehicle park may have against a defaulting occupant

799.26. Nothing in this chapter shall apply to a mobilehome as defined in Section 798.3.

Article 2 Registration Agreement

799 30 The registration agreement between a recreational vehicle park and an occupant thereof shall be in writing and shall contain, in addition to the provisions otherwise required by law to be

included, the term of the occupancy and the rent therefor, and a statement specifying that a defaulting occupant's recreational vehicle may be removed for the reasons indicated in Section 799.24 and containing the telephone number of the local traffic law enforcement agency.

799 31. At the time of registration, an occupant shall be given a copy of the rules and regulations of the park and a written statement indicating those services which will be provided and which will continue to be offered for the period of occupancy and the fees, if any, to be charged for those services.

Article 3 Removal of Recreational Vehicles of Defaulting Occupants

799.35 As a prerequisite to the right of an owner or manager of a recreational vehicle park to have a defaulting occupant's recreational vehicle removed from the lot which is the subject of the registration agreement between the recreational vehicle park and the occupant pursuant to Section 799.38, the owner or manager shall serve a 72-hour written notice as prescribed in Sections 799.36 and 799.37 A defaulting occupant may correct his or her payment deficiency within the 72-hour period during normal business hours.

799.36. The 72-hour written notice shall be served by delivering a copy to the defaulting occupant personally. Delivery of the 72-hour notice to a defaulting occupant who is incapable of removing the occupant's recreational vehicle from the park because of a physical incapacity shall not be sufficient to satisfy the requirements of this section For such defaulting occupants and those with recreational vehicles which are not motorized or cannot be moved by the occupant's vehicle, the default shall be cured within 72 hours, but the date to quit shall be no less than seven days after service of the notice.

799 37 The written 72-hour notice shall state that if the defaulting occupant does not remove the recreational vehicle from the premises of the recreational vehicle park within 72 hours after receipt of the notice, the owner or manager of the park has authority pursuant to Section 799 38 to have the recreational vehicle removed from the lot to the nearest secured storage facility.

799.38. The owner or manager of a recreational vehicle park, subsequent to serving notice to the city police or county sheriff, whichever is appropriate, and after the expiration of 72 hours after service of the written 72-hour notice in the manner specified in Section 799 36, may cause the removal of a defaulting occupant's recreational vehicle parked on the premises of the recreational vehicle park to the nearest secured storage facility after the city police or sheriff, as appropriate, removes or causes to be removed any person in the recreational vehicle Such a notice shall be void five days after the date of expiration

799.39. The owner or manager of a recreational vehicle park who causes the removal of a defaulting occupant's recreational vehicle

consistent with this chapter, and the individual or entity who removes such vehicle, shall exercise reasonable and ordinary care in removing such vehicle to the storage area. Disposition of a recreational vehicle and the contents thereof by the owner or manager of a recreational vehicle park shall be performed pursuant to Chapter 5 (commencing with Section 1980) of Title 5 of Part 4 of Division 3

799 40 The removal of a recreational vehicle of an occupant who has resided continuously in a recreational vehicle park for nine months following January 1, 1979, shall be governed by the provisions of Section 800.1

SEC. 4. It is the intent of the Legislature, if this bill and Senate Bill 1170 are both chaptered and become effective January 1, 1980, both bills amend Section 798.56 of the Civil Code, and this bill is chaptered after Senate Bill 1170, that the amendments to Section 798.56 proposed by both bills be given effect and incorporated in Section 798 56 in the form set forth in Section 1.5 of this act. Therefore, Section 1 5 of this act shall become operative only if this bill and Senate Bill 1170 are both chaptered and become effective January 1, 1980, both amend Section 798.56, and this bill is chaptered after Senate Bill 1170, in which case Section 1 of this act shall not become operative

SEC 5 Section 3 of this act shall not apply to any relationship governed by the laws relating to landlord-tenant or to any person who occupies a recreational vehicle as a permanent place of residence, provided, the occupant has occupied the recreational vehicle in the park continuously for nine months or more after January 1, 1979

CHAPTER 1186

An act to amend Sections 437.8 and 1247 of, and to add Sections 1233 and 1248 to, to add Article 8 (commencing with Section 436.481) to Chapter 4 of Part 1 of Division 1 of, to repeal Sections 1248, 1248 2, and 1248 3 of, and to repeal Article 8 (commencing with Section 436.481) of Chapter 4 of Part 1 of Division 1 of, the Health and Safety Code, relating to health, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately

[Approved by Governor September 29, 1979 Filed with Secretary of State September 30, 1979]

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

SECTION 1 Article 8 (commencing with Section 436.481) is added to Chapter 4 of Part 1 of Division 1 of the Health and Safety Code, to read

Article 8. Community and Free Clinic Limited Facility Grant and Loan Program

436.481 It is the intent of the Legislature in enacting this article to maintain the operation of existing community and free clinics licensed throughout the state

436.482. Any clinic of a type specified in paragraph (1) or (2) of subdivision (a) of Section 1204, and any clinic exempt from licensure under subdivision (c) of Section 1206, shall be eligible for grants and loans under this article if such clinic requires funds for a purpose specified in Section 436.484 and is located in or servicing an area designated as underserved by any state or federal agency having authority to make such designation for purposes of this article or any other provision of law

436 483 Pursuant to this article the Office of Statewide Health Planning and Development may make grants and loans to eligible clinics for the renovation of buildings and acquisition of fixed capital equipment necessary to operate the clinic. Any loan made pursuant to this article shall bear an interest rate not to exceed 5 percent per annum, and shall be for a term not to exceed 30 years. Any loan repayments received shall be deposited in the General Fund. Grants pursuant to this article shall not exceed fifty thousand dollars ($50,000) for any individual applicant

436 484. Grants and loans may be made as authorized by Section 436.483 solely to provide funds needed by the applicant to meet any or all of the following requirements or guidelines applicable to its clinic:

(a) Licensing standards made applicable pursuant to Chapter 1 (commencing with Section 1200) of Division 2.

(b) Requirements for accessibility to the physically handicapped made applicable pursuant to Part 5.5 (commencing with Section 19955) of Division 13 or any other provision of law

(c) Fire and life safety requirements and guidelines

436.485. The office shall adopt policies and priorities respecting allocation of funds available to make grants and loans under this article Such policies and priorities shall be designed to prevent cessation of operation or reduction of services of existing eligible clinics The office shall, as soon as possible after the effective date of this section, adopt emergency regulations for the administration of the loan and grant program authorized by this article

436 486 The Legislative Analyst shall review and comment on the utilization and effectiveness of this article in the annual budget analysis and in hearings

It is the intent of the Legislature to reevaluate the funding provided for purposes of this article during the hearings on the budget for the 1980–81 fiscal year Any portion of such appropriation which is unencumbered on June 30, 1980, may be subject to reappropriation for other purposes in the Budget Act of 1980

436 487 This article shall remain in effect only until December

31, 1980, and as of such date is repealed, unless a later enacted statute, which is chaptered before December 31, 1980, deletes or extends such date.

SEC 2. Section 437.8 of the Health and Safety Code is amended to read·

437.8. The Office of Statewide Health Planning and Development shall promulgate regulations setting forth statewide policies for area health planning agencies in the performance of their responsibilities under Section 437.7.

In adopting such regulations, the office shall, with the advice of the Advisory Health Council, consider the following factors, and may consider other factors not inconsistent with the following:

(a) The need for health care services in the area and the requirements of the population to be served, including evaluation of current utilization patterns.

(b) The availability and adequacy of health care services in the area's existing facilities which currently conform to federal and state standards

(c) The availability and adequacy of services in the area such as preadmission, ambulatory or home care services which may serve as alternatives or substitutes for care in health facilities.

(d) The possible economies and improvement in service that may be derived from the following:

(1) Operation of joint, cooperative, or shared health care resources.

(2) Maximum utilization of health facilities consistent with the appropriate levels of care, including but not limited to intensive care, acute general care, and skilled nursing care.

(3) Development of medical group practices, especially those providing services appropriately coordinated or integrated with institutional health service, and development of health maintenance organizations.

(e) The development of comprehensive services for ·the community to be served. Such services may be either direct or indirect through formal affiliation with other health programs in the area, and include preventive, diagnostic, treatment and rehabilitation services Preference shall be given to health facilities which will provide the most comprehensive health services and include outpatient and other integrated services useful and convenient to the operation of the facility and the community.

(f) The needs or reasonably anticipated needs of special populations, including members of a comprehensive group practice prepayment health care service plan, members of a religious body or denomination who desire to receive care and treatment in accordance with their religious conviction, or persons otherwise contracted or enrolled under extended health care arrangements, including life-care agreements pursuant to Chapter 10 (commencing with Section 1770), Division 2 of the Health and Safety Code

(g) The special needs and circumstances of those entities which

provide a substantial portion of their services or resources, or both, to individuals not residing in the health service areas in which the entities are located Such entities may include medical and other health professional schools, multidisciplinary clinics, and specialty centers.

With respect to the determination of unmet need in the community or the adverse effect of new or expanded surgical clinics on the utilization of operating rooms in hospitals, it is not the intent of the Legislature to limit the expansion of surgical clinics when the hospitals have not made efforts to fully utilize their ambulatory operating capacity and to provide ambulatory surgical services at a reasonable cost to the community.

SEC 3. Section 1233 is added to the Health and Safety Code, to read:

1233. A surgical clinic may restrict use of its facilities to members of the medical staff of the surgical clinic and other physicians and surgeons approved by the medical staff to practice at the clinic.

SEC. 4. Section 1247 of the Health and Safety Code is amended to read

1247. The state department shall conduct a program of grants-in-aid for the following purposes:

(a) To assist in stabilizing the health care operations of community clinics and free clinics which provide a wide range of primary health care services.

(b) 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. Grants authorized pursuant to this article shall be limited in purpose to defraying operating expenses of the recipient clinic, including personnel costs, and for technical assistance provided to the recipient Such grants shall not be made or used for purchase of equipment, facility renovations, or purchase of land or buildings. 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

SEC 5 Section 1248 of the Health and Safety Code is repealed.

SEC 6 Section 1248 is added to the Health and Safety Code, to

read.

1248 In developing policies and priorities pertaining to the allocation of grant funds, the state department shall give primary consideration to the following factors:

(a) The applicant's need for funds to continue its current level of operation

(b) The applicant's long-term prospects for financial stability.

(c) The quality of services provided

(d) The high-risk or underserved population groups currently being served by the applicant.

All of the above factors being present, 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 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 Primary Care Clinics Advisory Committee and such advisory committees and persons as the state department determines are appropriate.

SEC. 7 Section 1248.2 of the Health and Safety Code is repealed

SEC 8 Section 1248 3 of the Health and Safety Code is repealed.

SEC. 9. The sum of two million one hundred thousand dollars ($2,100,000) is hereby appropriated from the General Fund for expenditure without regard to fiscal years in accordance with the following schedule:

(a) To the State Department of Health Services for the purposes of Article 6 (commencing with Section 1246) of Chapter 1 of Division 2 of the Health and Safety Code, as follows·

(1) For making grants to community clinics, free clinics, or nonprofit corporations specified in Section 1247, for the purpose of assisting in stabilizing the health care operations of community clinics and free clinics, pursuant to subdivision (a) of Section 1247	$1,300,000
(2) For defraying the cost of administering such provisions, notwithstanding the provisions of Section 1248 5	100,000

(b) To the Office of Statewide Health Planning and Development for the purposes of Article 8 (commencing with Section 436 481) of Chapter 4 of Part 1 of Division 1 of the Health and Safety Code, as follows

(1) For making loans thereunder	$200,000
(2) For making grants thereunder	500,000

SEC 10 This act is an urgency statute necessary for the

immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are·

It is necessary that this act take effect immediately in order to ensure 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 through grants and loans for services and renovations necessary for the health and safety of the patient population.

Furthermore, unless immediate legislative action is taken, uncertainties resulting from the implementation of Chapter 1147 of the Statutes of 1978 may require surgical clinics providing necessary services to suspend their current services with attendant great medical and financial hardship to patients and the clinics.

CHAPTER 1187

An act to add Chapter 2 5 (commencing with Section 39050) to Part 23 of the Education Code, relating to schools

[Approved by Governor September 29, 1979 Filed with Secretary of State September 30, 1979]

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

SECTION 1 Chapter 2 5 (commencing with Section 39050) is added to Part 23 of the Education Code, to read.

CHAPTER 2.5. NEW SCHOOLS RELIEF ACT OF 1979

39050 This chapter shall be known and may be cited as the New Schools Relief Act of 1979

39051. The Legislature hereby finds and declares that because of the adoption of Article XIII A of the California Constitution, imposing limits on the ability of school districts to levy and collect property taxes, it is necessary to create new revenues for the construction of school facilities

39052 It is the intent of the Legislature in enacting this chapter to provide opportunities for school districts, the state, and the private sector to cooperate to provide needed school facilities in growth impacted districts, and to facilitate innovative financing and other techniques for growth impacted districts to help meet new school construction needs

39053 As used in this chapter.

(a) "Board" means the State Allocation Board

(b) "A school district with an anticipated increase in enrollment" means a school district in which the level of enrollment is projected

by such district to be higher during any of the five years, including the year in which the projection is made, than the year preceding the year in which the projection is made. Projections shall be made pursuant to regulations adopted by the board

(c) "Private developers" means individuals or corporations owning land, facilities, or both; or, in the business of developing land for construction purposes, constructing facilities on developed land, or both.

39054 Notwithstanding any other provision of law, a school district with an anticipated increase in enrollment is authorized to lease land and facilities from a private developer with funds provided by one or more of the following sources, subject to regulations established by the board:

(a) Funds provided by the state for the purposes of school construction (1) in the Budget Act, (2) in separate legislation, (3) from the sale of bonds, the issuance of which was approved by the voters of the state prior to January 1, 1980, provided that the purposes for which the issuance of such bonds was approved encompassed the purposes of this section, or (4) from the sale of bonds, the issuance of which may be approved on or after January 1, 1980, by the voters of the state for the purposes of school construction, among other purposes

(b) Funds the district has borrowed from the state and which such district is in the process of repaying, provided that nothing in this section shall be construed as terminating, delaying, or otherwise interrupting such district's schedule of repayments for such funds.

(c) Available capital reserves from the district's general fund or special funds of the district, provided the purposes of this section do not conflict with the purposes for which such funds may be used.

(d) Proceeds from the sale or lease of unneeded facilities, provided that nothing in this section shall be construed (1) to terminate, delay, or otherwise interrupt the schedule of regular repayments for the district's obligations to the state; (2) to relieve the district from any obligation to the state, except to the degree that such district may retain that portion of the proceeds from the sale or lease of unneeded facilities necessary to lease land and facilities pursuant to this section; or (3) to permit the district to retain any proceeds otherwise owing to the state from the lease or sale of unneeded facilities in excess of the amount necessary to lease land and facilities pursuant to this section

39055 Notwithstanding any other provision of law, a school district with an anticipated increase in enrollment is authorized to construct school facilities authorized within state school building aid standards, and subject to regulations established by the board, with funds from the following sources.

(a) Available capital reserves from the district's general fund or special funds of the district, provided the purposes of this section do not conflict with the purposes for which such funds may be used

(b) Proceeds from the sale or lease of unneeded facilities

provided that nothing in this section shall be construed (1) to terminate, delay, or otherwise interrupt the schedule of regular repayments for the district's obligations to the state; (2) to relieve the district from any obligation to the state, except to the degree that such district may retain that portion of the proceeds from the sale or lease of unneeded facilities necessary to construct facilities pursuant to this section; or (3) to permit the district to retain any proceeds otherwise owing to the state from the lease or sale of unneeded facilities in excess of the amount necessary to construct facilities pursuant to this section.

CHAPTER 1188

An act to amend Sections 60402 and 60403 of the Government Code, to amend Sections 110.1, 214, 217, 3695.5, 3791.3, 3805, and 3807.5 of, to add Sections 3519 and 3791 4 to, and to repeal Chapter 9 (commencing with Section 3900) of Part 6 of Division 1 of, the Revenue and Taxation Code, and to amend Section 2 of Chapter 49 of the Statutes of 1979, relating to taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1979 Filed with Secretary of State September 30, 1979]

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

SECTION 1. Section 60402 of the Government Code is amended to read:

60402. Whenever the board of supervisors levies an assessment pursuant to this chapter, the board of supervisors shall first have a written report, containing a description of each parcel and the amount of the assessment for each parcel, prepared and recorded with the office of the county recorder of the county in which the real property is situated and filed with the clerk of the board of supervisors. The clerk shall fix a time, date, and place for a hearing upon the report. Prior to the date of the hearing, a notice of the hearing shall be published pursuant to Section 6066 of the Government Code and at least three notices shall be posted in public places within the district.

At the hearing, the board of supervisors shall hear and consider all protests. At the conclusion of the hearing, the board of supervisors may adopt, revise, change, reduce, or modify any assessment and shall make its determination upon each assessment described in the report and thereafter, by resolution, shall confirm the assessments. A copy of the resolution of confirmation shall be certified by the clerk of the board of supervisors and shall be recorded with the office of the county recorder of the county in which the real property is situated

SEC 1 2. Section 60403 of the Government Code is amended to read.

60403 Upon recordation of the confirmed assessment pursuant to Section 60402, such assessment shall be a lien upon the real property affected thereby and shall be levied and collected at the same time and in the same manner as the general tax levy for county purposes.

SEC. 1.3. Section 110.1 of the Revenue and Taxation Code is amended to read:

110.1. (a) For purposes of subdivision (a) of Section 2 of Article XIII A of the California Constitution, "full cash value" of real property, including possessory interests in real property, means the fair market value as determined pursuant to Section 110 for either:

(1) The 1975 lien date; or,

(2) For property which is purchased, is newly constructed, or changes ownership after the 1975 lien date.

(A) The date on which a purchase or change in ownership occurs; or

(B) The date on which new construction is completed, and if uncompleted, on the lien date.

(b) The value determined under subdivision (a) shall be known as the base year value for the property.

(c) Notwithstanding any provisions of Section 405.5 or 405.6, for property which was not purchased or newly constructed or has not changed ownership after the 1975 lien date, if the value as shown on the 1975–76 roll is not its 1975 lien date base year value and if the value of that property had not been determined pursuant to a periodic reappraisal under Section 405.5 for the 1975–76 assessment roll, a new 1975 lien date base year value shall be determined at any time until June 30, 1980, and placed on the roll being prepared for the current year, provided, however, that for counties over 4 million in population the board of supervisors may adopt a resolution granting the assessor of such county until June 30, 1981, to determine such values In determining the new base year value for any such property, the assessor shall use only those factors and indicia of fair market value actually utilized in appraisals made pursuant to Section 405 5 for the 1975 lien date. Such new base year values shall be consistent with the values established by reappraisal for the 1975 lien date of comparable properties which were reappraised pursuant to Section 405 5 for the fiscal year. In the event such a determination is made, no escape assessment may be levied and the newly determined "full cash value" shall be placed on the roll for the current year only; provided, however, the preceding shall not prohibit a determination which is made prior to June 30 of a fiscal year from being reflected on the assessment roll for the current fiscal year.

(d) If the value of any real property as shown on the 1975–76 roll was determined pursuant to a periodic appraisal under Section 405.5, such value shall be the 1975 lien date base year value of the property.

(e) As used in subdivisions (c) and (d), a parcel of property shall

be presumed to have been appraised for the 1975–76 fiscal year if the assessor's determination of the value of the property for the 1975–76 fiscal year differed from the value used for purposes of computing the 1974–75 fiscal year tax liability for the property, but the assessor may rebut such presumption by evidence that, notwithstanding such difference in value, such parcel was not appraised pursuant to Section 405.5 for the 1975–76 fiscal year.

(f) For each lien date after the lien date in which the full cash value is determined pursuant to this section, the full cash value of real property, including possessory interests in real property, shall reflect the percentage change in cost of living, as defined in Section 2212; provided, that such value shall not reflect an increase in excess of 2 percent of the full cash value of the preceding lien date

SEC. 1.5. Section 214 of the Revenue and Taxation Code is amended to read:

214 Property used exclusively for religious, hospital, scientific, or charitable purposes owned and operated by community chests, funds, foundations or corporations organized and operated for religious, hospital, scientific, or charitable purposes is exempt from taxation if·

(1) The owner is not organized or operated for profit; provided, that in the case of hospitals, such organization shall not be deemed to be organized or operated for profit, if during the immediate preceding fiscal year the excess of operating revenues, exclusive of gifts, endowments and grants-in-aid, over operating expenses shall not have exceeded a sum equivalent to 10 percent of such operating expenses. As used herein, operating expenses shall include depreciation based on cost of replacement and amortization of, and interest on, indebtedness;

(2) No part of the net earnings of the owner inures to the benefit of any private shareholder or individual;

(3) The property is used for the actual operation of the exempt activity, and does not exceed an amount of property reasonably necessary to the accomplishment of the exempt purpose;

(4) The property is not used or operated by the owner or by any other person so as to benefit any officer, trustee, director, shareholder, member, employee, contributor, or bondholder of the owner or operator, or any other person, through the distribution of profits, payment of excessive charges or compensations or the more advantageous pursuit of their business or profession;

(5) The property is not used by the owner or members thereof for fraternal or lodge purposes, or for social club purposes except where such use is clearly incidental to a primary religious, hospital, scientific, or charitable purpose,

(6) The property is irrevocably dedicated to religious, charitable, scientific, or hospital purposes and upon the liquidation, dissolution or abandonment of the owner will not inure to the benefit of any private person except a fund, foundation or corporation organized and operated for religious, hospital, scientific, or charitable purposes,

(7) The property, if used exclusively for scientific purposes, is used by a foundation or institution which, in addition to complying with the foregoing requirements for the exemption of charitable organization in general, has been chartered by the Congress of the United States (except that this requirement shall not apply when the scientific purposes are medical research), and whose objects are the encouragement or conduct of scientific investigation, research and discovery for the benefit of the community at large.

The exemption provided for herein shall be known as the "welfare exemption." This exemption shall be in addition to any other exemption now provided by law and the existence of the exemption provision in paragraph (2) of subdivision (a) of Section 202 shall not preclude the exemption under this section for museum or library property. This section shall not be construed to enlarge the college exemption Property used exclusively for school purposes of less than collegiate grade and owned and operated by religious, hospital or charitable funds, foundations or corporations, which property and funds, foundations or corporations meet all of the requirements of this section, shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the Constitution of the State of California and this section.

Property used exclusively for nursery school purposes and owned and operated by religious, hospital or charitable funds, foundations or corporations, which property and funds, foundations or corporations meet all the requirements of this section, shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the Constitution of the State of California and this section.

Property used exclusively for a noncommercial educational FM broadcast station or an educational television station and owned and operated by religious, hospital, scientific or charitable funds, foundations or corporations meeting all of the requirements of this section, shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the Constitution of the State of California and this section.

Property used exclusively for housing and related facilities for elderly or handicapped families and financed by the federal government pursuant to Section 202 of Public Law 86-372 (12 U.S.C. 1701q), as amended, or Section 236 of Public Law 90-448 (12 U.S.C. 1715z), and owned and operated by religious, hospital, scientific or charitable funds, foundations or corporations meeting all of the requirements of this section shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the Constitution of the State of California and this section

SEC 1 7 Section 217 of the Revenue and Taxation Code is amended to read:

217 (a) Except as provided in subdivision (d), the following articles of personal property which have been made available for

display in a publicly owned art gallery or museum, or a museum which is regularly open to the public and which is operated by a nonprofit organization which has qualified for exemption pursuant to Section 23701d, shall be exempt from taxation:

(1) Original paintings in oil, mineral, water, vitreous enamel, or other colors, pastels, original mosaics, original drawings and sketches in pen, ink, pencil, or watercolors, or works of the free fine arts in any other media including applied paper and other materials, manufactured or otherwise, such as are used on collages, artists' proof etchings unbound, and engravings and woodcuts unbound, lithographs, or prints made by other hand transfer processes unbound, original sculptures or statuary. As used in this subdivision:

(A) "Sculpture" and "statuary" shall be understood to include professional productions of sculptors only whether in round or in relief, in bronze, marble, stone, terra cotta, ivory, wood, metal, or other materials, or whether cut, carved, or otherwise wrought by hand from the solid block or mass of marble, stone, alabaster, or from metal, or other materials, or cast in bronze or other metal or substance, or from wax or plaster, or constructed from any material or made in any form as the professional productions of sculptors, only.

(B) "Original" when used to modify the words "sculptures" and "statuary" shall be understood to include the original work or model and the first 10 castings, replicas, or reproductions made from the sculptor's original work or model with or without a change in scale and regardless of whether or not the sculptor is alive at the time the castings, replicas, or reproductions are completed.

(C) "Painting," "mosaic," "drawing," "work of the free fine arts," "sketch," "sculpture," and "statuary" shall not be understood to include any articles of utility or for industrial use, nor such as are made wholly or in part by stenciling or any other mechanical process.

(D) "Etchings," "engravings," and "woodcuts," "lithographs," or "prints made by other hand transfer processes," shall be understood to include only such as are printed by hand from plates, stones or blocks etched, drawn, or engraved with handtools and not such as are printed from plates, stones or blocks etched, drawn or engraved by photochemical or other mechanical processes.

(2) Original works of the free fine arts, not provided for in paragraph (1) of this subdivision, subject to such regulations as the board may prescribe as to proof that the article represents some school, kind or medium of the free fine arts. As used in this paragraph "original works of the free fine arts" shall not be understood to include any article of utility or for industrial use.

(b) When making a claim for an exemption pursuant to this section, a person claiming the exemption shall appear before the assessor, shall give all information required and answer all questions in an affidavit, and shall subscribe and swear to the affidavit before the assessor. The assessor may require other proof of the facts stated before allowing the exemption. The affidavit shall be accompanied

by a certificate of the director or other officer of the art gallery or museum in which the property for which an exemption is claimed under this section was made available for display that the property was available for public display in the art gallery or museum for the period specified in subdivision (e).

(c) The provisions of Sections 255 and 260 shall be applicable to the exemption provided by this section.

(d) The exemption provided by subdivision (a) shall not apply to any work of art loaned by any person who holds works of art primarily for purposes of sale.

(e) The exemption provided by this section shall not apply unless the property was made available for public display in the art gallery or museum for a period of 90 days during the 12-month period immediately preceding the lien date for the year for which the exemption is claimed.

If the property was first made available for public display less than 90 days prior to the lien date, the exemption may be granted if the person claiming the exemption certifies in writing that the property will be made available for public display for at least 90 days during the 12-month period commencing with the first day the property was made available for public display.

(f) For purposes of this section "regularly open to the public" means that the gallery or museum was open to the public not less than 20 hours per week for not less than 35 weeks of the 12-month period immediately preceding the lien date for the year for which the exemption is claimed.

If the gallery or museum has been open for less than 35 weeks during the 12-month period immediately preceding the lien date or for less than 20 hours per week during such period, the exemption may be granted if the director or other officer of the gallery or museum certifies in writing that the gallery or museum will be open for not less than 20 hours per week for not less than 35 weeks during the 12-month period beginning with the day the gallery or museum was first opened.

(g) If a person certifies in writing that the property will be made available and the gallery or museum open for the periods specified in subdivisions (e) and (f), and the property is not so made available or the gallery or museum is not so opened, the exemption shall be canceled, and an escape assessment may be made as provided in Section 531.1.

SEC 1.9 Section 3519 is added to the Revenue and Taxation Code, to read:

3519 It is hereby declared to be the policy of the state and the intent of the provisions in this code contained, that the final tax deed or deeds of all taxing agencies, including counties, cities and counties, cities, irrigation districts, reclamation districts, and other taxing agencies that annually levy, assess and collect, or cause to be collected, taxes or assessments upon real property within the state, should be, and are hereby declared to be, upon a parity with each

other, and that regardless of when the levy of such taxes or assessments is or has been made, and regardless of when the final tax deed or assessment deed is or has been taken by such taxing agency, that the rights of all taxing agencies and all such deeds shall be equal and upon a parity with each other.

SEC 2. Section 3695.5 of the Revenue and Taxation Code is amended to read:

3695.5. In addition to the provisions of Sections 3695 and 3695.4 relative to objections to sales, any nonprofit organization may file with the county tax collector and county board of supervisors written objection to the sale of any residential or vacant real property which was deeded to the state and which the nonprofit organization states in writing that it will rehabilitate and will:

(a) In the case of residential real property, rehabilitate and sell the property to low-income persons; or

(b) In the case of vacant real property, either construct a residential dwelling on the property and sell the property to low-income persons or dedicate the vacant property to public use.

Such objections shall be accompanied by an application to purchase the property under Chapter 8 (commencing with Section 3771) of this part, which shall be filed with the board of supervisors and the tax collector before the intended sale If a nonprofit organization objects to the sale and before the date of sale applies in writing to the board of supervisors to purchase the property under Chapter 8 (commencing with Section 3771) of this part at a price not less than the minimum bid approved by the board of supervisors, the tax collector shall not proceed with the sale.

The terms "nonprofit organization," "low-income persons" and "rehabilitation" shall have the same meaning in this section as in Chapter 8 (commencing with Section 3771).

SEC. 3. Section 3791.3 of the Revenue and Taxation Code is amended to read:

3791.3. Whenever property has been deeded to the state for taxes, whether or not the property is subject to or has been sold or deeded for taxes to a taxing agency other than the state, the state, county, any revenue district the taxes of which on the property are collected by county officers, or a redevelopment agency created pursuant to the California Community Redevelopment Law, may purchase the property or any part thereof, including any right-of-way or other easement, pursuant to this chapter. A redevelopment agency, however, may only purchase such tax-deeded property located within a designated survey area.

SEC 4 Section 3791.4 is added to the Revenue and Taxation Code, to read.

3791 4. (a) When residential or vacant property has been deeded to the state for nonpayment of taxes, such property may be purchased pursuant to this chapter by a nonprofit organization provided that·

(1) In the case of residential property, the nonprofit organization

shall rehabilitate and sell the property to low-income persons.

(2) In the case of vacant property, the nonprofit organization shall either construct a residential dwelling on the property and sell the property to low-income persons or dedicate the vacant property to public use.

(b) If a nonprofit organization purchases tax-deeded property pursuant to subdivision (a), the agreement under this chapter shall require the nonprofit organization to meet the conditions prescribed by subdivision (a) within two (2) years after the date of recordation of the deed to the nonprofit organization, which period may be extended by resolution of the board of supervisors for a reasonable length of time Upon granting of an extension, notice of the extension shall be given by the clerk of the board of supervisors to the tax collector and the Controller.

(c) The terms and conditions of any conveyance to a nonprofit corporation pursuant to this section shall be specified in the deed or other instrument of conveyance.

SEC 4 5. Section 3805 of the Revenue and Taxation Code is amended to read:

3805. In addition to the usual provisions of a deed conveying real property, the deed shall specify:

(a) That the real property was duly sold and conveyed to the state for nonpayment of taxes which had been legally levied and were a lien on the property.

(b) The name of the purchaser.

(c) Any condition deemed necessary to effect compliance with the agreement, including, but not limited to, a condition that the real property be used by the taxing agency or nonprofit organization for the public use specified in the agreement.

SEC. 5. Section 3807.5 of the Revenue and Taxation Code is amended to read

3807.5. If a taxing agency or nonprofit organization purchasing the property, pursuant to Section 3791.4 or Section 3793.5, does not meet the conditions imposed by Section 3791.4 or Section 3793.5 within two years after the date of recordation of the deed to the taxing agency or nonprofit organization, and not within any extension of such period approved by the board of supervisors, the taxing agency or nonprofit organization shall execute a deed to the state reconveying to the state all the right, title and interest of the state in the property which such taxing agency or nonprofit organization obtained by the deed of the tax collector under the provisions of this chapter. Such deed shall be delivered to the county tax collector Thereafter, such property shall be held as tax-deeded property by the state and the privilege of redemption is thereby restored

The Controller shall provide uniform blanks on which such reconveyances shall be made. There shall be the same number of duplicates as is required for deeds to the state for taxes, and the same procedure shall be followed in recording such deeds as is provided

by law for the recording of deeds to the state for taxes.

SEC 6 Chapter 9 (commencing with Section 3900) of Part 6 of Division 1 of the Revenue and Taxation Code is repealed.

SEC. 7 Section 2 of Chapter 49 of the Statutes of 1979 is amended to read.

Sec. 2. (a) Section 1 of this act shall be applied to the 1978–79 fiscal year and fiscal years thereafter.

(b) Except as otherwise provided in this subdivision, if the value of any property is reduced pursuant to Section 110.1 of the Revenue and Taxation Code, the reduced taxes resulting therefrom shall be refunded or shall be reflected in a corresponding reduction in the next succeeding tax installment or installments for such property in the 1979–80 fiscal year unless there was a change in the owner or owners of record between July 1, 1978, and June 30, 1979, in which case a refund of such reduced taxes shall be prorated between such owners of record in proportion to the time they owned the property during the fiscal year. In the event that the current address of a former owner of record of such property entitled to share in any such refund is not known to the county, that portion of such refund shall be withheld by the county and the owner may claim a refund from the county treasurer at any time prior to July 1, 1980. No reduction or refund shall be given pursuant to this subdivision of any amount previously levied to pay the interest and redemption charges on any indebtedness approved by the voters prior to July 1, 1978.

SEC. 8 Notwithstanding the provisions of Section 3 of this act, any taxing agency which on the effective date of this act, had elected to become the sole leasing or sales agency under the provisions of Chapter 9 (commencing with Section 3900) of Part 6 of Division 1 of the Revenue and Taxation Code, may continue to do so, pursuant to the provisions of such chapter and other provisions of the Revenue and Taxation Code as they read prior to their repeal by this act.

SEC 9. Under existing provisions of Section 214 of the Revenue and Taxation Code, the Welfare exemption from property taxes provided by Section 214 is specifically "in addition to any other exemption now provided by law " It has been the legislative intent that the exemption provided by Section 214 be in addition to and not in limitation of any other exemptions provided by other provisions of the Revenue and Taxation Code or the California Constitution The purpose of the amendments to Section 214 is to reaffirm such legislative policy with respect to museum and library property

SEC 10. Questions have arisen in several counties concerning the application of the property tax exemption provided in Section 217 of the Revenue and Taxation Code for works of art exhibited in museums owned and operated for public and charitable purposes by tax exempt organizations which are open to the public. Several county assessors have questioned whether such museums are "publicly owned" within the meaning of Section 217 of the Revenue and Taxation Code and thus whether the museums are qualifying museums for the display of art for purposes of the exemption

provided in Section 217 of the Revenue and Taxation Code. This applies to art works owned by the museum as well as to works of art loaned to such museums for display. A construction of Section 217 of the Revenue and Taxation Code which excludes museums owned and operated for public and charitable purposes by tax-exempt organizations from the definition of a "publicly owned art gallery or museum" would be inconsistent with long-standing administrative interpretations which have determined that such museums do qualify for the exemption provided in Section 217 of the Revenue and Taxation Code.

It is the public policy of this state to encourage the public display of art. Such policy shall be affirmed by a declaration of the existing law concerning the status of museums as provided in Section 1.7 of this act. It consistently has been the intent of the Legislature, and so interpreted administratively, that such museums be considered publicly owned within the meaning of Section 217 of the Revenue and Taxation Code so long as they are owned by a tax-exempt charitable organization and are open to the public.

The legislative policy has recently been expressed with the enactment of Section 6365 of the Revenue and Taxation Code relating to sales and use tax exemption on art purchases for museums This declaration and the amendments made to Section 217 of the Revenue and Taxation Code by Section 1 7 of this act would make such provisions consistent with the provisions in Section 6365 of the Revenue and Taxation Code.

SEC 11 The changes made by Sections 1.5 and 1.7 of this act are declarative of existing law.

It is the intent of the Legislature that Sections 1 5 and 1.7 of this act be applied to determine the eligibility of exemptions under Sections 214 and 217 of the Revenue and Taxation Code for any property otherwise taxable on March 1, 1979.

SFC. 12. Sections 1.9, 2, 3, 4, 5, 6, and 8 of this act shall become operative on January 1, 1980

SEC 13 Notwithstanding Section 2229 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 there are no state-mandated local costs in this act and any revenue loss implied herein is not reimbursable under Section 2229 of the Revenue and Taxation Code.

SEC. 14. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

Chapter 49 of the Statutes of 1979, was an urgency state which provided for correction of the 1978–79 property tax rolls in order to prevent undue financial hardship resulting from erroneous tax levies for the 1978–79 fiscal year and to correct the collection of such taxes with a minimum of administrative difficulty. However, the bill provided only for a credit against taxes if the property had not been

sold when a refund would reduce administrative difficulties in some cases. Counties are now preparing to implement Chapter 49, and to allow the option of granting refunds rather than credits in order to avoid administrative difficulty and unnecessary costs, this act must go into effect immediately.

CHAPTER 1189

An act to add Section 429.64 to the Health and Safety Code, and to add Section 18331 to, and to repeal Section 9310 of, the Welfare and Institutions Code, relating to public health, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately

[Approved by Governor September 29, 1979 Filed with Secretary of State September 30, 1979]

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

SECTION 1. Section 429.64 is added to the Health and Safety Code, to read:

429.64. (a) The state department shall provide appropriate flu vaccine to local governmental or private, nonprofit agencies at no charge in order that the agencies may provide the vaccine, at a minimal cost, at accessible locations in the order of priority first, for all persons 60 years of age or older in this state and then to any other high-risk groups identified by the United States Public Health Service. The state department and the State Department of Aging shall prepare, publish, and disseminate information regarding the availability of such vaccine and the effectiveness of such vaccine in protecting the health of older persons.

(b) The state department may provide appropriate pneumonia vaccine to local governmental or private, nonprofit agencies at no charge in order that the agencies may provide the vaccine, at a minimal cost, at accessible locations for groups identified as high-risk by the United States Public Health Service.

(c) The program shall be designed to utilize voluntary assistance from public or private sectors in administering such vaccines. However, local governmental or private, nonprofit agencies may charge and retain a fee not exceeding two dollars ($2) per person to offset administrative operating costs

(d) Except when the state department determines that it is not feasible to utilize federal funds due to excessive administrative costs, the state department shall seek and utilize available federal funds to the maximum extent possible for the cost of the vaccine, the cost of administering the vaccine and the minimal fee charged under this section, including reimbursement under the Medi-Cal program for persons eligible therefor to the extent permitted by federal law

(e) Administration of the vaccine shall be performed either by a physician, registered nurse or a licensed vocational nurse acting within the scope of their professional practice acts. The physician under whose direction the registered nurse or a licensed vocational nurse is acting shall require such nurse to satisfactorily demonstrate familiarity with (1) contraindication for the administration of such immunizing agents, (2) treatment of possible anaphylactic reactions, and (3) the administration of treatment, and reactions to such immunizing agents.

Nothing in this section shall be construed to require physical presence of a directing or supervising physician, or the examination by a physician of persons to be tested or immunized.

SEC. 2. Section 9310 of the Welfare and Institutions Code is repealed.

SEC. 3. Section 18331 is added to the Welfare and Institutions Code, to read:

18331. There is hereby established a Nutrition Reserve Fund under the control of the Director of the Department of Aging. From the fund the director may allocate to any individual nutrition project for any fiscal year no more than three hundred thousand dollars ($300,000) in order to maintain necessary services which lack sufficient federal funding. The director shall report each allocation from the fund to the Joint Legislative Budget Committee within 30 days and shall submit to that committee by March 1 of each year an annual report on the use of the fund.

SEC. 4. The sum of five million one hundred thousand dollars ($5,100,000) is hereby appropriated from the General Fund as follows.

(a) Five million dollars ($5,000,000) for transfer to the Nutrition Reserve Fund established by this act.

(b) One hundred thousand dollars ($100,000) to the State Department of Health Services for the 1979–80 fiscal year for the purpose of establishing a pneumonia vaccine pilot program.

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 nutrition projects for the elderly may receive funds to maintain necessary services, that older persons in this state receive pneumonia vaccines needed to protect their health and that vaccine manufacturers have sufficient advance notification to produce adequate quantities of the appropriate vaccines for immunizations during September, October, and November prior to the usual winter pneumonia season, it is necessary that this act take effect immediately

CHAPTER 1190

An act to amend Sections 37911, 37912, 37917, 37922, 37922.2, 37922.5, 37923, 37930, 37935, and 37951 of the Health and Safety Code, relating to area rehabilitation.

[Approved by Governor September 29, 1979 Filed with Secretary of State September 30, 1979]

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

SECTION 1. Section 37911 of the Health and Safety Code is amended to read:

37911 The Legislature hereby finds and declares that it is necessary and essential that cities, counties, and cities and counties, and redevelopment agencies and housing authorities within such cities, counties, and cities and counties, be authorized to make long-term, low-interest loans to finance residential rehabilitation in depressed residential areas in order to encourage the upgrading of property in such areas. Unless such local agencies intervene to provide some form of assistance to finance residential rehabilitation, many depressed residential areas will deteriorate at an accelerated pace because property owners are not able to obtain rehabilitation loans from private sources.

The Legislature further finds and declares that many depressed residential areas contain scattered vacant parcels and residences that are so severely deteriorated that they must be demolished. The existence of such conditions in residential rehabilitation areas often impedes the progress of residential rehabilitation and improvement. It is, therefore, necessary that local agencies be authorized to include new construction in the form of residential infill construction as an integral part of a residential rehabilitation financing program

SEC. 2. 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 original hearing by the

legislative body for the purpose of considering selection of the area for designation and determining the method of notice to property owners which will be used pursuant to paragraph (3).

(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 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 by one of the following methods as determined by the legislative body at the public meeting provided in paragraph (1):

(A) At least seven days prior to the original hearing, by mailing to all real property owners within the proposed residential rehabilitation area at the address shown on the latest assessment roll and by distribution to residents of the proposed residential rehabilitation area in a manner determined to be appropriate by the local agency.

(B) After express findings by the legislative body at the public meeting provided in paragraph (1) at lower expense and effective notice at least equal to the mailed and distributed notice provided in subparagraph (A), by a method determined by the legislative body which includes, but is not limited to, publication of such notice pursuant to Section 6066 of the Government Code and posting of such notice at no less than three prominent places within the proposed residential redevelopment area and distribution to residents of the proposed residential rehabilitation area in a manner determined to be appropriate by the local agency.

"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, or the purchase of a loan previously made by a qualified mortgage lender in accordance with rules and regulations of the local agency, for the purpose of residential rehabilitation and may, in the discretion of the legislative body, include any or all of the following.

(1) Refinancing of outstanding indebtedness of the participating party with respect to property which is subject to residential

rehabilitation by such participating party.

(2) Financing or refinancing the cost incurred by a participating party in acquiring real property for the purpose of residential rehabilitation, including residential infill construction.

(3) Financing the acquisition of residences within a residential rehabilitation area which have been previously rehabilitated or constructed with financing pursuant to this part.

(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" includes the following:

(1) The construction, reconstruction, renovation, replacement, extension, repair, betterment, equipping, developing, embellishing, 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:

(A) Defective design and character of physical construction.

(B) Faulty interior arrangement and exterior spacing.

(C) Inadequate provision for ventilation, lighting, and sanitation.

(D) Obsolescence, deterioration, and dilapidation.

(2) Residential infill construction, where authorized by the comprehensive residential rehabilitation financing program.

(3) Acquisition of real property for the purpose of rehabilitation or residential infill construction pursuant to paragraph (1) or (2) of this subdivision, if authorized by the comprehensive residential

rehabilitation financing program.

(4) Purchase of residences within a residential rehabilitation area which have been previously rehabilitated or constructed with financing under this part, if authorized by the comprehensive residential rehabilitation financing program.

(5) Relocation payments required or authorized by Section 37922 2 or by Section 7265.3 of the Government Code in connection with rehabilitation of a residence financed pursuant to this part, or in connection with demolition of a structure for the purpose of making land available for residential infill construction financed pursuant to this part. The cost of relocation payments may be included in the principal amount of a loan made to a participating party or may be paid directly from bond proceeds.

(i) "Residential infill construction" means the construction of new single-family or multifamily residences, excluding commercial or mixed residential and commercial structures and residential hotels, on vacant lots in residential rehabilitation areas, including lots cleared by demolition of an existing structure. However, the cost of demolition of existing structures shall not be eligible for financing under this part, and it is the intent of the Legislature that local agencies shall adopt lending policies and criteria which will encourage rehabilitation of existing residences in residential rehabilitation areas wherever possible.

(j) "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.

"Residence" also includes residential hotels in which not less than one-half of the occupied dwelling units are occupied on a nontransient basis. A dwelling unit shall be deemed to be used on a nontransient basis for such purpose if the term of the tenancy is one month or longer or if the tenant has resided in the unit for more than 30 days In a residential hotel, individual dwelling units need not have cooking facilities or individual sanitary facilities. However, for purposes of this subdivision, a residential hotel does not include dormitories, fraternity and sorority houses, hospitals, sanitariums, rest homes, or trailer parks and courts.

(k) "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.

(*l*) "Revenues" means all amounts received as repayment of principal, interest, and all other charges received for, and all other

income and receipts derived by, the 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.

(m) "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. 3. Section 37917 of the Health and Safety Code is amended to read.

37917. The local agency may fix fees, charges, and interest rates for financing residential rehabilitation and may from time to time revise such fees, charges, and interest rates to reflect changes in interest rates on the local agency's bonds, losses due to defaults, changes in loan servicing charges, or other expenses related to administration of the residential rehabilitation financing program Any change in interest rate shall conform to the provisions of Section 1916 5 of the Civil Code, except that paragraph (3) of subdivision (a) of Section 1916.5 shall not apply and that the "prescribed standard" specified in Section 1916.5 shall be periodically determined by the governing body of the local agency after hearing preceded by public notice to affected parties, and shall reflect changes in interest rates on the local agency's bonds, losses due to defaults, and bona fide changes in loan servicing charges related to the administration of a program under the provisions of this part

The local agency may purchase loans made to participating parties by qualified mortgage lenders without premium, if the loan was approved for such purpose prior to consummation of the loan and is of the character and on the terms previously established by the local agency for the residential rehabilitation program. The local agency may fix fees for servicing of such loans by qualified mortgage lenders, or may itself undertake collection, or may contract to pay any person, partnership, association, corporation, or public agency for such collection and disbursal. In determining fees and charges for financing and servicing of loans by qualified mortgage lenders, the local agency shall endeavor to obtain participation of not less than two qualified mortgage lenders, and shall apply the same fees and charges to all participating qualified mortgage lenders.

The local agency may hold deeds of trust or mortgages, including, but not limited to, mortgages insured under Title II of the National Housing Act (12 U S.C., 1707 et seq.), as security for financing residential rehabilitation and may pledge or assign the same as security for repayment of bonds issued pursuant to this part The local agency may establish the terms and conditions for the financing of residential rehabilitation undertaken pursuant to this part, and may require that any note evidencing a loan made to a participating party be insured or guaranteed, in whole or in part, by an

instrumentality of the United States or of the State of California or by a person licensed to insure mortgages in this state.

Such notes, deeds of trust, or mortgages may be assigned to, and held on behalf of the local agency by, any bank or trust company appointed to act as trustee or fiscal agent by the local agency in any indenture or resolution providing for issuance of bonds pursuant to this part.

Notwithstanding Section 711 of the Civil Code, the full amount owed on any loan for residential rehabilitation made pursuant to this part shall be due and payable upon sale or other transfer of ownership of the property subject to such rehabilitation, except that assignment of the loan to the buyer or transferee may be permitted where required by the federal or state insurer or in cases of hardship, which shall be defined, and procedures established for the determination of their existence, in the guidelines established pursuant to subdivision (c) of Section 37922.

SEC. 4. 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) of Division 24) 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 rehabilitation of existing residences, 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. Outstanding loans on property to be rehabilitated may be authorized up to 97 percent of the anticipated after-rehabilitation value of the property, if the person to whom the loan is made is of low income, as defined in Section 50093. 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 such residential rehabilitation loans shall be 40 years or four-fifths of the economic life of the structure, whichever is less.

(3) The maximum amount loaned for rehabilitation, exclusive of costs of acquisition, or 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 forty-five thousand dollars ($45,000).

(4) No more than 20 percent of any loan for such 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 such 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 a participating party with respect to property which is subject to residential rehabilitation or for financing the acquisition of property which has been, or is to be, 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) Guidelines for financing residential infill construction within any residential rehabilitation area which is approved for such a program by the legislative body. The guidelines for residential infill construction 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, including the amount of the loans for residential infill construction, shall not exceed 80 percent of the anticipated value of the property, following completion of the construction, except that the local agency may authorize loans, which are neither insured nor guaranteed, of up to 90 percent of the anticipated value of the property following completion of the construction, if such loans are made for the purpose of constructing residences containing two or more dwelling units. 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 100 percent of the estimated value of the property following completion of construction, if the dwelling units constructed 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 loans for residential infill construction shall be 40 years or four-fifths of the economic life of the structure, whichever is less

(f) Guidelines for financing the purchase of residences previously rehabilitated or constructed with financing under this part, if authorized by the legislative body, which shall be subject to the following limitations·

(1) Purchasers of single-family dwellings eligible to receive such financing shall be persons or families of low or moderate income

(2) All rental dwelling units in the residence financed shall be committed for the period during which the loan is outstanding for occupancy by persons and families of low or moderate income, as defined by Section 50093 Upon recordation of the deed, other instrument of conveyance, lease, or instrument of financing in the office of the county recorder of the county in which the real property is located, the rental dwelling units reserved for occupancy by persons of low income shall remain for such occupancy for not less than 30, nor more than 55, years Such recorded agreement shall be binding upon successors in interest

(3) 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 acquired shall not exceed 80 percent of the value of the property, except that the local agency may authorize loans, which are neither insured nor guaranteed, of up to 90 percent of the value of the property if such loans are made for the purpose of financing residences containing two or more dwelling units. A nonprofit corporation incorporated pursuant to, or otherwise made subject to the provisions of, Part 2 (commencing with Section 5110) 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 100 percent of the value of the property, if the dwelling units within the residence 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.

(4) The maximum repayment period for acquisition loans shall be 40 years or four-fifths of the economic life of the property, whichever is less

(g) No more than 35 percent of the aggregate principal amount of all loans made in a residential rehabilitation area may be for residential infill construction or acquisition financing.

(h) 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.

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 or residential infill construction 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 mandatory 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 Section 37922.5 of the Health and Safety Code is amended to read:

37922.5. (a) A local agency, in order to prevent precipitous increases in rent which the loans would engender as to residential rental property, may require, as a condition of making a loan pursuant to this part, that the borrower contract during the term of the loan not to raise the rental amount over an amount which the agency by regulation establishes will yield a fair rate of return for similar investments and will allow for increases that are reasonably necessary to provide and continue proper maintenance of the property. This subdivision shall apply only to structures which will contain 12 or more dwelling units after rehabilitation and to structures for which loans exceeding five thousand dollars ($5,000) per dwelling unit have been extended pursuant to this part.

(b) A local agency may require that an owner of a residential property provide notice to tenants at the time of application for a loan pursuant to this part, so that, in the event of protest by tenants, the amount of rehabilitation work may, at the discretion of the local agency, be limited in order to prevent precipitous rent increases which may cause displacement.

SEC. 7 Section 37923 of the Health and Safety Code is amended to read:

37923. The local agency shall require that any residence which is rehabilitated, constructed, or acquired with financing obtained under this part shall be open, upon sale or rental of any portion thereof, to all regardless of race, color, religion, national origin, or ancestry. The local agency shall also require that contractors and subcontractors engaged in residential rehabilitation financed under this part provide equal opportunity for employment, without discrimination as to race, sex, marital status, color, religion, national origin, or ancestry All contracts and subcontracts for residential rehabilitation financed under this part shall be let without discrimination as to race, sex, marital status, color, religion, national origin, or ancestry It shall be the policy of the local agency financing

residential rehabilitation under this part to encourage participation by minority contractors, and the local agency shall adopt rules and regulations to implement the provisions of this section

SEC. 8 Section 37930 of the Health and Safety Code is amended to read·

37930. (a) A local agency may, from time to time, issue its negotiable bonds or notes for the purpose of financing residential rehabilitation, including the rehabilitation, construction, or acquisition of (1) single residences for single participating parties, (2) a series of residences for a single participating party, (3) single residences for several participating parties, or (4) several residences for several participating parties. In anticipation of the sale of such bonds, the local agency may issue negotiable bond anticipation notes and may renew such notes from time to time Bond anticipation notes may be paid from the proceeds of sale of the bonds of the local agency in anticipation of which they were issued. Bond anticipation notes and agreements relating thereto and the resolution or resolutions authorizing such notes and agreements may contain any provisions, conditions, or limitations which a bond, agreement relating thereto, or bond resolution of the local agency may contain except that any such note or renewal thereof shall mature at a time not later than two years from the date of the issuance of the original note

(b) Every issue of its bonds shall be a special obligation of the local agency payable from all or any part of the revenues specified in this part The bonds shall be negotiable instruments for all purposes, subject only to the provisions of such bonds for registration

SEC. 9. Section 37935 of the Health and Safety Code is amended to read·

37935. In the discretion of the local agency, any bonds issued under the provisions of this part may be secured by a trust agreement by and between the local agency and a corporate trustee or trustees, which may be any trust company or bank having the powers of a trust company within or without this state Such trust agreement or the resolution providing for the issuance of such bonds may pledge or assign the revenues to be received or proceeds of any contract or contracts pledged, and may convey or mortgage any residence the rehabilitation, construction, or acquisition of which is to be financed out of the proceeds of such bonds. Such trust agreement or the resolution providing for the issuance of the bonds may provide for the assignment to such corporate trustee or trustees of loans, deeds of trust, or mortgages, to be held by such trustee or trustees on behalf of the local agency for the benefit of the bondholders. Such trust agreement or resolution providing for the issuance of bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including such provisions as may be included in any resolution or resolutions of the local agency authorizing the issuance of bonds pursuant to Section 37932 Any bank or trust

company doing business under the laws of this state which may act as depositary of the proceeds of bonds or of revenues or other moneys may furnish such indemnity bonds or pledge such securities as may be required by the local agency. Any such trust agreement may set forth the rights and remedies of the bondholders and of the trustee or trustees, and may restrict the individual right of action by bondholders. In addition to the foregoing, any such trust agreement or resolution may contain such other provisions as the local agency may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of such trust agreement or resolution may be treated as a part of the cost of residential rehabilitation.

SEC. 10. Section 37951 of the Health and Safety Code is amended to read:

37951. The local agency may enter into loan agreements with any participating party relating to residential rehabilitation of any kind or character. The terms and conditions of such loan agreements may be as mutually agreed upon. Any such loan agreement may provide the means or methods by which any mortgage taken by the local agency shall be discharged, and it shall contain such other terms and conditions as the local agency may require. The local agency is authorized to fix, revise, charge, and collect interest and prinicpal and all other rates, fees, and charges with respect to financing of residential rehabilitation. Such rates, fees, charges, and interest shall be fixed and adjusted so that the aggregate of such rates, fees, charges, and interest will provide funds sufficient with other revenues and moneys which it is anticipated will be available therefor, if any, to do all of the following:

(a) Pay the principal of and interest on outstanding bonds of the local agency issued to finance such residential rehabilitation as the same shall become due and payable.

(b) Create and maintain reserves required or provided for in any resolution authorizing such bonds A sufficient amount of the revenues derived from residential rehabilitation may be set aside at such regular intervals as may be provided by the resolution in a sinking or other similar fund, which is hereby pledged to, and charged with, the payment of the principal of and interest on such bonds as the same shall become due, and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time the pledge is made. The rates, fees, interest, and other charges, revenues, or moneys so pledged and thereafter received by the local agency shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the local agency, irrespective of whether such parties have notice thereof Neither the resolution nor any loan agreement by which a pledge is created need be filed or recorded except in the records of the local agency The

use and disposition of moneys to the credit of such sinking or other similar fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds. Except as may otherwise be provided in such resolution, such sinking or other similar fund may be a fund for all bonds of the local agency issued to finance the rehabilitation, construction, or acquisition of the residence of a particular participating party without distinction or priority. The local agency, however, in any such resolution may provide that such sinking or other similar fund shall be the fund for a particular residential rehabilitation project or projects and for the bonds issued to finance such residential rehabilitation project or projects and may, additionally, authorize and provide for the issuance of bonds having a lien with respect to the security authorized by this section which is subordinate to the lien of other bonds of the local agency, and, in such case, the local agency may create separate sinking or other similar funds securing the bonds having the subordinate lien.

(c) Pay operating and administrative costs of the local agency incurred in the administration of the program authorized by this part.

CHAPTER 1191

An act to amend Sections 1237 and 7153.9 of the Financial Code, to amend Sections 8169, 11011.1, 25539.1, 25539.2, 37362, 37363, 50568, 50570, and 50573 of the Government Code, to amend Sections 33334.2, 33334.3, 33334.5, 33411.2, 33413, 33464, 37922.2, 50052.5, 50053, and 51226 5 of, and to amend and renumber Section 50104.5 of, the Health and Safety Code, to amend Section 30213 of the Public Resources Code, to amend Section 3772.5 of the Revenue and Taxation Code, and to amend Section 118 of the Streets and Highways Code, relating to housing

[Approved by Governor September 28, 1979 Filed with Secretary of State September 30, 1979]

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

SECTION 1. Section 1237 of the Financial Code is amended to read:

1237 (a) Notwithstanding anything provided to the contrary in this division the superintendent is empowered to prescribe such rules and regulations as will permit a bank, upon the security of residential property, to make loans and advance credit thereon, upon the execution by the borrower of mortgage payment instruments not authorized under the existing law, provided such instruments have prior approval of the superintendent, and the aggregate at any one time of the outstanding loans by a bank evidenced by such mortgage payment instruments, does not exceed 10 percent of the bank's

assets.

(b) The rules and regulations of the superintendent shall be designed to permit limited experimentation to furnish valuable experience and information to the superintendent, the banking industry, and to the public relating to the substance of any permanent regulations or laws which may be forthcoming and to permit banks to operate selected pilot projects on a limited basis. The pilot projects and effective period of the regulations shall not exceed five years from the date of the issuance of such regulations and shall place a high priority on the protection for the consumer and encouraging integration and home ownership of those persons who have previously been excluded from or failed to avail themselves of home ownership. Such regulations, among other things, shall contain provisions relating to the various types of instruments for experimentation, including, but not limited to, forms of graduated payment mortgages, reverse annuity mortgages, flexible payment and flexible rate mortgages and combinations of such mortgages, with the further provision that such alternative mortgage instruments shall be limited in number, simple and comprehensible, and provide adequate opportunities and protections to those persons and classes of persons who have previously not been able to participate in home ownership. The regulations shall also contain a provision requiring that full disclosure be made to potential applicants, among other things, of, the nature and effect of the alternative mortgage payment instrument, the payment due each month of the payment term, and all costs or savings attributed to the alternative mortgage instrument.

(c) A bank offering any loan authorized by this section shall also offer any borrower who qualifies for its standard mortgage loan a choice of a standard mortgage loan at current market terms A standard mortgage loan means a standard fixed-rate, level-payment mortgage loan

(d) A report shall be submitted by the superintendent to the Legislature annually on the 15th day of February of each year commencing the second year following the effective date of this legislation, and the report shall include the numbers and types of such mortgage instruments, and the impact of such instruments on minorities, women, young families, persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, and elderly persons

(e) This section shall remain in effect until January 1, 1984, and on such date is repealed

SEC 1 5 Section 7153 9 of the Financial Code is amended to read

7153 9. (a) Notwithstanding anything provided to the contrary in this division, the commissioner is empowered to prescribe such rules and regulations as will permit an association, upon the security of residential property, to make loans and advance credit thereon, upon the execution by the borrower of mortgage payment

instruments not authorized under the existing law, provided such instruments have prior approval of the commissioner, and the aggregate at any one time of the outstanding loans by an association evidenced by such mortgage payment instruments, does not exceed 10 percent of the association's assets.

(b) The rules and regulations of the commissioner shall be designed to permit limited experimentation to furnish valuable experience and information to the commissioner, the savings and loan industry, and to the public relating to the substance of any permanent regulations or laws which may be forthcoming and to permit savings and loan associations to operate selected pilot projects on a limited basis. The pilot projects and effective period of the regulations shall not exceed four years from the date of the issuance of such regulations and shall place a high priority on the protection of the consumer and encouraging integration and home ownership for those persons who have previously been excluded from or failed to avail themselves of home ownership. Such regulations, among other things, shall contain provisions relating to the various types of instruments for experimentation, including, but not limited to, forms of graduated payment mortgages, reverse annuity mortgages, flexible payment and flexible rate mortgages and combinations of such mortgages, with the further provision that such alternative mortgage instruments shall be limited in number, simple and comprehensible, and provide adequate opportunities and protections to those persons and classes of persons who have previously not been able to participate in home ownership The regulations shall also contain a provision requiring that full disclosure be made to potential applicants, among other things, of, the nature and effect of the alternative mortgage payment instrument, the payment due each month of the payment term, and all costs or savings attributed to the alternative mortgage instrument.

(c) A report shall be submitted by the commissioner to the Legislature annually on the 15th day of February of each year commencing the second year following the effective date of this legislation, and the report shall include the numbers and types of such mortgage instruments, and the impact of such instruments on minorities, women, young families, persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, and elderly persons

(d) This section shall remain in effect until January 1, 1983, and on such date is repealed.

SEC 17 Section 8169 of the Government Code is amended to read

8169 The director may lease the real property owned by the state within the core area, and not under the jurisdiction of any other state agency, for purposes consistent with the Capitol Area Plan and the management thereof, for such term and upon such terms and conditions as the director may deem appropriate except that said lease shall provide that any property subsequently leased by a joint

powers authority for which a lease or rental for a period of five years or more is contemplated shall be advertised and awarded utilizing for the purpose the same procedure followed by the director for other state properties. The director's authority to lease real property under this section shall include, but not be limited to, the authority to lease portions of buildings and facilities occupied or to be occupied in part by state agencies, to private parties and other public agencies for office, residential, parking and commercial uses consistent with the Capitol Area Plan.

With respect to residential leases, the director's authority included in this section shall not extend beyond the Capitol area. The director shall assure that tenants residing within the Capitol area are not involuntarily displaced as a result of leases executed after January 1, 1978. The supply of housing available to lower income households, as defined by Section 50079.5 of the Health and Safety Code, based on the 1975 special census, at affordable housing costs, as defined by Section 50052.5 of the Health and Safety Code, shall not be reduced within the area. The director's authority shall also include the authority to enter into long-term leases not to exceed 60 years and to pledge, subordinate, hypothecate or to permit the assignment of such leases in connection with financing to be obtained by any lessee or sublessee.

The Director of General Services may not execute a lease agreement for a term lease of more than five years between the state and another entity, enter into a joint powers agreement, or issue revenue bonds, notes of evidences of indebtedness offered by the joint powers authority, if the agreement concerns state-owned property in the County of Sacramento or the County of Yolo, unless not less than 30 days prior to its execution he notifies the chairman of the committee in each house of the Legislature which considers appropriations, the chairman of the appropriate policy committee in each house, and the Chairman of the Joint Legislative Budget Committee, or his designee, in writing of his intention to execute such an agreement The chairman of such committee or his designee may determine a lesser notification period prior to execution. A copy of such notice shall be provided to any person who requests the director in writing for such notice.

The Legislature does hereby find that it will be of broad public benefit to lease some residential units in the Capitol area to persons and families of low or moderate income, as defined by Section 50093 of the Health and Safety Code, for less than prevailing market rental rates. Therefore, the director is authorized to rent or to provide for the rental of residential facilities to persons and families of low or moderate income for less than market rental rates and to enter into long-term ground leases at nominal or below market rental rates when the director deems it will benefit such persons and families.

All leases of state-owned property in the core area to any private person for other than parking shall be subject to possessory interest taxes in accordance with Chapter 1 (commencing with Section 101)

of Part 1 of Division 1 of the Revenue and Taxation Code.

SEC 1.9. Section 8169 of the Government Code is amended to read·

8169. The director may lease the real property owned by the state within the core area, and not under the jurisdiction of any other state agency, for purposes consistent with the Capitol Area Plan and the management thereof, for such term and upon such terms and conditions as the director may deem appropriate except that said lease shall provide that any property subsequently leased by a joint powers authority for which a lease or rental for a period of five years or more is contemplated shall be advertised and awarded utilizing for the purpose the same procedure followed by the director for other state properties The director's authority to lease real property under this section shall include, but not be limited to, the authority to lease portions of buildings and facilities occupied or to be occupied in part by state agencies, to private parties and other public agencies for office, residential, parking and commercial uses consistent with the Capitol Area Plan.

With respect to residential leases, the director's authority included in this section shall not extend beyond the Capitol area. The director shall assure that tenants residing within the Capitol area are not involuntarily displaced as a result of leases executed after January 1, 1978 The director's authority shall also include the authority to enter into long-term leases not to exceed 60 years and to pledge, subordinate, hypothecate or to permit the assignment of such leases in connection with financing to be obtained by any lessee or sublessee.

The Director of General Services may not execute a lease agreement for a term lease of more than five years between the state and another entity, enter into a joint powers agreement, or issue revenue bonds, notes of evidences of indebtedness offered by the joint powers authority, if the agreement concerns state-owned property in the County of Sacramento or the County of Yolo, unless not less than 30 days prior to its execution he notifies the chairman of the committee in each house of the Legislature which considers appropriations, the chairman of the appropriate policy committee in each house, and the Chairman of the Joint Legislative Budget Committee, or his designee, in writing of his intention to execute such an agreement The chairman of such committee or his designee may determine a lesser notification period prior to execution. A copy of such notice shall be provided to any person who requests the director in writing for such notice

The Legislature does hereby find that it will be of broad public benefit to lease some residential units in the Capitol area to persons and families of low or moderate income, as defined by Section 50093 of the Health and Safety Code, for less than prevailing market rental rates Therefore, the director is authorized to rent or to provide for the rental of residential facilities to persons and families of low or moderate income for less than market rental rates and to enter into

long-term ground leases at nominal or below market rental rates when the director deems it will benefit such persons and families.

All leases of state-owned property in the core area to any private person for other than parking shall be subject to possessory interest taxes in accordance with Chapter 1 (commencing with Section 101) of Part 1 of Division 1 of the Revenue and Taxation Code.

SEC. 2 Section 11011 1 of the Government Code is amended to read·

11011 1 (a) Land that has been declared surplus by the Legislature, pursuant to Section 11011, and is not needed by any state agency shall be offered to local governmental agencies. Except as authorized in subdivisions (b), (c), and (d), transfers of surplus land to local governmental agencies pursuant to this section shall be at fair market value.

(b) Where such land is to be used for park and recreation purposes and operated for such purposes by local agencies at no expense to the state, the Director of General Services with the approval of the State Public Works Board may, notwithstanding any provision in Section 11011, transfer the land to local governmental agencies at less than the fair market value of the land, if such transfer is in the public interest, under the following conditions:

(i) The local public agency has submitted a general development plan for the property which conforms to the agency's general plan pursuant to Article 5 (commencing with Section 65300) of Chapter 3 of Title 7, and which general development plan has been approved by the Director of Parks and Recreation

(ii) The land shall be developed according to plan within a time period determined by the state but not to exceed 10 years. The deed or other instrument of transfer shall provide that the land shall revert to the state if the land is not developed within the time period so determined by the state.

(iii) The deed or other instrument of transfer shall provide that the land would revert to the state if the use changed to a use not consistent with parks and recreation purposes during the period of 25 years following the sale.

(c) Where such land is to be used for open-space purposes, as defined herein, and operated by local agencies at no expense to the state, the Director of General Services with the approval of the State Public Works Board may transfer the land to local governmental agencies at fair market value of the land or at any lesser value of the land under the following conditions·

(i) The local public agency has submitted a plan for the use of the property which conforms to the agency's general plan pursuant to Article 5 (commencing with Section 65300) of Chapter 3 of Title 7, and which plan has been approved by the Director of Parks and Recreation

(ii) The land shall be used according to plan within a time period determined by the state but not to exceed 10 years

(iii) The deed or other instrument of transfer shall provide that

the land would revert to the state if the use changed to a use not consistent with open-space purposes during the period of 25 years following the sale

(iv) For the purpose of this subdivision, "open-space purpose" means the use of land for public recreation, enjoyment of scenic beauty, or conservation or use of natural resources

(d) Where such land is suitable to be used for the purpose of providing housing for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, the Director of General Services, with the approval of the State Public Works Board, may offer the land to local agencies within whose jurisdiction the land is located. Provided, however, where such land is not used for the purposes for which it was acquired, and such land is declared surplus land and is not needed by any other state agency pursuant to the provisions of Section 11011, the state shall extend to the individual from whom the land was acquired an offer to purchase such land at current fair market value. Such offer shall extend for 60 days and if not exercised within such period shall be irrevocably terminated This provision shall not apply to surplus land to which the state has held title for more than seven years Such land may be transferred at a reasonable price which will enable the provision of housing for persons and families of low or moderate income at affordable housing cost, as defined by Section 50052.5 of the Health and Safety Code Such price may be less than fair market value. The Department of Housing and Community Development shall recommend to the Department of General Services a price which will enable the provision of housing for persons and families of low or moderate income at affordable housing cost All transfers of land pursuant to this subdivision shall be subject to the following conditions

(1) The local agency has made all of the following findings:

(A) There is a need for such housing in the community

(B) The land is suitable for development of such housing

(2) The local agency develops a plan for such housing in accordance with criteria established by the Department of Housing and Community Development, which shall include, but not be limited to, criteria respecting the financial condition of the developer, if the housing is to be developed by a private sponsor, and the cost of the project Such plan shall be approved by the Department of Housing and Community Development.

(3) After transfer of such property from the state to the local agency, the property shall be developed as low- and moderate-income housing The local agency may lease such property to any nonprofit corporation, housing corporation, or limited dividend housing corporation, as such terms are defined in Section 50568, or to any other private developer if the local agency determines a private entity is best suited to develop housing for persons and families of low or moderate income at affordable housing cost In authorizing such private development, the local agency shall

impose reasonable terms and conditions as will further the purposes of this subdivision, which shall include, but not be limited to, continued use of the property for housing for persons and families of low or moderate income at affordable housing cost. A lessee of land pursuant to this subdivision shall agree to limitations on profit in the operation of such property which will benefit the public and assure that the housing provided thereon is within the means of persons and families of low or moderate income. Such agreement shall be binding upon successors in interest of the original lessee and shall inure to the benefit of, and be enforceable by, the state.

(4) The local agency shall assure that the land will be used for the purpose of providing low- and moderate-income housing and shall not permit the use of the dwelling accommodations of the project for any other purpose, except as provided in this section.

In the event a local agency does not comply with the land use requirements prescribed in this section, as determined by the Department of General Services, the Department of General Services may require that the local agency pay the state the difference between the actual price paid by the local agency for the property and the fair market value of such property, at the time of the department's determination of noncompliance, plus 6 percent interest on such amount for the period of time the land has been held by the local agency

If the local agency, with the approval of the Department of General Services, and in consultation with the Department of Housing and Community Development, determines that there is no longer a need for low- and moderate-income housing within the jurisdiction of the local agency and another valid public purpose could be achieved by utilizing the land in an alternative manner, the local agency shall not be required to make any payment to the state for the difference between purchase price and fair market value or interest charges for the period of time the land has been held by the local agency.

(5) Failure to comply with the provisions of this section shall not invalidate the transfer, sale, or conveyance of the real property to a bona fide purchaser or encumbrancer for value.

(6) The project shall be commenced within 24 months of the original transfer to the local agency However, the Department of General Services, in consultation with the Department of Housing and Community Development, may for justifiable cause extend the time for commencement of development for an additional 36 months The aggregate time for commencing development shall not exceed 60 months If development has not commenced within such time, the land shall revert to the Department of General Services for disposal pursuant to Section 11011.1 of the Government Code or as otherwise authorized by law.

(7) As used in this subdivision, "local agency" means and includes any county, city, city and county, redevelopment agency organized pursuant to Part 1 (commencing with Section 33000) of Division 24

of the Health and Safety Code, or housing authority organized pursuant to Part 2 (commencing with Section 34200) of Division 24 of the Health and Safety Code, public district or other political subdivision of the state and any instrumentality thereof, which is authorized to engage in or assist in the development or operation of housing for persons and families of low or moderate income and also includes two or more such agencies acting jointly pursuant to Part 1 (commencing with Section 6500) of Division 7 of this code.

(e) The Department of Housing and Community Development, in consultation with the Department of General Services and the Office of Planning and Research, shall make a report to the Legislature on or before January 1, 1981, with respect to effectiveness of the program and shall recommend any necessary legislative changes to the provisions of subdivision (d).

(f) Where such land is to be used for public purposes other than specifically set forth in this section, is to be operated by the local agency at no expense to the state, and the use and enjoyment of the public purpose contemplated will be of broad public benefit, and not a benefit basically of local interest enjoyed and used primarily by the residents of the area of tax jurisdiction of the local agency, the Director of General Services, with the approval of the State Public Works Board, may transfer the land to local governmental agencies at a sales price not less than 50 percent of fair market value. Any such transfer shall provide that if the land is not used for the contemplated purpose during the period of 25 years following the sale, the land shall revert to the state. The Director of General Services may provide additional terms and conditions as he determines to be in the best interest of the state.

(g) If there is more than one appropriate use and more than one offer for the use of a parcel of surplus land, the Department of General Services, in consultation with the Department of Housing and Community Development, the Department of Parks and Recreation, and the Office of Planning and Research, shall determine the most appropriate use for the parcel and offer the land accordingly

(h) Land that has been declared surplus by the Legislature, pursuant to Section 11011, is not needed by any state agency, is suitable for development for housing purposes, and is not in the process of being acquired pursuant to other provisions of this section, may upon the request of the Department of Housing and Community Development be retained by the Director of General Services for a period not exceeding five years, during which the Director of General Services shall continue to offer such lands for housing pursuant to subdivision (d).

(i) Transfer of state surplus lands under subdivision (d) shall be at a cost which will enable provision of economically feasible housing at affordable housing cost for persons and families of low or moderate income.

(j) The provisions of this section shall not be applicable to the

disposal by a state agency of surplus residential property, as defined in subdivision (d) of Section 54236 of the Government Code, as added by Senate Bill No. 86 of the 1979–80 Regular Session, if Senate Bill No. 86 is chaptered and becomes effective on or before January 1, 1980, and adds Section 54237 to the Government Code.

SEC 2 5 Section 11011.1 of the Government Code is amended to read.

11011 1. (a) Land that has been declared surplus by the Legislature, pursuant to Section 11011, and is not needed by any state agency shall be offered to local governmental agencies. Except as authorized in subdivisions (b), (c), and (d), transfers of surplus land to local governmental agencies pursuant to this section shall be at fair market value

(b) Where such land is to be used for park and recreation purposes and operated for such purposes by local agencies at no expense to the state, the Director of General Services with the approval of the State Public Works Board may, notwithstanding any provision in Section 11011, transfer the land to local governmental agencies at less than the fair market value of the land, if such transfer is in the public interest, under the following conditions:

(i) The local public agency has submitted a general development plan for the property which conforms to the agency's general plan pursuant to Article 5 (commencing with Section 65300) of Chapter 3 of Title 7, and which general development plan has been approved by the Director of Parks and Recreation.

(ii) The land shall be developed according to plan within a time period determined by the state but not to exceed 10 years The deed or other instrument of transfer shall provide that the land shall revert to the state if the land is not developed within the time period so determined by the state.

(iii) The deed or other instrument of transfer shall provide that the land would revert to the state if the use changed to a use not consistent with parks and recreation purposes during the period of 25 years following the sale.

(c) Where such land is to be used for open-space purposes, as defined herein, and operated by local agencies at no expense to the state, the Director of General Services with the approval of the State Public Works Board may transfer the land to local governmental agencies at fair market value of the land or at any lesser value of the land under the following conditions:

(i) The local public agency has submitted a plan for the use of the property which conforms to the agency's general plan pursuant to Article 5 (commencing with Section 65300) of Chapter 3 of Title 7, and which plan has been approved by the Director of Parks and Recreation

(ii) The land shall be used according to plan within a time period determined by the state but not to exceed 10 years.

(iii) The deed or other instrument of transfer shall provide that the land would revert to the state if the use changed to a use not

consistent with open-space purposes during the period of 25 years following the sale.

(iv) For the purpose of this subdivision, "open-space purpose" means the use of land for public recreation, enjoyment of scenic beauty, or conservation or use of natural resources.

(d) Where such land is suitable to be used for the purpose of providing housing for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, the Director of General Services, with the approval of the State Public Works Board, may offer the land to local agencies within whose jurisdiction the land is located. Provided, however, if the state has held title to such land for seven years or less and such land is not used for the purposes for which it was acquired, and such land is declared surplus land and is not needed by any other state agency pursuant to the provisions of Section 11011, the state, prior to offering such land to local agencies, shall extend to the individual from whom the land was acquired an offer to purchase such land at current fair market value. Such offer shall extend for 60 days and if not exercised within such period shall be irrevocably terminated Such land may be transferred to local agencies at a reasonable price which will enable the provision of housing for persons and families of low or moderate income at affordable housing cost, as defined by Section 50052 5 of the Health and Safety Code. Such price may be less than fair market value. The Department of Housing and Community Development shall recommend to the Department of General Services a price which will enable the provision of housing for persons and families of low or moderate income at affordable housing cost. All transfers of land pursuant to this subdivision shall be subject to the following conditions:

(1) The local agency has made all of the following findings:

(A) There is a need for such housing in the community.

(B) The land is suitable for development of such housing.

(2) The local agency develops a plan for such housing in accordance with criteria established by the Department of Housing and Community Development, which shall include, but not be limited to, criteria respecting the financial condition of the developer, if the housing is to be developed by a private sponsor, and the cost of the project. Such plan shall be approved by the Department of Housing and Community Development.

(3) After transfer of such property from the state to the local agency, the property shall be developed as low- and moderate-income housing. The local agency may lease or sell such property to any nonprofit corporation, housing corporation, or limited dividend housing corporation, as such terms are defined in Section 50568, or to any other private developer if the local agency determines a private entity is best suited to develop housing for persons and families of low or moderate income at affordable housing cost In authorizing such private development, the local agency shall impose reasonable terms and conditions as will further the purposes

of this subdivision, which shall include, but not be limited to, continued use of the property for housing for persons and families of low or moderate income at affordable housing cost for not less than 40 nor more than 55 years. A lessee or purchaser of land pursuant to this subdivision shall agree to limitations on profit in the operation of such property which will benefit the public and assure that the housing provided thereon is within the means of persons and families of low or moderate income at affordable housing cost Such agreement shall be binding upon successors in interest of the original lessee or purchaser and shall inure to the benefit of, and be enforceable by, the state.

(4) The local agency shall assure that the land will be used for the purpose of providing low- and moderate-income housing and shall not permit the use of the dwelling accommodations of the project for any other purpose for not less than 40 nor more than 55 years, except as provided in this section.

In the event a local agency does not comply with the land use requirements prescribed in this section, as determined by the Department of General Services, the Department of General Services may require that the local agency pay the state the difference between the actual price paid by the local agency for the property and the fair market value of such property, at the time of the department's determination of noncompliance, plus 6 percent interest on such amount for the period of time the land has been held by the local agency.

If the local agency, with the approval of the Department of General Services, and in consultation with the Department of Housing and Community Development, determines that there is no longer a need for low- and moderate-income housing within the jurisdiction of the local agency and another valid public purpose could be achieved by utilizing the land in an alternative manner, the local agency shall not be required to make any payment to the state for the difference between purchase price and fair market value or interest charges for the period of time the land has been held by the local agency.

(5) Failure to comply with the provisions of this section shall not invalidate the transfer, sale, or conveyance of the real property to a bona fide purchaser or encumbrancer for value.

(6) The project shall be commenced within 24 months of the original transfer to the local agency. However, the Department of General Services, in consultation with the Department of Housing and Community Development, may for justifiable cause extend the time for commencement of development for an additional 36 months. The aggregate time for commencing development shall not exceed 60 months. The deed or other instrument of conveyance shall specify that, if development has not commenced within such time, the land shall revert to the Department of General Services for disposal pursuant to this section or as otherwise authorized by law

(7) As used in this subdivision, "local agency" means and includes

any county, city, city and county, redevelopment agency organized pursuant to Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code, or housing authority organized pursuant to Part 2 (commencing with Section 34200) of Division 24 of the Health and Safety Code, public district or other political subdivision of the state and any instrumentality thereof, which is authorized to engage in or assist in the development or operation of housing for persons and families of low or moderate income and also includes two or more such agencies acting jointly pursuant to Part 1 (commencing with Section 6500) of Division 7 of this code.

(8) Not more than 40 percent of the housing developed on land purchased at below market value pursuant to this subdivision may be housing which is not regulated as to price, rent, or eligibility of occupants, but only if the purchaser of the land demonstrates that the proceeds from the sale or rental of such housing, in an amount equal to the difference between the fair market value of the land at the time of purchase from the state and the actual price paid for the land by such purchaser is used to reduce prices or rents on other housing units developed upon the land purchased or leased and which are made available exclusively to persons and families of low or moderate income.

(e) Where such land is suitable to be used for the purpose of providing housing for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, and provided no local agency has acquired or is in the process of acquiring the land pursuant to subdivision (d), the Director of General Services, with the approval of the State Public Works Board, may lease or sell the land to a housing sponsor. Such land may be sold or leased at a reasonable price or rent which may be less than fair market value or market rent The Department of Housing and Community Development shall recommend to the Director of General Services a price or rent which will enable the provision of housing for persons and families of low or moderate income at affordable housing cost. All transfers of land pursuant to this subdivision shall be subject to all of the following conditions:

(1) The housing sponsor has submitted a plan for the development of such housing pursuant to criteria established by the Department of Housing and Community Development. Such criteria shall include, but need not be limited to, standards with respect to the cost of the housing development and the proportion of the housing development to be occupied by persons and families of low or moderate income. Insofar as is practical, such plan shall provide for a mix of housing for all income groups.

(2) The housing development shall normally be developed or be under development within 24 months from the time of transfer or lease of the land to the housing sponsor. However, the Department of General Services, in consultation with the Department of Housing and Community Development, may, upon finding justifiable cause, extend the time for commencement of development for an

additional period of 36 months The aggregate of all extensions for commencement of development shall not exceed 60 months. The deed or other instrument of conveyance shall specify that if development has not commenced within such time, the land shall revert to the Department of General Services for disposal pursuant to this section or as otherwise authorized by law

(3) Transfer of title to the land or lease of the land to a housing sponsor shall be conditioned upon continued use of the property as housing for persons and families of low or moderate income for not less than 40 nor more than 55 years. In accordance with regulations which shall be adopted by the Department of Housing and Community Development pursuant to the Administrative Procedure Act, the Director of General Services shall require that any housing sponsor purchasing or leasing land pursuant to this subdivision enter into an agreement which (A) provides for limitations on profit in the operation of such property which benefit the public and which assure that the housing is available at affordable housing cost to persons and families of low or moderate income, and (B) does not permit the use of the property for purposes other than the provision of housing for persons and families of low or moderate income except as provided in this subdivision. Upon recordation of the agreement in the office of county recorder in the county in which the real property subject to such agreement is located, the agreement shall be binding for a period of not less than 40 nor more than 55 years upon successors in interest to the original housing sponsor and shall inure to the benefit of, and be enforceable by, the state

For the purposes of this subdivision, "housing sponsor" means a nonprofit corporation incorporated under or subject to Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code; a cooperative housing corporation which is a stock cooperative, as defined by Section 11003.2 of the Business and Professions Code; a limited dividend housing corporation as defined in Section 50568 of the Health and Safety Code; or a private housing developer who agrees to the conditions set forth in this subdivision

(4) Not more than 40 percent of the housing developed on land purchased at below market value pursuant to this subdivision may be housing which is not regulated as to price, rent, or eligibility of occupants, but only if the purchaser or lessee of the land demonstrates that the proceeds from the sale or rental of such housing, in an amount equal to the difference between the fair market value of the land at the time of purchase from the state and the actual price paid for the land by such purchaser is used to reduce prices or rents on other housing units developed upon the land purchased or leased and which are made available exclusively to persons and families of low or moderate income.

(f) The Department of Housing and Community Development, in consultation with the Department of General Services and the Office of Planning and Research, shall make a report to the

Legislature on or before January 1, 1981, with respect to effectiveness of the program and shall recommend any necessary legislative changes to the provisions of subdivision (d).

(g) Where such land is to be used for public purposes other than specifically set forth in this section, is to be operated by the local agency at no expense to the state, and the use and enjoyment of the public purpose contemplated will be of broad public benefit, and not a benefit basically of local interest enjoyed and used primarily by the residents of the area of tax jurisdiction of the local agency, the Director of General Services, with the approval of the State Public Works Board, may transfer the land to local governmental agencies at a sales price not less than 50 percent of fair market value. Any such transfer shall provide that if the land is not used for the contemplated purpose during the period of 25 years following the sale, the land shall revert to the state. The Director of General Services may provide additional terms and conditions as he determines to be in the best interest of the state.

(h) If there is more than one appropriate use and more than one offer for the use of a parcel of surplus land, the Department of General Services, in consultation with the Department of Housing and Community Development, the Department of Parks and Recreation, and the Office of Planning and Research, shall determine the most appropriate use for the parcel and the Department of General Services shall offer the land accordingly.

(i) Land that has been declared surplus by the Legislature, pursuant to Section 11011, is not needed by any state agency, is suitable for development for housing purposes, and is not in the process of being acquired pursuant to other provisions of this section, may upon the request of the Department of Housing and Community Development be retained by the Director of General Services for a period not exceeding five years, during which the Director of General Services shall continue to offer such lands for housing pursuant to subdivision (d)

(j) Transfer of state surplus lands under subdivision (d) shall be at a cost which will enable provision of economically feasible housing at affordable housing cost for persons and families of low or moderate income

(k) The provisions of this section shall not be applicable to the disposal by a state agency of surplus residential property, as defined in subdivision (d) of Section 54236 of the Government Code, as added by Senate Bill No. 86 of the 1979–80 Regular Session, if Senate Bill No. 86 is chaptered and becomes effective January 1, 1980, and adds Section 54237 to the Government Code.

SEC 3. Section 25539 1 of the Government Code is amended to read.

25539.1. The Legislature hereby finds that many persons and families of low or moderate income, as defined by Section 50093 of the Health and Safety Code, cannot afford to purchase housing in the conventional housing market. The Legislature also recognizes that

counties occasionally acquire residential property requiring substantial rehabilitation prior to being deemed habitable. Since maintenance of existing housing stock and the extension of opportunities for homeownership are desirable objectives, the Legislature declares that the public interest would be well served if counties were empowered to sell such residential property at less than market value to such persons and families of low or moderate income, on condition that the purchaser rehabilitate the home and reside therein for a specified length of time

SEC. 4. Section 25539.2 of the Government Code is amended to read·

25539.2. When the legislative body of a county finds the public interest and convenience require the sale for less than the market price of residential property acquired by the county, it may pass an ordinance providing for such sale. The ordinance shall set forth the procedure to be followed in completing such sales, including the qualifications required of a purchaser of such property, and shall contain provisions requiring that the purchaser of the property live in the property for a specified length of time and must rehabilitate such property to the extent specified in the ordinance; provided, however, that title to the property shall not be transferred until all the requirements set forth in the ordinance have been satisfied. Upon the transfer of title by the county pursuant to any ordinance adopted under the provisions of this section, compliance with the requirements of the ordinance shall be conclusively presumed in favor of a bona fide purchaser or encumbrancer for value. Persons eligible to purchase such residential property shall be persons and families of low or moderate income, as defined by Section 50093 of the Health and Safety Code. To the greatest extent possible, counties shall utilize such ordinances to assist very low income households, as defined by Section 50105 of the Health and Safety Code, and lower income households, as defined by Section 50079.5 of the Health and Safety Code.

SEC 5. Section 37362 of the Government Code is amended to read.

37362. The Legislature hereby finds that many persons and families of low or moderate income, as defined by Section 50093 of the Health and Safety Code, cannot afford to purchase housing in the conventional housing market The Legislature also recognizes that cities occasionally acquire residential property requiring substantial rehabilitation prior to being deemed habitable. Since maintenance of existing housing stock and the extension of opportunities for homeownership are desirable objectives, the Legislature declares that the public interest would be well served if cities were empowered to sell such residential property at less than market value to such persons and families of low or moderate income, on condition that the purchaser rehabilitate the home and reside therein for a specified length of time. The provisions of this section shall apply to a chartered city

SEC. 6. Section 37363 of the Government Code is amended to read:

37363. When the legislative body of a city finds the public interest and convenience require the sale for less than the market price of residential property acquired by the city, it may pass an ordinance providing for such sale. The ordinance shall set forth the procedure to be followed in completing such sales, including the qualifications required of a purchaser of such property, and shall contain provisions requiring that the purchaser of the property live in the property for a specified length of time and must rehabilitate such property to the extent specified in the ordinance, provided, however, that title to the property shall not be transferred until all the requirements set forth in the ordinance have been satisfied. Upon transfer of title by the city pursuant to any ordinance adopted under the provisions of this section, compliance with the requirements of the ordinance shall be conclusively presumed in favor of a bona fide purchaser or encumbrancer for value. Persons eligible to purchase such residential property shall be persons and families of low or moderate income, as defined by Section 50093 of the Health and Safety Code. To the greatest extent possible, cities shall utilize such ordinances to assist very low income households, as defined by Section 50105 of the Health and Safety Code, and lower income households, as defined by Section 50079 5 of the Health and Safety Code. The provisions of this section shall apply to a chartered city.

SEC. 7 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 or moderate income" means persons and families of low or moderate income, as defined by Section 50093 of the Health and Safety Code.

(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 (commencing with Section 33000) of the Health and Safety Code.

(c) "Housing corporation" means a corporation organized pursuant to the Community Land Chest Law (Chapter 2 (commencing with Section 35100) of Part 3 of Division 24 of the Health and Safety Code)

(d) "Nonprofit corporation" means a nonprofit corporation formed under or subject to the provisions of 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 and families of low or moderate income

SEC. 8. Section 50570 of the Government Code is amended to read.

50570 Subject to the provisions of Sections 54222 and 54223, a

local agency, or any department, agency or authority thereof may lease, sell or grant or otherwise transfer any real property, including air rights owned, held or controlled by it and found to be in excess of foreseeable needs under this article, to any housing corporation, limited dividend corporation or nonprofit corporation, upon such terms and conditions as any other provisions of law notwithstanding the local agency may deem to be best suited to the development of the parcel for housing available to persons and families of low or moderate income at affordable housing cost, as defined by Section 50052 5 of the Health and Safety Code. The deed or other instrument of conveyance shall provide that whenever the ownership of the land or the mortgagor corporation is no longer composed of a majority of the nonprofit or limited dividend sponsors, title to the land shall revert to the local agency.

SEC. 9 Section 50573 of the Government Code is amended to read:

50573 Any person or family of low or moderate income, housing corporation, limited dividend housing corporation, or nonprofit corporation may bring an action to enforce the provisions of this article relating to the inventory pursuant to Section 50569.

SEC. 10. Section 33334.2 of the Health and Safety Code is amended to read.

33334.2. Not less than 20 percent of all taxes which are allocated to the agency pursuant to Section 33670 shall be used by the agency for the purposes of increasing and improving the community's supply of low- and moderate-income housing available at affordable housing cost, as defined by Section 50052.5, to persons and families of low or moderate income, as defined in Section 50093, and very low income households, as defined in Section 50105, unless one of the following findings is made:

(a) That no need exists in the community, the provision of which would benefit the project area to improve or increase the supply of low- and moderate-income housing; or

(b) That some stated percentage less than 20 percent of the taxes which are allocated to the agency pursuant to Section 33670 is sufficient to meet such housing need; or

(c) That a substantial effort to meet low- and moderate-income housing needs in the community is being made, and that this effort, including the obligation of funds currently available for the benefit of the community from state, local, and federal sources for low- and moderate-income housing alone or in combination with the taxes allocated under this section, is equivalent in impact to the funds otherwise required to be set aside pursuant to this section. The legislative body shall consider the need that can be reasonably foreseen because of displacement of persons and families of low or moderate income or very low income households from within or adjacent to the project area, because of increased employment opportunities, or because of any other direct or indirect result of implementation of the redevelopment plan.

In any litigation to challenge or attack a finding made under subdivision (a), (b), or (c), the burden shall be upon the agency to establish that the finding is supported by substantial evidence in light of the entire record before the agency.

Nothing in this section shall be construed as relieving any other public entity or entity with the power of eminent domain of any legal obligations for replacement or relocation housing arising out of its activities.

In carrying out the purpose of this section, the agency may exercise any or all of its powers, including the following:

(a) Acquire land or building sites.

(b) Improve land or building sites with onsite or offsite improvements

(c) Donate land to private or public persons or entities.

(d) Construct buildings or structures.

(e) Acquire buildings or structures.

(f) Rehabilitate buildings or structures.

(g) Provide subsidies to or for the benefit of very low income households, as defined by Section 50105, lower income households, as defined by Section 50079.5, or persons and families of low or moderate income, as defined by Section 50093.

(h) Develop plans, pay principal and interest on bonds, loans, advances or other indebtedness, or pay financing or carrying charges.

The agency may use these funds to meet, in whole or in part, the replacement housing provisions in Section 33413. However, nothing in this section shall be construed as limiting in any way the requirements of that section.

The agency may use these funds inside or outside the project area. The agency may only use these funds outside the project area upon a resolution of the agency and the legislative body that such use will be of benefit to the project. Such determination by the agency and the legislative body shall be final and conclusive as to the issue of benefit to the project area The Legislature finds and declares that the provision of replacement housing pursuant to Section 33413 is always of benefit to a project Unless the legislative body finds before the redevelopment plan is adopted, that the provision of low- and moderate-income housing outside the project area will be of benefit to the project, the project area shall include property suitable for low- and moderate-income housing.

The Legislature finds and declares that expenditures or obligations incurred by the agency pursuant to this section shall constitute an indebtedness of the project

The requirements of this section shall only apply to taxes allocated to a redevelopment agency for which a final redevelopment plan is adopted on or after the effective date of this section, or for any area which is added to a project by an amendment to a redevelopment plan, which amendment is adopted on or after the effective date of this section An agency may, by resolution, elect to make all or part

of the requirements of this section applicable to any redevelopment project for which a redevelopment plan was adopted prior to January 1, 1977, subject to any indebtedness incurred prior to such election.

SEC. 10.5. Section 33334.2 of the Health and Safety Code is amended to read:

33334.2. (a) Not less than 20 percent of all taxes which are allocated to the agency pursuant to Section 33670 shall be used by the agency for the purposes of increasing and improving the community's supply of low- and moderate-income housing available at affordable housing cost, as defined by Section 50052.5, to persons and families of low or moderate income, as defined in Section 50093, and very low income households, as defined in Section 50105, unless one of the following findings is made:

(1) That no need exists in the community, the provision of which would benefit the project area to improve or increase the supply of low- and moderate-income housing; or

(2) That some stated percentage less than 20 percent of the taxes which are allocated to the agency pursuant to Section 33670 is sufficient to meet such housing need; or

(3) That a substantial effort to meet low- and moderate-income housing needs in the community is being made, and that this effort, including the obligation of funds currently available for the benefit of the community from state, local, and federal sources for low- and moderate-income housing alone or in combination with the taxes allocated under this section, is equivalent in impact to the funds otherwise required to be set aside pursuant to this section. The legislative body shall consider the need that can be reasonably foreseen because of displacement of persons and families of low or moderate income or very low income households from within or adjacent to the project area, because of increased employment opportunities, or because of any other direct or indirect result of implementation of the redevelopment plan.

(b) Within 10 days following the making of a finding under subdivision (a), the agency shall send the Department of Housing and Community Development a copy of such finding, including the factual information supporting such finding.

(c) In any litigation to challenge or attack a finding made under subdivision (a), (b), or (c), the burden shall be upon the agency to establish that the finding is supported by substantial evidence in light of the entire record before the agency.

(d) Nothing in this section shall be construed as relieving any other public entity or entity with the power of eminent domain of any legal obligations for replacement or relocation housing arising out of its activities.

(e) In carrying out the purpose of this section, the agency may exercise any or all of its powers, including the following:

(1) Acquire land or building sites.

(2) Improve land or building sites with onsite or offsite improvements.

(3) Donate land to private or public persons or entities.
(4) Construct buildings or structures
(5) Acquire buildings or structures.
(6) Rehabilitate buildings or structures.
(7) Provide subsidies to, or for the benefit of, very low income households, as defined by Section 50105, lower income households, as defined by Section 50079.5, or persons and families of low or moderate income, as defined by Section 50093.
(8) Develop plans, pay principal and interest on bonds, loans, advances or other indebtedness, or pay financing or carrying charges.
(f) The agency may use these funds to meet, in whole or in part, the replacement housing provisions in Section 33413. However, nothing in this section shall be construed as limiting in any way the requirements of that section.
(g) The agency may use these funds inside or outside the project area. The agency may only use these funds outside the project area upon a resolution of the agency and the legislative body that such use will be of benefit to the project Such determination by the agency and the legislative body shall be final and conclusive as to the issue of benefit to the project area. The Legislature finds and declares that the provision of replacement housing pursuant to Section 33413 is always of benefit to a project. Unless the legislative body finds before the redevelopment plan is adopted, that the provision of low- and moderate-income housing outside the project area will be of benefit to the project, the project area shall include property suitable for low- and moderate-income housing.
(h) The Legislature finds and declares that expenditures or obligations incurred by the agency pursuant to this section shall constitute an indebtedness of the project
(i) The requirements of this section shall only apply to taxes allocated to a redevelopment agency for which a final redevelopment plan is adopted on or after the effective date of this section, or for any area which is added to a project by an amendment to a redevelopment plan, which amendment is adopted on or after the effective date of this section. An agency may, by resolution, elect to make all or part of the requirements of this section applicable to any redevelopment project for which a redevelopment plan was adopted prior to January 1, 1977, subject to any indebtedness incurred prior to such election
SEC. 11 Section 33334 3 of the Health and Safety Code is amended to read·
33334 3. The funds which are required by Section 33334.2 to be used for the purposes of increasing the community's supply of low- and moderate-income housing shall be held in a separate Low and Moderate Income Housing Fund until used.
Any interest earned by the Low and Moderate Income Housing Fund shall accrue to the fund and may only be used in the manner prescribed in Section 33334 2.

SEC. 12. Section 33334.5 of the Health and Safety Code is amended to read:

33334 5. Every redevelopment plan adopted or amended to expand the project area after January 1, 1977, shall contain a provision that whenever dwelling units housing persons and families of low or moderate income are destroyed or removed from the low- and moderate-income housing market as part of a redevelopment project, the agency shall, within four years of such destruction or removal, rehabilitate, develop, or construct, or cause to be rehabilitated, developed, or constructed, for rental or sale to persons and families of low or moderate income an equal number of replacement dwelling units at affordable housing costs, as defined by Section 50052 5, within the project area or within the territorial jurisdiction of the agency, in accordance with all of the provisions of Sections 33413 and 33413.5.

SEC. 13. Section 33411.2 of the Health and Safety Code is amended to read:

33411.2. As used in this article:

(a) "Affordable housing cost" has the same meaning as specified in Section 50052.5.

(b) "Persons and families of low or moderate income" has the same meaning as specified in Section 50093.

(c) "Replacement dwelling unit" means a dwelling unit developed or constructed pursuant to Section 33413 in replacement of a dwelling unit destroyed or removed from the low- and moderate-income housing market by an agency and which is decent, safe, and sanitary and contains at least the same number of bedrooms and other living areas as the dwelling unit destroyed or removed by the agency.

(d) "Very low income households" has the same meaning as specified in Section 50105.

SEC. 14. Section 33413 of the Health and Safety Code is amended to read:

33413. (a) Whenever dwelling units housing persons and families of low or moderate income are destroyed or removed from the low- and moderate-income housing market as part of a redevelopment project, the agency shall, within four years of such destruction or removal, rehabilitate, develop or construct, or cause to be rehabilitated, developed or constructed, for rental or sale to persons and families of low or moderate income an equal number of replacement dwelling units at affordable housing cost within the project area or within the territorial jurisdiction of the agency.

(b) (1) At least 30 percent of all new or rehabilitated dwelling units developed within the project area by an agency shall be available at affordable housing cost to persons and families of low or moderate income. Of such 30 percent, not less than 50 percent thereof shall be available at affordable housing cost to, and occupied by, very low income households.

(2) At least 15 percent of all new or rehabilitated dwelling units

developed within the project area by public or private entities or persons other than the agency shall be available at affordable housing cost to persons and families of low or moderate income. Of such 15 percent, not less than 40 percent thereof shall be available at affordable housing cost to very low income households.

(3) The requirements of this subdivision shall apply in the aggregate to housing in the project area and not to each individual case of rehabilitation, development, or construction of dwelling units.

(c) The agency shall require that the aggregate number of dwelling units rehabilitated, developed or constructed pursuant to subdivision (a) or (b) remain available at affordable housing cost to persons and families of low or moderate income and very low income households, respectively, for not less than the period of the land use controls established in the redevelopment plan.

(d) This section shall apply only to redevelopment projects for which a final redevelopment plan is adopted pursuant to Article 5 (commencing with Section 33360) of this chapter on or after January 1, 1976, and to areas which are added to a project area by amendment to a final redevelopment plan adopted on or after January 1, 1976. However, any agency may, by resolution, elect to make the requirements of this section applicable to any redevelopment project of the agency for which the final redevelopment plan was adopted prior to January 1, 1976.

(e) Except as otherwise authorized by law, nothing in this section shall empower an agency to operate a rental housing development beyond such period as is reasonably necessary to sell or lease the housing development.

SEC 15 Section 33464 of the Health and Safety Code is amended to read:

33464. (a) Subject to the terms of any loans, advances, or other indebtedness secured by a pledge of tax revenues from a constituent project area pursuant to Section 33671 and incurred by the redevelopment agency prior to the merger of project areas pursuant to Section 33460, not less than 50 percent of all taxes allocated to the agency pursuant to Section 33670 for the project areas merged pursuant to this article shall be deposited in a special fund of the agency and be used solely to meet the obligations of the agency under subdivision (b), until such time as sufficient moneys have been deposited in the fund to satisfy such obligations

(b) The agency shall rehabilitate, develop, construct, or cause to be rehabilitated, developed, or constructed for rental or sale to persons and families of low or moderate income, as defined in Section 50093, residential dwelling units equal in number to those destroyed or removed as part of the redevelopment of all areas within the merged redevelopment project area. The obligation of the agency to replace residential dwelling units removed or destroyed shall apply to all residential dwelling units removed or destroyed by the agency within the merged project areas, whether

such removal or destruction occurs prior or subsequent to the merger of project areas. Not less than one-half of all moneys required by this section for such purposes shall be used to acquire land, donate land, or improve sites for housing for, or to construct or rehabilitate structures as housing for, or to provide housing subsidies for, very low income households, as defined in Section 50105. The obligation of the agency under this subdivision shall be in addition to any housing units which the agency may choose to construct or substantially rehabilitate with federal or state financial assistance. However, the agency may use federal or state housing subsidy programs to make the units provided pursuant to this section available to very low income households, as defined by Section 50105.

SEC. 17. 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 and families of low or moderate income, as defined by Section 50093, 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 housing 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 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. 17.5 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 and families of low or moderate income, as defined by Section 50093, who are tenants displaced because of the temporary or permanent displacement for rehabilitation work or residential infill construction 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 housing 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 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 mandatory 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. 18. Section 50052.5 of the Health and Safety Code is amended to read:

50052.5 "Affordable housing cost" means, with respect to lower income households, housing cost not exceeding 25 percent of gross income The department shall, by regulation, adopt criteria defining, and providing for determination of, gross income and housing cost for purposes of determining affordable housing cost for lower income households under this section. Such regulations may provide alternative criteria, where necessary to be consistent with pertinent federal statutes and regulations governing federally assisted housing. The agency may, by regulation, adopt alternative criteria, and pursuant to subdivision (f) of Section 50462, alternative percentages of income may be adopted for agency-assisted housing developments.

With respect to lower income households who are tenants of rental housing developments and members or shareholders of cooperative housing developments, "affordable housing cost" has the same meaning as affordable rent, as defined in Section 50053

Regulations of the department shall also include a method for determining the maximum construction cost, mortgage loan, or sales price that will make housing available to an income group at affordable housing cost.

SEC. 19. Section 50053 of the Health and Safety Code is amended to read:

50053. "Affordable rent" means, with respect to lower income households, rent not in excess of the percentage of the gross income of the occupant person or family established by regulation of the department, and which shall not exceed 25 percent of gross income nor be less than 15 percent of gross income. Such regulations shall permit alternative percentages of income for agency-assisted rental and cooperative housing developments pursuant to regulations adopted under subdivision (f) of Section 50462. The department shall, by regulation, adopt criteria defining, and providing for determination of, gross income and rent for purposes of this section. Such regulations may provide alternative criteria, where necessary to be consistent with pertinent federal statutes and regulations governing federally assisted rental and cooperative housing The agency may, by regulation, adopt alternative criteria, and pursuant to subdivision (f) of Section 50462, alternative percentages of income may be adopted for agency-assisted housing developments.

SEC. 20 Section 50104 5 of the Health and Safety Code is amended and renumbered to read

50104.7. "Urban area" means any portion of a county or the state which is not a rural area.

SEC 21. Section 51226.5 of the Health and Safety Code, as added by Senate Bill No. 1026 of the 1979–80 Regular Session of the Legislature, is amended to read:

51226 5 (a) Notwithstanding the provisions of Section 51226, in each housing development financed by the agency and insured under a federal multifamily insurance program, the agency shall enter into a loan commitment only in conformance with the following requirements:

(1) With respect to housing developments financed prior to September 1, 1981, not less than 20 percent of the units shall be made available on a priority basis for very low income households In housing developments financed on or after such date, not less than 25 percent of the units shall be made available on a priority basis for very low income households.

(2) With respect to housing developments financed prior to July 1, 1980, an additional 10 percent or more of the units shall be made available on a priority basis for other lower income households if a subsidy for the housing development is provided through the agency On and after such date, the requirement of this subdivision shall be applicable regardless of whether the subsidy is provided through the agency or directly by the federal government

(b) Not less than 75 percent of the units in a housing development financed by the agency and insured under a federal multifamily

insurance housing program shall be made available on a priority basis for persons and families of low or moderate income

(c) The agency may provide financing for housing developments for the elderly that are insured under a federal insurance program when the requirements of subdivisions (a) and (b) are met and (1) a minimum of 35 percent of the units in the development are made available for lower income households, or (2) a majority of the units in the housing development which are to be made available for low income households are reserved for non-elderly households

SEC 22 Section 30213 of the Public Resources Code is amended to read.

30213. Lower cost visitor and recreational facilities and housing opportunities for persons and families of low or moderate income, as defined by Section 50093 of the Health and Safety Code, shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred. New housing in the coastal zone shall be developed in conformity with the standards, policies, and goals of local housing elements adopted in accordance with the requirements of subdivision (c) of Section 65302 of the Government Code.

SEC. 23. Section 3772.5 of the Revenue and Taxation Code is amended to read:

3772 5 As used in this chapter, "low-income persons" means persons and families of low or moderate income, as defined by Section 50093 of the Health and Safety Code. "Nonprofit organization" means a nonprofit organization incorporated pursuant to Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code for the purpose of acquisition and rehabilitation of single-family dwellings for sale to low-income persons. "Rehabilitation" means repairs and improvements to a substandard building, as defined in subdivision (f) of Section 17920 of the Health and Safety Code, necessary to make it a building which is not a substandard building

SEC 24 Section 118 of the Streets and Highways Code is amended to read:

118. Whenever the department determines that any real property or interest therein, heretofore or hereafter acquired by the state for highway purposes, is no longer necessary for such purposes, the department may sell, contract to sell, sell by trust deed, or exchange such real property or interest therein in the manner and upon terms, standards, and conditions established by the commission. The payment period in any such contract of sale or sale by trust deed shall not extend longer than 10 years from the time such contract of sale or trust deed is executed, and any such transaction involving a contract of sale or sale by trust deed to private parties shall require a downpayment of at least 30 percent of the purchase price, except that, in the case of unimproved real property sold or exchanged for the purpose of housing for persons and families of low or moderate income, as defined in Section 50093 of the Health

and Safety Code, the payment period may not exceed 40 years and the downpayment shall be at least 5 percent of the purchase price. All contracts of sale or sales by trust deed, for the purpose of housing for persons and families of low or moderate income shall bear interest The rate of interest for any such contract or sale 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 payment is made. Such contract of sale and sales by trust deeds shall not be utilized if the proposed development or sale qualifies for financing from other sources and if such financing makes feasible the provision of low- and moderate-income housing. Any such conveyance shall be approved by the commission and shall be executed on behalf of the state by the director and the purchase price shall be paid into the State Treasury to the credit of any fund, available to the department for highway purposes, which the commission designates.

Any such real property or interest therein may in like manner be exchanged, either as whole or part consideration, for any other real property or interest therein needed for state highway purposes

SEC. 25. Section 24 of this act shall become operative only if Senate Bill 86 of the 1979–80 Regular Session is chaptered and becomes effective on or before January 1, 1980, and this bill is chaptered after Senate Bill 86

SEC. 26. It is the intent of the Legislature, if this bill and Assembly Bill 1020 are both chaptered and become effective January 1, 1980, both bills amend Section 8169 of the Government Code, and this bill is chaptered after Assembly Bill 1020, that the amendments to Section 8169 proposed by both bills be given effect and incorporated in Section 8169 in the form set forth in Section 1 9 of this act Therefore, Section 1.9 of this act shall become operative only if this bill and Assembly Bill 1020 are both chaptered and become effective January 1, 1980, both amend Section 8169, and this bill is chaptered after Assembly Bill 1020, in which case Section 1 7 of this act shall not become operative.

SEC. 27 It is the intent of the Legislature that if this bill and either Assembly Bill 825 or Assembly Bill 1151, or both, are chaptered and become effective January 1, 1980, this bill and one or both of the other bills which are chaptered amend Section 11011 1 of the Government Code, and this bill is chaptered last, that amendments proposed by the bills be given effect and incorporated in Section 11011 1 in the form set forth in Section 2 5 of this act. Therefore, Section 2 5 of this act shall become operative only if this bill and Assembly Bill 825 or Assembly Bill 1151, or both, are chaptered and become effective January 1, 1980, this bill and one or both of the other bills which are chaptered amend Section 11011 1, and this bill is chaptered last, in which case Section 2 of this act shall not become operative

SEC 28 It is the intent of the Legislature, if this bill and Assembly Bill 1572 are both chaptered and become effective January

1, 1980, both bills amend Section 33334.2 of the Health and Safety Code, and this bill is chaptered after Assembly Bill 1572, that the amendments to Section 33334.2 proposed by both bills be given effect and incorporated in Section 33334.2 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 1572 are both chaptered and become effective January 1, 1980, both amend Section 33334.2, and this bill is chaptered after Assembly Bill 1572, in which case Section 10 of this act shall not become operative.

SEC. 29. It is the intent of the Legislature, if this bill and Senate Bill 170 are both chaptered and become effective January 1, 1980, both bills amend Section 37922.2 of the Health and Safety Code, and this bill is chaptered after Senate Bill 170, that the amendments to Section 37922.2 proposed by both bills be given effect and incorporated in Section 37922.2 in the form set forth in Section 17 5 of this act. Therefore, Section 17.5 of this act shall become operative only if this bill and Senate Bill 170 are both chaptered and become effective January 1, 1980, both amend Section 37922.2, and this bill is chaptered after Senate Bill 170, in which case Section 17 of this act shall not become operative.

SEC. 30. Section 21 of this act shall become operative only if Senate Bill 1026 of the 1979–80 Regular Session is chaptered and becomes effective January 1, 1980, and this bill is chaptered after Senate Bill 1026.

CHAPTER 1192

An act to amend Sections 66424, 66426, 66427, 66427.1, 66427.2, 66475.2, and 66477 of the Government Code, relating to subdivisions.

[Approved by Governor September 28, 1979 Filed with Secretary of State September 30, 1979]

The people of the State of California do enact as follows

SECTION 1. Section 66424 of the Government Code is amended to read

66424. "Subdivision" means the division, by any subdivider, of any unit or units of improved or unimproved land, or any portion thereof, shown on the latest equalized county assessment roll as a unit or as contiguous units, for the purpose of sale, lease or financing, whether immediate or future except for leases of agricultural land for agricultural purposes Property shall be considered as contiguous units, even if it is separated by roads, streets, utility easement or railroad rights-of-way. "Subdivision", includes, a condominium project, as defined in Section 1350 of the Civil Code, a community apartment project, as defined in Section 11004 of the Business and Professions Code, or the conversion of five or more existing dwelling

units to a stock cooperative, as defined in Section 11003.2 of the Business and Professions Code. Any conveyance of land to a governmental agency, public entity or public utility shall not be considered a division of land for purposes of computing the number of parcels. As used in this section, "agricultural purposes" means the cultivation of food or fiber or the grazing or pasturing of livestock.

SEC. 2. Section 66426 of the Government Code is amended to read:

66426. A tentative and final map shall be required for all subdivisions creating five or more parcels, five or more condominiums as defined in Section 783 of the Civil Code, a community apartment project containing five or more parcels, or for the conversion of a dwelling to a stock cooperative containing five or more dwelling units, except where:

(a) The land before division contains less than five acres, each parcel created by the division abuts upon a maintained public street or highway and no dedications or improvements are required by the legislative body, or

(b) Each parcel created by the division has a gross area of 20 acres or more and has an approved access to a maintained public street or highway, or

(c) The land consists of a parcel or parcels of land having approved access to a public street or highway which comprises part of a tract of land zoned for industrial or commercial development, and which has the approval of the governing body as to street alignments and widths, or

(d) Each parcel created by the division has a gross area of not less than 40 acres or is not less than a quarter of a quarter section.

A parcel map shall be required for those subdivisions described in subdivisions (a), (b), (c), and (d).

SEC 3. Section 66427 of the Government Code is amended to read:

66427. A map of a condominium project, a community apartment project, or of the conversion of five or more existing dwelling units to a stock cooperative project need not show the buildings or the manner in which the buildings or the airspace above the property shown on the map are to be divided, nor shall the governing body have the right to refuse approval of a parcel, tentative or final map of such a project on account of design or location of buildings on the property shown on the map not violative of local ordinances or on account of the manner in which airspace is to be divided in conveying the condominium Fees and lot design requirements shall be computed and imposed with respect to such maps on the basis of parcels or lots of the surface of the land shown thereon as included in the project Nothing herein shall be deemed to limit the power of the legislative body to regulate the design or location of buildings in such a project by or pursuant to local ordinances

SEC 4 Section 66427 1 of the Government Code is amended to read

66427 1 The legislative body shall not approve a final map for a subdivision to be created from the conversion of residential real property into a condominium project, a community apartment project, or a stock cooperative project unless it finds both that:

(a) Each of the tenants of the proposed condominium, community apartment project, or stock cooperative project has been or will be given 120 days' written notice of intention to convert prior to termination of tenancy due to the conversion or proposed conversion The provisions of this subdivision shall not alter or abridge the rights or obligations of the parties in performance of their covenants, including, but not limited to the provision of services, payment of rent or the obligations imposed by Sections 1941, 1941 1 and 1941.2 of the Civil Code.

(b) Each of the tenants of the proposed condominium, community apartment project, or stock cooperative project has been or will be given notice of an exclusive right to contract for the purchase of their respective units upon the same terms and conditions that such units will be initially offered to the general public or terms more favorable to the tenant. The right shall run for a period of not less than 60 days from the date of issuance of the subdivision public report pursuant to Section 11018.2 of the Business and Professions Code, unless the tenant gives prior written notice of his intention not to exercise the right.

(c) This section shall not diminish, limit or expand, other than as provided herein, the authority of any city, county, or city and county to approve or disapprove condominium projects

SEC. 5 Section 66427.2 of the Government Code is amended to read.

66427 2. Unless applicable general or specific plans contain definite objectives and policies, specifically directed to the conversion of existing buildings into condominium projects or stock cooperatives, the provisions of Sections 66473.5, 66474, and 66474.61, and subdivision (c) of Section 66474.60 shall not apply to condominium projects or stock cooperatives, which consist of the subdivision of airspace in an existing structure, unless new units are to be constructed or added

A city, county, or city and county acting pursuant to this section shall approve or disapprove the conversion of an existing building to a stock cooperative within 120 days following receipt of a completed application for approval of such conversion

This section shall not diminish, limit or expand, other than as provided herein, the authority of any city, county, or city and county to approve or disapprove condominium projects

SEC 6 Section 66475 2 of the Government Code is amended to read·

66475.2. There may be imposed by local ordinance a requirement of dedication or irrevocable offer of dedication of land within the subdivision for local transit facilities such as bus turnouts, benches, shelters, landing pads and similar items which directly benefit the

residents of a subdivision if (a) the subdivision as shown on the tentative map has the potential for 200 dwelling units or more if developed to the maximum density shown on the adopted general plan or contains 100 acres or more, and (b) the governing body finds that transit services are or will within a reasonable time period be made available to such subdivision. Such irrevocable offers may be terminated as provided in subdivisions (c) and (d) of Section 66477.2.

The provisions of this section do not apply to condominium projects or stock cooperatives which consist of the subdivision of airspace in an existing apartment building which is more than five years old when no new dwelling units are added.

SEC. 7. Section 66477 of the Government Code is amended to read:

66477. The legislative body of a city or county may, by ordinance, require the dedication of land, the payment of fees in lieu thereof, or a combination of both, for park or recreational purposes as a condition to the approval of a final map or parcel map, provided that:

(a) The ordinance has been in effect for a period of 30 days prior to the filing of the tentative map of the subdivision or parcel map.

(b) The ordinance includes definite standards for determining the proportion of a subdivision, to be dedicated and the amount of any fee to be paid in lieu thereof

(c) The land, fees, or combination thereof are to be used only for the purpose of providing park or recreational facilities to serve the subdivision.

(d) The legislative body has adopted a general plan containing a recreational element, and the park and recreational facilities are in accordance with definite principles and standards contained therein.

(e) The amount and location of land to be dedicated or the fees to be paid shall bear a reasonable relationship to the use of the park and recreational facilities by the future inhabitants of the subdivision.

(f) The city or county shall develop a schedule specifying how and when it will use the land or fees or both to develop park or recreational facilities Any fees collected under the ordinance shall be committed within five years after the payment of such fees or the issuance of building permits on one-half of the lots created by the subdivision, whichever occurs later. If such fees are not committed, they shall be distributed and paid to the then record owners of the subdivision in the same proportion that the size of their lot bears to the total area of all lots within the subdivision

(g) Only the payment of fees may be required in subdivisions containing 50 parcels or less

(h) Subdivisions containing less than five parcels and not used for residential purposes shall be exempted from the requirements of this section, provided however, that a condition may be placed on the approval of such parcel map that if a building permit is requested for construction of a residential structure or structures on one or more of the parcels within four years the fee may be required to be paid

by the owner of each such parcel as a condition to the issuance of such permit.

Land or fees required under this section shall be conveyed or paid directly to the local public agency which provides park and recreational services on a communitywide level and to the area within which the proposed development will be located, if such agency elects to accept the land or fee. The local agency accepting such land or funds shall develop the land or use the funds in the manner provided herein.

In the event park and recreational services and facilities are provided by a public agency other than a city or a county, the amount and location of land to be dedicated or fees to be paid shall be jointly determined by the city or county having jurisdiction and such public agency

The provisions of this section do not apply to industrial subdivisions; nor do they apply to condominium projects or stock cooperatives which consist of the subdivision of airspace in an existing apartment building which is more than five years old when no new dwelling units are added, nor do they apply to parcel maps for a subdivision containing less than five parcels for a shopping center containing more than 300,000 square feet of gross leasable area and no residential development or uses.

Park and recreation purposes shall include land and facilities for the activity of "recreational community gardening," which activity consists of the cultivation by persons other than, or in addition to, the owner of such land, of plant material not for sale.

SEC. 8. (a) Any sales made pursuant to a subdivision public report hereafter issued by the Department of Real Estate for a stock cooperative conversion shall not be deemed invalid under the provisions of this act, if the application for that public report, including payment of an appropriate fee, was made prior to July 1, 1979.

(b) Subdivision (a) of this section shall not apply to stock cooperative conversions which occur in the jurisdiction of governmental agencies which by legislative action regulated such conversions under the provisions of Subdivision Map Act prior to January 1, 1980. Governmental agency regulation of such conversions under the provisions of the Subdivision Map Act, which was exercised pursuant to a legislative enactment prior to January 1, 1980, shall not be invalidated by this section; provided, that no such regulation enacted after July 1, 1979, shall affect a stock cooperative conversion if the application for that conversion's public report, including payment of an appropriate fee, was made prior to July 1, 1979

SEC. 9 Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, there shall be no appropriation made by this act pursuant to these sections because self-financing authority is provided in Section 66451.2 of the Government Code to cover 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

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CHAPTER 1193

An act to amend Sections 74705, 74708, 74963, 74965, 74969, 74970 and 74971 of, and to repeal Sections 74702, 74702.5, 74703, and 74704 of, the Government Code, relating to courts.

[Became law without Governor's signature September 30, 1979 Filed with Secretary of State September 30, 1979]

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

SECTION 1. Section 74702 of the Government Code is repealed.

SEC. 1.1. Section 74702.5 of the Government Code is repealed

SEC. 1.2. Section 74703 of the Government Code is repealed.

SEC 1.3 Section 74704 of the Government Code is repealed.

SEC. 1.4. Section 74705 of the Government Code is amended to read:

74705 Certain classes of employment in the municipal courts are deemed to be equivalent in job responsibility and salary level to certain classes in the service of the County of Sonoma, or in some instances, to such classes plus or minus a specified percentage rate. Whenever the salary of those classes in the service of the County of Sonoma is adjusted by the board of supervisors, the salary of the comparable classes in the municipal courts shall be adjusted to a like extent plus or minus the percentage rate specified in this section, if applicable Such adjustment shall become effective on the same date as the effective date of the action by the board of supervisors, as it applies to the classes in the service of the county, but such adjustment shall remain effective only until January 1 of the second year following the calendar year in which such adjustment is made.

Municipal court classification	*County classification*
Court administrative officer	Court administrator–jury commissioner
Clerk	Assistant county clerk, plus 2.5%
Municipal court reporter	Superior court reporter
Administrative assistant	Administrative assistant
Municipal court services supervisor	Court services supervisor plus 5.0%
Accountant I	Accountant I
Municipal court secretary	Superior court secretary

Municipal court clerk IV	Supervising clerk II
Deputy jury commissioner	Deputy jury commissioner
Municipal courtroom clerk	Superior court clerk
Municipal court clerk III	Supervising clerk I
Accountant clerk II	Account clerk II
Municipal court clerk II	Clerk typist III
Municipal court clerk I	Clerk typist II

SEC. 1.6. Section 74708 of the Government Code is amended to read:

74708. In the municipal court in the district which coincides with all the territory in the County of Sonoma, there shall be the following personnel:

(a) There shall be five judges who may together appoint:

(1) One court administrative officer.

(2) One traffic referee

(3) One clerk.

(4) One court reporter.

(5) Two municipal court secretaries.

(b) The court administrative officer may appoint:

(1) One administrative assistant

(2) One municipal court services supervisor.

(3) One accountant I

(4) Five municipal court clerks IV.

(5) Six municipal courtroom clerks.

(6) Sixteen municipal court clerks III.

(7) Two account clerks II.

(8) Thirteen municipal court clerks II.

Jury Section

(9) One deputy jury commissioner

(10) One municipal court clerk I.

SEC. 1 7 Section 74963 of the Government Code is amended to read·

74963 There shall be one clerk of the court (subject to the provisions of Section 74968) who shall be appointed by the presiding judge of the municipal court and who shall hold office at the pleasure of the presiding judge. The clerk shall receive a monthly salary at a rate specified in range M 14 53.

SEC. 2. Section 74965 of the Government Code is amended to read·

74965 The clerk (subject to the provisions of Section 74968) with the approval of the presiding judge may appoint·

(a) Three municipal court clerks III, each of whom shall receive a monthly salary at a rate specified in range G 21.25.

(b) One municipal court clerk II, each of whom shall receive a monthly salary at a rate specified in range G 19.00

(c) Sixteen municipal court clerks I, each of whom shall receive

a monthly salary at a rate specified in range G 15.50, or 16 typist-clerks II, each of whom shall receive a monthly salary at a rate specified in range G 14.00. The combined total of positions in the municipal court clerk I and typist-clerk II classifications shall not exceed sixteen (16) positions

(d) One account clerk II, who shall receive a monthly salary at a rate specified in range G 17.00, or one account clerk I, each of whom shall receive a monthly salary at a rate specified in range G 15.00. The combined total of positions in the account clerk II and account clerk I classifications shall not exceed one (1) position.

(e) Two interpreter-clerks who shall receive a monthly salary at a rate spcified in range G 14.50

SEC. 3. Section 74969 of the Government Code is amended to read·

74969. Whenever reference to a numbered salary range is made in any section of this article, the schedule of monthly salaries found in the salary resolution of the County of Yolo in effect on January 1, 1979, shall apply.

Notwithstanding the provisions of Sections 74963 and 74965, and subject to the provisions of Section 74971, the classifications, numbers of positions established for each classification, and the numbered salary ranges specified in the salary resolution and authorized position resolution of the County of Yolo in effect on January 1, 1979 shall apply.

SEC. 4 Section 74970 of the Government Code is amended to read:

74970. All employees of the Yolo County Municipal Court shall be entitled to the same provisions with respect to retirement, vacations, and other benefits allowed to employees of the county, and be subject to the personnel regulations, memoranda of understanding, management benefit package, and the affirmative action plan of the County of Yolo as they exist on January 1, 1979.

SEC. 5 Section 74971 of the Government Code is amended to read:

74971. The positions enumerated in Sections 74963 to 74966, inclusive, are deemed to be comparable in job and salary level to certain positions in the service of Yolo County. The following table sets forth the court classifications with the comparable county classifications shown opposite thereto:

Clerk classification	County classification
Clerk	Clerk of the Municipal Court/Administrator
Municipal court clerk III	Municipal court clerk III
Municipal court clerk II	Municipal court clerk II
Municipal court clerk I	Municipal court clerk I
Typist-clerk II	Typist-clerk II
Typist-clerk I	Typist-clerk I
Account clerk II	Account clerk II

Account clerk I	Account clerk I
Interpreter-clerk	Interpreter-clerk

In the event that any classification, the number of positions prescribed for any classification, or the salary, benefits, personnel regulations, memoranda of understanding or affirmative action plan for any classification which is shown above is modified by the board of supervisors, a commensurate modification shall be made for the comparable court classification. 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 classifications, but 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 6. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections 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. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 1194

An act to add Chapter 3 (commencing with Section 4075) to Part 1 of Division 4 of, and to add and repeal Chapter 4 (commencing with Section 4080) of Part 1 of Division 4 of, the Welfare and Institutions Code, relating to mental health, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1979 Filed with Secretary of State September 30, 1979]

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

SECTION 1. The Legislature finds as follows:

(a) The patient population in private residential care facilities for the mentally disordered has changed dramatically over recent years Where previously the majority of such patients were in their 50's, the majority are now in their 30's, and likely to be more active and violent with problems of alcohol or drug addiction and behavior control

(b) Rates set for private residential care facilities for the mentally disordered are insufficient to assure adequate treatment of patients' programmatic needs because the rate structure is not based on such needs

(c) Due to such insufficient payments, operators of private residential care facilities are not given any incentive to serve the more severely disturbed, and it is difficult to recruit sufficient private residential care facilities.

SEC. 2. Chapter 3 (commencing with Section 4075) is added to Part 1 of Division 4 of the Welfare and Institutions Code, to read:

CHAPTER 3. PRIVATE RESIDENTIAL CARE FACILITIES

4075. The department shall establish and maintain an equitable system of payment for the special needs of mentally disordered persons in private residential care facilities for the mentally disabled as follows·

(a) The rates of payment shall be based on the functional ability and programmatic needs of clients.

(b) The department shall establish eligibility criteria for private residential care facilities, including, but not limited to, training and educational requirements for facility operators and staff and ability to meet specified special needs of clients.

(c) The department shall adopt regulations implementing the provisions of this section by July 1, 1980.

(d) By July 1, 1980, and each year thereafter, the department shall establish rates 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, the department shall include, but not be limited to, each of the cost elements in this section as follows·

(1) Rates established for all facilities shall include an adequate amount to care for "basic living needs" of a mentally disordered person. "Basic living needs" are defined to include housing (shelter, utilities, and furnishings), food, and personal care 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 Mental Health using the best available estimating methods.

(2) 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 mentally disordered 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 mentally disordered persons.

(3) 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 care to mentally disordered persons.

(4) 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.

(5) Rates established for facilities shall include an amount for supervision where the functional ability or programmatic needs of residents require augmented supervisory staff.

(6) Under no circumstances shall the rate of payment to any provider of care under this chapter exceed the average amount charged to private clients residing in the same facility, nor shall the monthly rate of payment to any such facility exceed the average monthly cost of services for all persons with mental disabilities who reside in state hospitals

(7) Rates of payment for private residential care facilities shall be established in such ways as to assure the maximum utilization of all federal and other sources of funding, to which mentally disordered persons are legally entitled, prior to the commitment of state funds for such purposes.

4076 Each county shall apply for the adjusted rates established under this chapter as part of the Short-Doyle plan pursuant to Section 5651

4077. The county shall certify and make payment to eligible facilities and evaluate their eligibility annually.

4078 Facilities funded pursuant to this chapter shall be licensed under existing licensing categories, including provisional licenses. The State Department of Mental Health shall review the appropriateness of these licensing categories. If the department determines that new licensing categories are necessary, the department shall issue a report and recommendations to the Legislature by July 1, 1980

SEC 3 Chapter 4 (commencing with Section 4080) is added to Part 1 of Division 4 of the Welfare and Institutions Code, to read

CHAPTER 4 CASE MANAGEMENT PILOT PROJECT

4080 The Legislature recognizes the necessity of providing a method to secure the delivery of appropriate and timely restorative and preventive services when needed by recidivists in outpatient status from state mental hospitals in order to prevent unnecessary rehospitalization

For this purpose, the Legislature intends to provide as a pilot project a case management system in order to prevent unnecessary recidivism into inpatient psychiatric care.

4081 The State Department of Mental Health shall develop and implement a case management pilot project. The pilot project shall be conducted in one county designated by the director that has all of the characteristics of a large county representative of urban and rural areas that is experiencing a need for a case management system and within which a state hospital is located. The department shall enter into a contract with the designated county to conduct the pilot project.

4082. The pilot project design shall include at least the following components:

(a) The department shall define the population to be served by the project based upon the number of readmissions of the person into inpatient state hospital care during a specified time period This definition shall include persons who have been admitted to a state hospital at least once.

(b) Case managers to supply case management services.

(c) A control group of patients who do not receive case management services for the purposes of comparison with the patients receiving case management services under this chapter.

(d) An administrative structure under which the case manager shall upon request be able to secure appropriate and timely services for the case management client. This component includes, but is not limited to, the following.

(1) Securing immediate services, if necessary, or services at the time needed.

(2) Medical or nonmedical services from professional persons, facilities, or other appropriate sources.

(3) Transfers into, out of, and between facilities.

(e) Criteria for the termination of case management services to a case management client

4083. This chapter shall be implemented no later than January 1, 1980, and operate for a period of two years after its implementation date.

The department shall make a progress report to the Subcommittee on Mental Health and Developmental Disabilities of the Assembly Committee on Health, to the Assembly Ways and Means Committee, and to the Senate Health and Welfare Committee six months after the project's implementation date and every six months thereafter, and a final report within three months after the pilot project termination date. The final report shall summarize all reports, after validating the data included in such reports, and shall make recommendations, including the extent to which the case management system prevents unnecessary recidivism, the need for additional legislation, funding, data collection, and any other actions which can be taken by the state to prevent unnecessary recidivism to state hospitals

4084. This chapter shall remain operative only until March 31, 1982, and as of that date is repealed unless a later enacted statute which is chaptered before March 31, 1982, deletes or extends such

date.

SEC. 4. 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. 5. There is hereby appropriated from the General Fund to the State Department of Mental Health the sum of seven hundred fifty thousand dollars ($750,000) for expenditure in accordance with the following schedule:

(a) For the purposes of establishing the eligibility criteria and rates of payment pursuant to Chapter 3 (commencing with Section 4075) of Part 1 of Division 4 of the Welfare and Institutions Code and for reviewing the licensing categories pursuant to Section 4078 of the Welfare and Institutions Code	$250,000
(b) For the purposes of Chapter 4 (commencing with Section 4080) of Part 1 of Division 4 of the Welfare and Institutions Code.	500,000

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 this act, which would provide a vital component of local Short-Doyle programs, and to assure prompt implementation of an adequate reimbursement rate structure for private residential care facilities providing care in connection with such programs, may be effective commencing with the 1979–80 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 1195

An act to add Sections 3502.1 and 3502.2 to the Public Utilities Code, relating to carriers, and making an appropriation therefor.

[Approved by Governor September 30, 1979 Filed with Secretary of State September 30, 1979.]

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

SECTION 1. Section 3502.1 is added to the Public Utilities Code, to read

3502.1. The Legislature finds and declares that it is the policy of this state to achieve increasingly efficient utilization of energy in the performance of transportation services by highway carriers

SEC 2. Section 3502.2 is added to the Public Utilities Code, to read.

3502.2. (a) The commission shall prepare and adopt on or before December 31, 1980, a transportation energy efficiency plan for highway carriers. The commission shall make a finding in every rule, order, and decision that it fully complies with applicable guidelines established in the transportation energy efficiency plan.

(b) The plan prepared and adopted pursuant to subdivision (a) shall be developed in cooperation with the State Energy Resources Conservation and Development Commission.

SEC. 3. There is hereby appropriated from the Transportation Rate Fund to the Public Utilities Commission the sum of ninety thousand dollars ($90,000) for the purposes of this act.

CHAPTER 1196

An act relating to taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1979 Filed with Secretary of State September 30, 1979]

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

SECTION 1. The county tax collector shall notify each assessee who is responsible for the payment of, but who has not presently paid, real property taxes for the 1978–79 fiscal year of any reduction in such taxes resulting from the enactment of Chapter 49 of the Statutes of 1979. Such assessee whose property taxes are so reduced shall be exempt from payments of penalties, fees and costs on the delinquency provided that the assessee pays the total property taxes due for the 1978–79 fiscal year within 30 days after receipt of notification by the tax collector of the reduced amount due.

SEC. 2 The Legislature finds and declares that it is in the public interest to exempt assessees from payments of penalties, fees and costs for nonpayment of property taxes which were based on improper assessment practices for the 1978–79 fiscal year.

SEC 3. In enacting Chapter 49 of the Statutes of 1979 the Legislature intended to correct an improper assessment practice which has resulted from the misinterpretation of Article XIII A of the California Constitution, as added to the California Constitution pursuant to the approval by the voters, of Proposition 13 on the ballot for the Direct Primary Election held June 6, 1978, and Section 110.1 of the Revenue and Taxation Code, as added by Chapter 292 of the Statutes of 1978, amended by Chapter 332 of the Statutes of 1978, and further amended by Chapter 576 of the Statutes of 1978.

It is further the intent of the Legislature that this act be construed as an act necessary for the implementation of Proposition 13, and, as

such, is not a cost mandated by the state.

No appropriation is made by this act, nor is any obligation created thereby, pursuant to Section 2231 or 2234 of the Revenue and Taxation Code. Moreover, no claim shall be considered with respect to this act by the State Board of Control pursuant to Section 905.2 of the Government Code or Section 2250 of the Revenue and Taxation Code, and the Department of Finance shall not review or report on this act pursuant to Section 2246 of the Revenue and Taxation Code.

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:

Proposition 13 on the ballot for the Direct Primary Election held on Tuesday, June 6, 1978, added a new Article XIII A to the California Constitution to limit ad valorem taxes on real property to 1 percent of full cash value and specified that such value would be the full cash value of such property for the 1975–76 fiscal year, or fiscal years thereafter when such property was purchased, newly constructed, or a change in ownership has occurred, as adjusted to reflect specified growth in the cost of living. Uncertainty existed in the determination of full cash value for the 1975–76 fiscal year, resulting in the reappraisal of property with regard to the 1975–76 fiscal year although such property had been timely appraised for the 1975–76 fiscal year and which therefore was correctly assessed for the 1975–76 fiscal year, within the meaning of Chapter 49 of the Statutes of 1979. Therefore, in order to prevent undue financial hardship resulting from charging penalties and interest on erroneous tax levies for the 1978–79 fiscal year and to correct the collection of such taxes with a minimum of administrative difficulty, this act must go into effect immediately.

CHAPTER 1197

An act to amend Section 14142 of, and to add Section 14145 to, the Welfare and Institutions Code, relating to Medi-Cal, and making an appropriation therefor.

[Approved by Governor September 30, 1979 Filed with Secretary of State September 30, 1979]

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

SECTION 1. Section 14142 of the Welfare and Institutions Code is amended to read:

14142 Notwithstanding Section 14005.4 or 14005.7, a person who is otherwise eligible for dialysis and related services under Section 14005.4 or 14005 7, except for his income and resource eligibility, is eligible for dialysis and related services under Medi-Cal pursuant to

this article, as follows:

(a) A person in a family unit with a net worth of less than five thousand dollars ($5,000) shall not be liable to pay for dialysis and related services

(b) A person in a family unit with a net worth of five thousand dollars ($5,000) or above shall pay 2 percent of the cost of dialysis and related services for each five thousand dollars ($5,000) of net worth, up to a maximum net worth of five hundred thousand dollars ($500,000), which shall result in a person being liable for 100 percent of such costs.

SEC. 2 Section 14145 is added to the Welfare and Institutions Code, to read:

14145. Notwithstanding any provision of this article or of any other statute to the contrary, any person who is eligible under Section 14005.4 or 14005.7 for dialysis and related services and who is employed and individually earning an amount which exceeds the minimum needs standard, and who receives dialysis services either through a self-dialysis unit of a dialysis clinic or through home dialysis, shall be eligible for dialysis and related services under Medi-Cal pursuant to this article and shall, after utilizing other contractual or legal entitlements pursuant to Section 14143, be liable to pay only the amounts specified in subdivision (b) of Section 14142, except that such percentage obligations shall be 1 percent for each five thousand dollars ($5,000) family unit net worth. Persons eligible for services under this section shall not be subject to Section 14144.

SEC 3. The sum of four hundred thousand dollars ($400,000) is hereby appropriated from the General Fund to the Health Care Deposit Fund to pay the costs incurred by the Medi-Cal program pursuant to Sections 1 and 2 this act.

SEC. 4. Notwithstanding any other provision of law, each provider of health care services under the Medi-Cal Assistance program, except physicians and providers reimbursed under the provisions of Section 1396a (13) (D) of Title 42 of the United States Code, shall be reimbursed at a rate which is not less than 3 percent higher, on the average, than the reimbursement rate for such provider in effect on June 30, 1979, or the reimbursement rate provided for by administrative regulations pursuant to Title 22 of the California Administrative Code in effect on August 30, 1979, whichever is higher

Physician services shall be reimbursed at a rate which is not less than 3 percent higher than the reimbursement rate for each service or charge which was in effect on June 30, 1979, or the reimbursement rate for a service or charge provided for by administrative regulations pursuant to Title 22 of the California Administrative Code in effect on August 30, 1979, whichever is higher.

However, nothing in this act shall be construed to prohibit the State Department of Health Services from adopting administrative regulations to reduce fees for abortions, or from increasing the reimbursement rate for any provider of health care services to a level

higher than the rates required by this act, or from making such adjustments to the reimbursement rates for physician services as are necessary to implement the 1974 Relative Value Studies published by the California Medical Association, or from maintaining a uniform reimbursement system for clinical laboratory services, or from adjusting the reimbursement rates for providers of health care services as required by either federal law, the State Plan under Title XIX of the federal Social Security Act, or the provisions of Section 14120 of the Welfare and Institutions Code.

CHAPTER 1198

An act to amend Section 17041 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy

[Approved by Governor September 30, 1979. Filed with Secretary of State September 30, 1979.]

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

SECTION 1. Section 17041 of the Revenue and Taxation Code is amended to read:

17041 (a) There shall be imposed for each taxable year upon the entire taxable income of every resident of this state and upon the entire taxable income of every nonresident which is derived from sources within this state, except the head of a household as defined in Section 17042, taxes in the following amounts and at the following rates upon the amount of taxable income:

If the taxable income is:	The tax is:
Not over $2,000	1% of the taxable income
Over $2,000 but not over $3,500	$20 plus 2% of excess over $2,000
Over $3,500 but not over $5,000	$50 plus 3% of excess over $3,500
Over $5,000 but not over $6,500	$95 plus 4% of excess over $5,000
Over $6,500 but not over $8,000	$155 plus 5% of excess over $6,500
Over $8,000 but not over $9,500	$230 plus 6% of excess over $8,000
Over $9,500 but not	

over $11,000	$320 plus 7% of excess over $9,500
Over $11,000 but not over $12,500	$425 plus 8% of excess over $11,000
Over $12,500 but not over $14,000	$545 plus 9% of excess over $12,500
Over $14,000 but not over $15,500	$680 plus 10% of excess over $14,000
Over $15,500	$830 plus 11% of excess over $15,500

(b) There shall be imposed for each taxable year upon the entire taxable income of every resident of this state and upon the entire taxable income of every nonresident which is derived from sources within this state, when such resident or nonresident is the head of a household, as defined in Section 17042, taxes in the following amounts and at the following rates upon the amount of taxable income:

If the taxable income is:	The tax is:
Not over $4,000	1% of the taxable income
Over $4,000 but not over $6,000	$40 plus 2% of excess over $4,000
Over $6,000 but not over $7,500	$80 plus 3% of excess over $6,000
Over $7,500 but not over $9,000	$125 plus 4% of excess over $7,500
Over $9,000 but not over $10,500	$185 plus 5% of excess over $9,000
Over $10,500 but not over $12,000	$260 plus 6% of excess over $10,500
Over $12,000 but not over $13,500	$350 plus 7% of excess over $12,000
Over $13,500 but not over $15,000	$455 plus 8% of excess over $13,500
Over $15,000 but not over $16,500	$575 plus 9% of excess over $15,000

Over $16,500 but not over $18,000	$710 plus 10% of excess over $16,500
Over $18,000	$860 plus 11% of excess over $18,000

(c) The tax imposed by this part is not a surtax

(d) For each taxable year beginning on or after January 1, 1978, the Franchise Tax Board shall recompute the income tax brackets prescribed in subdivisions (a) and (b). Such computation shall be made as follows

(1) The California Department of Industrial Relations shall transmit annually to the Franchise Tax Board the percentage change in the California Consumer Price Index for all items from June of the prior calendar year to June of the current calendar year, no later than August 1 of the current calendar year.

(2) For taxable years ending on or before November 30, 1980, the Franchise Tax Board shall compute an inflation adjustment factor by adding 100 percent to that portion of the percentage change figure which is furnished to them pursuant to paragraph (1) of this subdivision which exceeds 3 percent, and dividing the result by 100.

(3) For taxable years beginning in 1980 and ending on or before November 30, 1982, the Franchise Tax Board shall compute an inflation adjustment factor by adding 100 percent to that portion of the percentage change figure which is furnished to them pursuant to paragraph (1) of this subdivision, and dividing the result by 100.

(4) For taxable years beginning on and after January 1, 1982, the Franchise Tax Board shall compute an inflation adjustment factor by adding 100 percent to that portion of the percentage change figure which is furnished to them pursuant to paragraph (1) of this subdivision which exceeds 3 percent, and dividing the result by 100.

(5) For taxable years beginning on and after January 1, 1978, and ending on or before November 30, 1979, the Franchise Tax Board shall recompute the income tax brackets by multiplying each income bracket figure in subdivisions (a) and (b) by the inflation adjustment factor of 1.05222, the amounts of each bracket to be rounded off to the nearest ten dollars ($10).

(6) For each taxable year thereafter, the Franchise Tax Board shall recompute the income brackets in the same manner by multiplying the prior taxable year's income bracket figures by the appropriate inflation adjustment factor, rounded off to the nearest ten dollars ($10)

SEC. 2. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 1199

An act to amend Sections 20508, 20509, 20512, and 20541 of the Revenue and Taxation Code, relating to property tax assistance.

[Approved by Governor September 30, 1979. Filed with Secretary of State September 30, 1979.]

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

SECTION 1. Section 20508 of the Revenue and Taxation Code is amended to read:

20508. "Residential dwelling" means a dwelling occupied by the claimant as the principal place of residence, and so much of the land surrounding it as is reasonably necessary for use of the dwelling as a home, owned by the claimant, the claimant and his spouse, or by the claimant and some other individual, and located in this state. It shall also include a residential unit in a cooperative housing corporation (as defined in Section 17265) occupied by the owner of shares or a membership interest in such corporation as his or her principal residence, mobilehomes which are assessed as realty for local property tax purposes and the land on which situated, houseboats, and other similar living accommodations, as well as a part of a multidwelling or multipurpose building and a part of the land upon which it is built. It shall also include premises occupied by reason of the claimant's ownership of a dwelling located on land owned by a nonprofit incorporated association, of which the claimant is a member, when such association requires the claimant to pay a pro rata share of the property taxes levied against the association's land It shall also include premises occupied by a claimant wherein he is required by law to pay a property tax by reason of his ownership (including a possessory interest) in the dwelling, the land, or both. It shall also include a dwelling unit which is a mobilehome owned by a claimant and located on land which is owned or rented by such claimant. (Owned includes the interest of a vendee in possession under a land sale contract but not the interest of the vendor, the interest of the holder of a life estate interest, but not the interest of a remainderman, and of one or more joint tenants or tenants in common. Except in the case of an unrecorded land sale contract, ownership must be evidenced by a duly recorded document.)

SEC. 2. Section 20509 of the Revenue and Taxation Code is amended to read:

20509. "Rented residence" means premises rented and occupied by the claimant as his or her principal place of residence during the calendar year for which assistance is claimed. The term "rented residence" shall not include

(a) Premises which are exempt from property taxation, except those premises on which the owner pays possessory interest taxes, or makes payments in lieu of property taxes which are substantially

equivalent to property taxes paid on properties of comparable market value.

(b) Premises which are not located in this state.

For the purposes of this section, the term "premises" means a house or a dwelling unit used to provide living accommodations in a building or structure and the land incidental thereto, but does not include land only, except in the case where the dwelling unit is a mobilehome. "Rented residence" includes a dwelling unit which is a mobilehome owned by the claimant and located on land which is owned or rented by such claimant.

SEC. 3. Section 20512 of the Revenue and Taxation Code is amended to read.

20512. (a) "Property taxes accrued" means current property taxes (exclusive of interest, penalties, principal payments on improvement bonds and charges for service) levied against a claimant's residential dwelling by any taxing agency (as defined in Section 121) for any fiscal year ending on or after June 30, 1977. If the owner of a dwelling unit which is a mobilehome located on land owned or rented by such owner pursuant to Section 20541 elects to claim assistance under Section 20543, such assistance shall be based on the appropriate percentage of the motor vehicle license fee tax, not including the registration fee, paid with regard to such mobilehome.

(b) Whenever a residential dwelling is an integral part of a large unit such as a farm, or a multipurpose or multidwelling building, "property taxes accrued" shall be that percentage of the total property taxes accrued as the value of the residential dwelling is of the total value.

(c) Where a claimant is purchasing the residential dwelling under an unrecorded contract of sale, the Franchise Tax Board may require a copy of the contract or other evidence to establish such fact.

(d) Where the residential dwelling is a dwelling owned by the claimant on land owned by a nonprofit incorporated association, the Franchise Tax Board may require an affidavit under penalty of perjury containing sufficient evidence to establish such fact and that the nonprofit incorporated association requires that the claimant pay a pro rata share of the property tax levied against the association's land.

(e) Where the residential dwelling consists of premises occupied by reason of the claimant's possessory interest in such premises, the Franchise Tax Board may require an affidavit under penalty of perjury stating that the premises are occupied by reason of ownership of a possessory interest in a dwelling that is otherwise exempt from property taxation.

SEC. 4 Section 20541 of the Revenue and Taxation Code is amended to read·

20541. (a) Subject to the limitations provided in this chapter a claimant may, to the extent provided in Section 20543 or 20544, whichever is applicable, file with the Franchise Tax Board, pursuant

to Article 3 (commencing with Section 20561) of this chapter, a claim for assistance from the State of California of a sum equal to a percentage of the property taxes accrued and paid by the claimant on his residential dwelling or a sum equal to the percentage of the applicable statutory property tax equivalent under Section 20544 with respect to a claimant renting his residence.

(b) The owner of a dwelling unit which is a mobilehome located on land which is owned or rented by such owner may elect to file under subdivision (a) for assistance provided in either Section 20543 or 20544.

(c) This chapter shall apply only to mobilehomes purchased on or before July 1, 1980, if Senate Bill No. 1004 of the 1979–80 Regular Session of the Legislature is enacted.

CHAPTER 1200

An act to amend Section 20461 5 of, and to add Section 20461.6 to, the Government Code, relating to retirement.

[Approved by Governor September 30, 1979 Filed with Secretary of State September 30, 1979]

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

SECTION 1. Section 20461.5 of the Government Code is amended to read·

20461.5. Whenever by any provision of law an election is given to contracting agencies to subject themselves and their employees to provisions of this part otherwise not applicable to contracting agencies and their employees, and no other means of making such election is expressly provided, any contracting agency may make such election by amendment to its contract with the board approved in the manner provided for the approval of the contracts including an election among the employees affected unless the amendment only adds benefits without affecting members' contributions, in which case such election among the employees is not required. The amendment shall specify the date upon which the agency and its employees shall become subject to the provisions. Any such election so made by amendment to the contract shall be irrevocable until the contract is terminated, except, however, benefits provided by such amendment may be increased or improved from time to time by further amendment to the contract. From and after the date specified in the amendment to the contract such provisions, as they are in effect at the time of election and as they may be amended in the future, shall apply to the contracting agency and to its employees, and the rights, privileges, duties, liabilities, and responsibilities of the contracting agency and of each of its employees included in this system shall be governed thereby.

SEC. 2. Section 20461.6 is added to the Government Code, to read:

20461 6. Notwithstanding Section 20461.5, a contracting agency may amend its contract or previous amendments to its contract, without election among its employees, to reduce benefits, to terminate provisions which are available only by election of the agency to become subject thereto, to provide different benefits or provisions or to provide any combination of such changes with respect to service performed after the effective date of such contract amendment made pursuant to this section, if such contracting agency has fully discharged all of the obligations imposed by Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 with respect to such contract amendments, and if such amendment provides that:

(a) The contract amendments apply uniformly with respect to all members within each of the following classifications: 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.

(b) A member shall be subject to the contract as amended only if, after the effective date of the contract amendment, the member either (1) receives service credit for the first time within a classification, or (2) the member returns to service within a classification following termination of membership as provided for in subdivision (b) of Section 20390 unless the member has redeposited or elects prior to 90 day after returning to service to redeposit contributions pursuant to Section 20654, in which case the member will not be subject to the contract amendment.

Amendments to the contract and amendments of previous amendments to the contract may be effected pursuant to this section only once during any three-year period with respect to each of the classifications

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CHAPTER 1201

An act to amend Section 22719 of the Education Code and to amend Sections 20862.5, 21263.4, 21263 5, 21365.6, and 21382.2 of, and to add Sections 20011.1 and 20750.88 to, the Government Code, relating to public retirement systems, and making an appropriation therefor

[Approved by Governor September 30, 1979 Filed with Secretary of State September 30, 1979]

I am reducing the appropriation contained in Section 2(b) of Section Bill No 797 from $12,831,455 34 to $7,731,455 34

I have deleted the appropriation in Section 2 (b) for partial funding of the half-quarter continuance benefit for survivors of classified school district employees who were members of the Public Employees' Retirement System I am not convinced that the State should assume full financial responsibility for a benefit which would cost

at least four times as must as the one it would replace
With this reduction I approve Section Bill No 797

Edmund G Brown Jr , Governor

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

SECTION 1. Section 22719 of the Education Code is amended to read·

22719. A member shall be credited at his retirement with credit for each day of accumulated and unused leave of absence for illness or injury for which full salary is allowed to which the member was entitled on the final day he rendered service to the school district or other employing agency by which he was last employed in a position requiring membership in this system. The number of years of service credit to be granted shall be the product of a factor and the number of days of accumulated and unused leave of absence for illness or injury. The factor shall be determined by dividing the number 1 by the number of days of service required by the member's contract of employment during his final year of service in a position requiring membership in this system. When the member has made application for retirement pursuant to Section 23900, the school district or other employing agency shall certify to the Teachers' Retirement Board the number of days of accumulated and unused leave of absence for illness or injury to which the employee is entitled on his final day of employment.

This section shall not be applicable to any person who becomes a member of the system on or after July 1, 1980, whether or not such person was ever a member prior to such date.

SEC 2. Section 20011.1 is added to the Government Code, to read:

20011.1. "School employer" means a community college district, a school district, and a county superintendent of schools, and an entity established by one or more of the above by a joint exercise of powers agreement, or any other entity, other than the San Francisco County Superintendent of Schools and the San Francisco Unified Schools, which employs classified school employees.

SEC. 3. Section 20750.88 is added to the Government Code, to read:

20750.88. Each school employer on account of liability for the benefits provided by Section 21263 4, 21263.5, 21365.6, and 21382.2, shall make contributions in addition to those otherwise specified in this chapter in a sum equal to the following percentages of compensation paid such members:

(a) 0.477 percent during the 1980–81 fiscal year.

(b) 0.858 percent during fiscal years after the 1980–81 fiscal year; and

(c) Such additional percentages as are determined by the board on the basis of periodic actuarial valuations of the costs of such benefits.

SEC 4. Section 20862.5 of the Government Code is amended to

read:

20862.5 A state member, whose effective date of retirement is within four months of separation from employment with the employer subject to this section which granted the sick leave credit, shall be credited at his retirement with 0 004 year of service credit for each unused day of sick leave certified to the board by such employer.

Until receipt of certification from an employer concerning unused sick leave, the board may pay an estimated allowance pursuant to this section At the time of receipt of such certification, the allowance shall be adjusted to reflect any necessary changes.

Notwithstanding provisions of this part subjecting local miscellaneous members to provisions applicable to state miscellaneous members, this section shall not apply to local members.

This section shall not be applicable to any person who becomes a school member on and after July 1, 1980, and any person who becomes a local member employed, on and after July 1, 1980, by a school district which is a contracting agency whether or not such person was ever a school member or local member prior to such date.

This section shall no longer be applicable on and after July 1, 1980, to any school members or members employed by a school employer if the benefits provided by Sections 21263.4, 21263.5, 21365.6, and 21382.2 become applicable to such members.

SEC 5. Section 21263.4 of the Government Code is amended to read.

21263.4 Upon the death after the effective date of retirement of a state miscellaneous member whose retirement is effective on or after July 1, 1974, or a school member or a member employed by a school employer whose retirement is effective on or after July 1, 1980, none of whose service rendered in state service has been included in the federal system a monthly allowance derived from employer contributions equal to 50 percent of the amount of his retirement allowance as it was at his death and based on service credited to him as a member subject to this section but excluding any portion of the retirement allowance derived from additional contribution of the member shall be paid to the surviving spouse throughout life or until remarriage If there be no surviving spouse, or upon death or remarriage of such spouse before every child of the deceased member attains the age of 18, such allowance shall be paid to his child or children under such age, collectively, until every such child dies or attains such age; provided that no child shall receive any allowance after marrying or attaining such age If at the time of the retired person's death there is no surviving spouse or children under age 18, the allowance shall be paid to a parent or collectively to parents of the deceased member dependent upon him for support If at the effective date of retirement there is a person who will be eligible if such person survives, the member's election of an optional settlement other than optional settlement one shall apply only to a

portion of his allowance as provided in Section 21330 with respect to allowances under Section 21263. If at the effective date of his retirement the member has no surviving spouse, eligible children or dependent parents and elected an optional settlement, no allowance under this section shall be paid.

"Surviving spouse" for purposes of this section means a husband or wife who was married to the member for a continuous period beginning at least one year prior to his retirement and ending on the date of his death.

Any person whose effective date of retirement was prior to the effective date of amendments to this section at the 1975—76 Regular Session and subsequent to June 30, 1974, and who at retirement elected no optional settlement or optional settlement one, may within 90 days of the effective date of such amendments elect optional settlement one or modify an existing optional settlement one in accordance with such amendments. The Public Employees' Retirement System shall notify all affected individuals within 45 days of the effective date of this chapter.

SEC. 6. Section 21263.5 of the Government Code is amended to read:

21263.5. Upon death after the effective date of retirement of a state miscellaneous member whose retirement is effective on or after July 1, 1975, or a school member or a member employed by a school employer whose retirement is effective on or after July 1, 1980, some of whose service rendered in state service has been included in the federal system, a monthly allowance, derived from employer contributions, equal to a percentage of the amount of his retirement allowance as it was at his death based on service credited to him as a member subject to this section but excluding any portion of the retirement allowance derived from additional contributions shall be paid to the surviving spouse throughout life or until remarriage. Such percentage shall be 25 percent for an allowance based on service for which the allowance is reduced because the service was also covered under the federal system and 50 percent for an allowance based on any other service. If there be no surviving spouse, or upon death or remarriage of such spouse before every child of the deceased member attains the age of 18, such allowance shall be paid to the retired person's child or children under such age, collectively, until every such child dies or attains such age; provided that no child shall receive any allowance after marrying or attaining such age. If at the time of the retired person's death there is no surviving spouse or children under age 18, the allowance shall be paid to a parent or collectively to parents of the deceased member dependent upon him for support. If at the effective date of retirement there is a person who will be eligible if such person survives, the member's election of an optional settlement, other than optional settlement one, shall apply only to a portion of the allowance as provided in Section 21330 with respect to allowances under Section 21263. If at the effective date of his retirement the member has no surviving spouse, eligible

children or dependent parents and elected an optional settlement, no allowance under this section shall be paid.

"Surviving spouse" for purposes of this section means a husband or wife who was married to the member for a continuous period beginning at least one year prior to his retirement and ending on the date of his death.

SEC. 7. Section 21365.6 of the Government Code is amended to read:

21365.6. The surviving spouse of a member who has attained the minimum age for voluntary retirement for service, and who is eligible to receive an allowance pursuant to Section 21365.5 or a special death benefit in lieu of an allowance under Section 21365.5, may elect to instead receive an allowance which is equal to the amount that the member would have received if the member had been retired from service on the date of death and had elected optional settlement two. The allowance shall be payable as long as the surviving spouse lives or until remarriage. Upon the death or remarriage of the surviving spouse, the benefit will be continued to minor children, as defined in Section 25 of the Civil Code, or a lump sum will be paid as provided under such circumstances in Section 21365.5 or in Sections 21364 and 21366, as the case may be.

This section shall only apply with respect to state members whose death occurs on and after July 1, 1976, and shall apply with respect to school members or members employed by school employers whose death occurs on and after July 1, 1980.

SEC. 8. Section 21382.2 of the Government Code is amended to read:

21382.2. In lieu of benefits provided in Section 21382, if the death benefit provided by Section 21361 is payable on account of a state member's death which occurs under circumstances other than those described in subdivision (a) (5) of Section 21360, or if an allowance under Section 21365.5 is payable, (a) the surviving wife or surviving husband of the member, who has the care of unmarried children, including stepchildren, of the member who are under 18 years of age, or are incapacitated because of disability which began before and has continued without interruption after attainment of such age, or if there is no such spouse, then (b) the guardian of surviving unmarried children, including stepchildren, of the member who are under 18 years of age or so incapacitated, if any, or (c) the surviving wife or surviving husband of the member, who does not qualify under (a) of this subdivision, if any, or if no such children under (b) or such spouse under (c), then (d) each surviving parent of the member, shall be paid regardless of the benefit provided by Section 21361, and of the beneficiary designated by the member under that section, or regardless of the allowance provided under Section 21365.5, the following applicable survivor allowance, under the conditions stated and from contributions of the state:

(1) A widow or a widower who was married to such member prior to the occurrence of the injury or onset of the illness which resulted

in death, and has the care of unmarried children, including stepchildren, of the deceased member under 18 years of age or so incapacitated, shall be paid four hundred fifty dollars ($450) if there is one such child, or five hundred thirty-eight dollars ($538) per month if there are two or more such children. If there also are such children who are not in the care of the surviving spouse, the portion of the allowance payable under this paragraph, assuming that these children were in the care of the surviving spouse, which is in excess of two hundred twenty-five dollars ($225) per month, shall be divided equally among all such children and payments made to the spouse and other children, as the case may be.

(2) If there is no such surviving spouse, or if such surviving spouse dies or remarries, and if there are unmarried children, including stepchildren, of the deceased member under 18 years of age, or if there are such children not in the care of such spouse, such children shall be paid an allowance as follows:

(a) If there is only one such child, such child shall be paid two hundred twenty-five dollars ($225) per month;

(b) If there are two such children, such children shall be paid four hundred fifty dollars ($450) per month divided equally between them; and

(c) If there are three or more such children, such children shall be paid five hundred thirty-eight dollars ($538) per month divided equally among them.

(3) A widow or a widower who has attained or attains the age of 62 years, and, with respect to both widow and widower, who was married to such member prior to the occurrence of the injury or onset of the illness which resulted in death, and has not remarried subsequent to the member's death, shall be paid two hundred twenty-five dollars ($225) per month. No allowance shall be paid under this subdivision, while the surviving spouse is receiving an allowance under subdivision (1) of this section, or while an allowance is being paid under subdivision (2) (c) of this section. The allowance paid under this subdivision shall be eighty-eight dollars ($88) per month while an allowance is being paid under subdivision (2) (b) of this section.

(4) If there is no surviving spouse, or surviving children who qualify for a survivor allowance, or if such surviving spouse dies or remarries, or if such children reach age 18 or die or marry prior thereto, each of the member's dependent mother and father who has attained or attains the age of 62, and who received at least one-half of his support from the member at the time of the member's death, shall be paid two hundred twenty-five dollars ($225) per month.

"Stepchildren," for purposes of this section, shall include only stepchildren of the member living with him in a regular parent-child relationship at the time of his death.

This section shall apply to beneficiaries receiving allowances on July 1, 1975, as well as to beneficiaries with respect to the death of a state member occurring on or after July 1, 1975

This section shall apply with respect to beneficiaries of school members or members employed by school employers who are covered under Section 21382 on July 1, 1980, and whose death occurs after July 1, 1980.

SEC. 9. Sections 3, 5, 6, 7, and 8 of this act shall become operative on July 1, 1980, only if the funds specifically appropriated in subdivision (b) of Section 11 of this act are made available to pay the costs of the benefits provided by those sections.

SEC. 10 If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SEC. 11. The sum of twelve million eight hundred thirty-one thousand four hundred fifty-five dollars and thirty-four cents ($12,831,455.34) is hereby appropriated as follows:

(a) From the General Fund to the State Board of Control to pay the claims awarded pursuant to Article 3.5 (commencing with Section 2250) of Chapter 3 of Part 4 of Division 1 of the Revenue and Taxation Code during the 1978 calendar year relating to claims on Chapter 89 of the Statutes of 1974 and Chapter 1398 of the Statutes of 1974	$7,731,455.34
(b) From the General Fund to the State Controller for allocation and disbursement to local agencies pursuant to Section 2231 of the Revenue and Taxation Code during the 1980–81 fiscal year to reimburse such agencies for the costs of the benefits prescribed for school members and certain local members in Sections 21263.4, 21263.5, 21365 6, and 21382.2 of the Government Code	5,100,000 00

CHAPTER 1202

An act to amend Section 18548.1 of, and to add Sections 18108, 18109, 20862 6, and 22017 to, the Government Code, relating to public employees, and making an appropriation therefor

[Approved by Governor September 30, 1979 Filed with Secretary of State September 30, 1979]

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

SECTION 1. Section 18108 is added to the Government Code, to read:

18108. For the purposes of Sections 18100, 18100.1, 18100.5, 18101, 18101.5, 18102, 18102.5, 18103, 18104.5, 18105, 18106, and 18107, sick leave benefits provided to state employees pursuant to the state sick leave system shall be construed to mean compensation paid to employees on approved leaves of absence on account of sickness.

SEC. 2. Section 18109 is added to the Government Code, to read:

18109. Notwithstanding any other provision of law to the contrary, whenever sick leave benefits are provided to state employees pursuant to the state sick leave system, such benefits shall be construed to mean compensation paid to employees on approved leaves of absence on account of sickness

SEC. 3. Section 18548.1 of the Government Code is amended to read:

18548.1. "Employee benefit" means compensation for service rendered within or in addition to salary to provide for either:

(a) Amounts paid because of death, accident, retirement, illness, or unemployment; or

(b) Health insurance; or

(c) Payment for any other time not worked.

Compensation for illness shall be deemed to be paid in lieu of salary

SEC 4 Section 20862 6 is added to the Government Code, to read:

20862.6. For the purposes of Section 20862.5, sick leave benefits provided to state employees pursuant to the state sick leave system shall be construed to mean compensation paid to employees on approved leaves of absence on account of sickness.

SEC. 5. Section 22017 is added to the Government Code, to read:

22017. Notwithstanding any other provision of law, the state and any public agency may establish a separate object of appropriation or a subobject of appropriation within salaries and employee benefits for the payment of compensation to employees who are on approved leaves of absence on account of sickness The amount of compensation to be paid to employees under this object or subobject shall be that established by statute, salary ordinance or statement, except that no compensation shall be paid when an employee is on authorized leave without pay even though such leave may be on account of sickness.

SEC 6. The State Controller shall take such steps as may be necessary to implement Section 22017 of the Government Code, so that section may be fully implemented by December 31, 1982. The Controller shall reimburse employees for amounts withheld on the basis of sick leave pay as soon as possible after the approved sick leave notification has been submitted

SEC 7 The sum of seven hundred thousand dollars ($700,000) is

hereby appropriated from the General Fund to the State Controller for the 1979–80 administrative costs incurred by him under this act.

SEC. 8. Section 5 of this act shall not become operative if AB 521 of the 1979–80 Regular Session is chaptered.

CHAPTER 1203

An act to amend Sections 11344, 11344.2, 11344.3, 11344.4, 11346.4, 11346.5, 11346.8, 11347.3, 11349.6, and 11349.7, as added to the Government Code by Chapter 567 of the Statutes of 1979, and to amend Sections 15700 and 15701 of the Government Code, relating to administrative agencies.

[Became law without Governor's signature October 1, 1979 Filed with Secretary of State October 1, 1979.]

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

SECTION 1. Section 11344, as added to the Government Code by Chapter 567 of the Statutes of 1979, is amended to read:

11344. The office shall:

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

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

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

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

(2) Executive orders.

(3) Summaries of Attorney General's opinions.

(4) Notices of public meetings of state agencies

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

(b) Prescribe regulations for carrying out the provisions 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. 2. Section 11344 2, as added to the Government Code by Chapter 567 of the Statutes of 1979, is amended to read·

11344.2 The office shall supply a complete set of the California Administrative Code, and of the California Administrative Register to the county clerk of any county or to the delegatee of the county clerk pursuant to Section 26803 5, provided the director makes the following two determinations.

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

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

SEC. 3 Section 11344 3, as added to the Government Code by Chapter 567 of the Statutes of 1979, is amended to read·

11344 3 The office shall supply to each standing committee of both houses and to each Member of the Legislature, a copy of each issue of the California Administrative Code Notice Supplement.

SEC. 4. Section 11344 4, as added to the Government Code by Chapter 567 of the Statutes of 1979, is amended to read:

11344 4. The California Administrative Register and the California Administrative Code shall be sold at such prices as will reimburse the state for all costs incurred for printing, publication and distribution.

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

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

SEC 5 Section 11346.4, as added to the Government Code by Chapter 567 of the Statutes of 1979, is amended to read

11346 4. At least 45 days prior to the hearing on the adoption, amendment, or repeal of a regulation, notice of the proposed action shall be

(a) Published in such newspaper of general circulation, trade or industry publication, as the state agency shall prescribe

(b) Mailed to every person who has filed a request for notice thereof with the state agency

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

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

(e) Published in the California Administrative Register as prepared by the Office of Administrative Law

The effective period of a notice issued pursuant to this section shall not exceed one year from the date thereof. If the action proposed in such notice is not commenced within such period of one year, a notice of the proposed action shall again be issued pursuant to the provisions of this article.

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

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

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

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

SEC 6. Section 11346.5, as added to the Government Code by Chapter 567 of the Statutes of 1979, is amended to read:

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

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

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

(3) An informative digest containing a concise and clear summary of existing laws and regulations, if any, related directly to the proposed action and the effect of the proposed action. The informative digest shall be drafted in a format similar to the Legislative Counsel's digest on legislative bills;

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

(5) An estimate, prepared as prescribed by the Department of Finance, of the cost or savings to any state agency, the cost to any

local agency or school district that is required to be reimbursed under Section 2231 of the Revenue and Taxation Code, other nondiscretionary cost or savings imposed on local agencies, and the cost or savings in federal funding to the state;

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

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

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

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

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

SEC. 7. Section 11346 8, as added to the Government Code by Chapter 567 of the Statutes of 1979, is amended to read:

11346.8. On the date and at the time and place designated in the notice the state agency shall afford any interested person or his duly authorized representative, or both, the opportunity to present statements, arguments, or contentions in writing, with or without opportunity to present the same orally The state agency shall consider all relevant matter presented to it before adopting, amending or repealing any regulation.

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

The state agency shall make no substantial change or modification to a proposed adoption, amendment, or repeal of a regulation unless such change or modification is related directly to the same subject or issue noticed pursuant to Section 11346 4

SEC. 8 Section 11347 3, as added to the Government Code by Chapter 567 of the Statutes of 1979, is amended to read

11347 3 Every agency shall maintain a file of each rulemaking which shall be deemed to be the record for that rulemaking proceeding The file shall include

(a) Any copies of petitions received from interested persons

proposing the adoption, amendment or repeal of the regulation.

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

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

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

(e) The statement required by Section 11346.7

(f) Any other information, statement, report or data which the agency is required by law to consider or prepare in connection with the adoption, amendment or repeal of a regulation.

The file shall be available to the public, the Office of Administrative Law, and to the courts in connection with the review of the regulation.

SEC. 9. Section 11349.6, as added to the Government Code by Chapter 567 of the Statutes of 1979, is amended to read:

11349 6 (a) In the event the adopting agency has complied with the provisions of Sections 11346.4 to 11346 8, inclusive, prior to the adoption of the regulation as an emergency, the office shall approve or disapprove the regulation in accordance with the provisions of this article.

(b) Emergency regulations adopted pursuant to subdivision (b) of Section 11346 1 shall be reviewed by the office within 10 calendar days after their filing date. The office shall order the repeal of an emergency regulation if it determines that the regulation is not necessary for the immediate preservation of the public peace, health and safety, or general welfare

SEC. 10. Section 11349.7, as added to the Government Code by Chapter 567 of the Statutes of 1979, is amended to read.

11349 7. Every agency subject to the provisions of this chapter shall undertake a review of all regulations administered by it on the effective date of this section in accordance with the following

(a) Six months after the effective date of this section, each agency shall transmit to the Office of Administrative Law a plan for the review of all regulations it is administering The plan shall include the estimated annual cost of implementing the plan, time schedules for the orderly review of regulations and personnel required to evaluate all regulations.

Time schedules shall further identify separate bodies of regulations within each title of the California Administrative Code which shall be evaluated by January 31 of each year Review of each title shall be completed no later than the date specified in Section 11349 8

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

(c) All regulations shall be reviewed in accordance with the standards set forth in Section 11349 1.

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

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

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

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

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

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

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

(j) The Office of Administrative Law shall review all information available to it, including the information, if any, transmitted to it in

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

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

(*l*) In the event that the office orders the repeal of a regulation, it shall give notice of its action in accordance with the provisions of subdivision (e) of Section 11346.4.

SEC. 11. Section 15700 of the Government Code is amended to read:

15700. There is in the state government, in the Agriculture and Services Agency, a Franchise Tax Board consisting of the State Controller, the Director of Finance and the Chairman of the State Board of Equalization. The Franchise Tax Board is the successor to, and is vested with, all of the duties, powers, purposes, responsibilities, and jurisdiction of the Franchise Tax Commissioner, but the statutes and laws under which that office existed and all laws prescribing the duties, powers, purposes, responsibilities and jurisdiction of that office, together with all lawful rules and regulations established thereunder, are expressly continued in force. "Franchise Tax Commissioner" when used in any statute, law, rule or regulation now in force, or that may hereafter be enacted or adopted, means the Franchise Tax Board. No action to which the Franchise Tax Commissioner is a party shall abate by reason hereof but shall continue in the name of the Franchise Tax Board, and the Franchise Tax Board shall be substituted for the Franchise Tax Commissioner by the court wherein the action is pending. The substitution shall not in any way affect the rights of the parties to the action.

Notwithstanding any other provision of the law to the contrary, any directive or regulation adopted by the Franchise Tax Board shall take precedence over any directive or regulation adopted by its executive officer

SEC. 12. Section 15701 of the Government Code is amended to read:

15701. The Franchise Tax Board may appoint an executive officer who shall be a civil executive officer and shall perform such duties as are delegated to him by the Franchise Tax Board. The executive officer may be removed by a two-thirds vote of the Franchise Tax Board. The Legislature hereby requests the Franchise Tax Board to designate said executive officer as the person holding the position confidential to it, within the meaning of subdivision 5, of Section 4, Article XXIV of the Constitution. The annual salary of the executive officer is provided for by Chapter 6 of Part 1 of Division 3 of Title 2 of the Government Code. The executive officer shall employ, in addition to existing employees of the Franchise Tax Commissioner, such other assistants and clerical and other employees as he deems necessary for the effective conduct of his work, and shall fix their compensation in accordance with law.

CHAPTER 1204

An act relating to local law enforcement, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately

[Became law without Governor's signature October 1, 1979 Filed with Secretary of State October 1, 1979]

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

SECTION 1 It is the purpose of this act to reimburse local agencies for extraordinary costs incurred by them to meet the added burdens of providing law enforcement protection under extraordinary circumstances in fiscal year 1978–79

SEC 2 As used in this act.

(a) "Extraordinary circumstances" means the disruption of the public peace, order, health, or safety accompanied by actual or potential riot and violence which takes place on a continuous, though not uninterrupted, basis.

(b) "Extraordinary costs" means costs incurred by local agencies in providing a stepped-up level of law enforcement protection necessitated by extraordinary circumstances Such costs are limited to overtime, transportation, and supply costs necessitated by utilizing law enforcement personnel for longer hours than regular shifts in excess of normal work routine, overtime, transportation, and

supply costs necessitated in order to honor mutual aid agreements, and costs incurred in order to provide for the housing and maintenance of law enforcement personnel pursuant to a mutual aid agreement. Extraordinary costs shall not include the cost of equipment or any other capital expenditures.

(c) "Governing board" means a city council of a city, the board of supervisors of a county, the board of supervisors of a city and county, or the board of directors of a special district.

(d) "Local agency" means a city, county, city and county, or special district.

(e) "Mutual aid agreement" means any pact, contract, or agreement with one or more local agencies that provides for assistance by one or more agencies to another for law enforcement requirements.

(f) "Stepped-up level of law enforcement" means the level of law enforcement, greater than would be required under normal circumstances, necessary to meet extraordinary circumstances and provided through the utilization of overtime, additional manpower from other local agencies pursuant to mutual aid agreements, and other means.

SEC. 3. The governing board of any local agency may apply to the State Controller, no later than November 1, 1979, requesting reimbursement for costs resulting from the need to provide a stepped-up level of law enforcement services to meet extraordinary circumstances in fiscal year 1978–79. Applications shall be in the form of a resolution of the governing body requesting reimbursement for extraordinary costs incurred in fiscal year 1978–79, and certifying all of the following

(a) That the local agency has had to deploy law enforcement personnel on a stepped-up level to respond to extraordinary circumstances within its jurisdiction, or has been required to provide a stepped-up level of law enforcement, utilizing its own personnel, for other local agencies, in order to honor mutual aid agreements with those other agencies

(b) That the local agency has incurred extraordinary costs, as defined in this act, to provide a stepped-up level of law enforcement service due to extraordinary circumstances. A statement of costs detailing overtime and other expenses for which reimbursement is requested shall also accompany the resolution.

SEC. 4 Claims submitted to the State Controller shall first be reviewed by the State Board of Control at a public hearing within 45 days of the receipt of the claims by the Controller The State Board of Control shall take testimony and make the following determinations

(a) Whether the law enforcement functions of the local agency relating to any extraordinary circumstances for which a claim is filed were performed with impartiality and fairness

(b) Whether the claim submitted is in fact for extraordinary costs, as defined in subdivision (b) of Section 2, incurred in fiscal year

1978–79.

SEC 5 Upon determinations by the State Board of Control that the law enforcement functions for which a claim is filed were performed with impartiality and fairness and that the claim is for extraordinary costs incurred in fiscal year 1978–79, the State Controller shall examine the resolution and audit the statement of cost to determine compliance with the provisions of this act. The State Controller shall determine the amount of such costs eligible for reimbursement pursuant to this act, and shall then pay to each local agency, from the sum appropriated by this act, 80 percent of such eligible costs. If sufficient funds are not available to pay each local agency 80 percent of its extraordinary costs, the State Controller shall pay a pro rata amount to each local agency in the proportion that the total amount determined to be extraordinary costs bears to the total amount appropriated for the purposes of this act. The State Controller shall include any amounts necessary to satisfy the remainder of such claims in a request for a deficiency appropriation

The State Controller shall determine the extraordinary costs to be reimbursed to each local agency pursuant to this act by an examination of the statement of costs submitted to him or her by the local agency and any other relevant evidence. A local agency shall submit such other documents and evidence as requested by the State Controller in order to make such determination

SEC. 6. The sum of one million seventy-one thousand dollars ($1,071,000) is hereby appropriated from the General Fund to be allocated as follows:

(a) One million dollars ($1,000,000) to the State Controller for allocation pursuant to this act to eligible local agencies for the purpose of providing funds to reimburse them for extraordinary costs.

(b) Forty-six thousand dollars ($46,000) to the State Controller for costs incurred pursuant to this act.

(c) Twenty-five thousand dollars ($25,000) to the State Board of Control for costs incurred pursuant to this act.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect The facts constituting such necessity are:

In order to provide necessary funds for extraordinary costs incurred as a result of extraordinary circumstances necessitating a stepped-up level of law enforcement by local agencies which cause or threaten to cause the allotted funds of local law enforcement agencies to exceed their budgets for the balance of fiscal year 1978–79, it is necessary that this act take immediate effect.

CHAPTER 1205

An act to amend Sections 6312, 6313, 6316, 6328, 6329, 6365, 6365.1, and 6365.2 of the Elections Code, relating to elections

[Became law without Governor's signature October 1, 1979 Filed with Secretary of State October 1, 1979]

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

SECTION 1 Section 6312 of the Elections Code is amended to read:

6312. When the Secretary of State decides to place the name of a candidate on the ballot pursuant to Section 6311, he or she shall notify the candidate that the candidate's name will appear on the ballot of this state in the presidential primary election

The secretary shall also notify the candidate that the candidate may withdraw his or her name from the ballot by filing with the Secretary of State an affidavit pursuant to Section 6313. Such notification shall also inform the candidate that the affidavit shall be filed with the Secretary of State no later than two days after the Secretary of State makes the public announcement set forth in Section 6311.

SEC. 1.1 Section 6313 of the Elections Code is amended to read:

6313 If a selected candidate or an unselected candidate files with the Secretary of State, no later than the time specified in Section 6312, an affidavit stating without qualification that he or she is not now a candidate for the office of President of the United States, and stating that similar documents, also without qualification, have been or will be timely filed, where applicable, with the appropriate public election official in all other states holding open presidential primaries, such candidate's name shall be omitted from the list of names certified by the Secretary of State to the county clerks for the ballot and his or her name shall not appear on the ballot.

SEC 1 2 Section 6316 of the Elections Code is amended to read:

6316. Any unselected candidate or uncommitted delegation desiring to be placed on the presidential primary ballot shall have nomination papers circulated on behalf of the candidacy In order to qualify for placement on the presidential primary ballot, the candidate's or uncommitted delegation's nomination papers shall be signed by voters registered as affiliated with the Democratic Party equal in number to not less than 1 percent or 1,000, whichever is fewer, in each congressional district of the number of persons registered as members of the Democratic Party in the report of registration issued by the Secretary of State in January of the presidential primary year

SEC 1 3 Section 6328 of the Elections Code is amended to read·

6328 On or before the time specified by the Democratic State Central Committee, all individuals who wish to run as delegates in

a caucus shall file with the Democratic State Central Committee a declaration of candidate for delegate, which declaration shall be made available to the steering committee of each candidate or uncommitted delegation. A candidate for delegate shall reside in the congressional district from which he or she wishes to be chosen as a delegate, shall be a member of the Democratic Party, and shall sign a certificate pledging his or her support for that presidential candidate or uncommitted delegation before he or she becomes a bona fide candidate for delegate.

The pledge of support shall be in substantially the following form:

Declaration of Candidate for Delegate

State of California }
County of _____ } ss

I, _____, reside and am registered to vote at No. _____ Street, in the City (or town) of _____, in the County of _____, in the _____ Congressional District, State of California.

I personally prefer _____ as nominee of the Democratic Party for President of the United States, and hereby declare to the voters of the Democratic Party in the State of California that if selected as a delegate to their national party convention, I shall support _____ as nominee of my party for President of the United States until released by him or her or until he or she fails to receive at least 15 percent of the vote on any ballot wherein his or her name is placed before the convention in nomination. Such a pledge shall not be binding in the event the candidate dies or becomes unable to accept or hold office if nominated and elected (This statement of preference shall be omitted where the candidate for delegate is part of a group expressing no preference as to a particular candidate.)

I express no preference as to a particular candidate. The chairperson of my group is _____ (This statement shall be omitted where the candidate for delegate is part of a group preferring a particular candidate).

I certify under penalty of perjury that the foregoing is true and correct

Date _____. Place _____.
(Signed) _____

SEC 1 5 Section 6329 of the Elections Code is amended to read:

6329 On the first Sunday in May of the presidential primary year, at 2 p.m., the caucus chairperson in each congressional district shall convene a caucus for the purpose of electing potential delegates and one-half the alternate delegates. The steering committee of each candidate or uncommitted delegation shall have sole authority to establish rules and procedures, including the naming of caucus chairpersons, by which the caucuses of that candidate or uncommitted delegation shall be conducted Such rules and

procedures shall be uniform statewide, and in compliance with the Democratic State Central Committee's delegate selection and affirmative action plan. Each caucus shall elect a slate of 10 delegate nominees in each congressional district pursuant to Article 2 (commencing with Section 6305) of Chapter 4 of Division 6, ranked in the manner specified by the Democratic State Central Committee's delegate selection and affirmative action plan. Such slate shall be transmitted to the steering committee of each candidate and uncommitted delegation.

Prior to the election of the Democratic National Convention delegates and alternates, at all levels, the Democratic State Central Committee shall transmit to the steering committee of each presidential candidate and uncommitted delegation a list of all persons who have filed for delegate or alternate positions pledged to that presidential candidate or uncommitted delegation. All such delegate candidates and alternate candidates shall be considered bona fide supporters of the presidential candidates or uncommitted delegations that they have pledged to support, unless the steering committee provides otherwise in writing to the Democratic State Central Committee by the time specified in the delegate selection and affirmative action plan.

Delegate and alternate candidates removed from the list of bona fide supporters by the steering committee of a presidential candidate or uncommitted delegation may not be elected as a delegate or alternate pledged to that presidential candidate or uncommitted delegation

Except as provided in this section, no delegate or alternate candidate may be removed from the list of bona fide supporters, unless, at least three names remain for each delegate or alternate delegate allocated in each congressional district, and, in the case of at-large and elected official delegates, and alternates, at least three names remain for each delegate or alternate position to which each presidential or uncommitted delegation is entitled.

Each participant at each caucus shall reside in and be a registered Democrat of the congressional district of the caucus he or she attends and each shall sign a statement of support for that presidential candidate or uncommitted delegation. Within five days after the convening of the caucus, the steering committee of each candidate or uncommitted delegation shall rank and select the number of potential delegates and alternate delegates allotted to each congressional district from the slate of 10 nominated delegates provided by each caucus Such ranking and selection process shall be at the sole discretion of the steering committee, alternating between potential delegate men and potential delegate women Immediately, thereafter, the chairperson of a steering committee shall file with the Secretary of State a statement containing the names of potential delegates and alternate delegates from each congressional district In all cases, the slate for each congressional district shall be equal to the number of delegates and one-half the alternate delegates allotted to

each congressional district pursuant to Article 2 (commencing with Section 6305) of this chapter.

SEC. 2 Section 6365 of the Elections Code is amended to read:

6365. On or before the Wednesday preceding the third Saturday following the primary, the steering committee of each candidate or uncommitted delegation shall announce the names of the congressional district delegates and alternate delegates. On the second Saturday following the primary election, the Democratic State Central Committee shall transmit to the steering committee of each presidential candidate or uncommitted delegation a list of the persons who have filed for elected official, at-large, and alternate delegate positions pledged to that presidential candidate or uncommitted delegation. All such delegate candidates and alternate candidates shall be considered bona fide supporters, unless rejected in accordance with the provisions set forth in Section 6329. On the third Saturday following the presidential primary election, the steering committees of the candidates and uncommitted delegations and congressional district delegates shall meet in convention at the time and place specified by the chairperson of the Democratic State Central Committee in consultation with the chairperson of each steering committee, to elect the party leader and elected official, at-large, and one-half the alternate delegates. The chairperson of the Democratic State Central Committee shall serve as chairperson of the convention until the selection process is completed.

SEC. 3 Section 6365.1 of the Elections Code is amended to read:

6365.1. On or before the Monday preceding the third Saturday following the primary the Secretary of State, in consultation with the chairperson of the Democratic State Central Committee, shall announce the number of delegates and alternate delegates to which each candidate or uncommitted delegation is entitled based on the vote in each congressional district. The steering committee of each candidate or uncommitted delegation shall choose from among the individuals who were elected at the congressional district level and whose names were submitted to the Secretary of State as potential delegates pledged to the various candidates and uncommitted delegation from each congressional district, the number of delegates and alternate delegates to which each candidate or uncommitted delegation is entitled.

Delegates shall be ranked in the manner specified in the Democratic State Central Committee's delegate selection and affirmative action plan. Such ranking shall not be altered. The allocation of delegates and alternates to presidential candidates and uncommitted delegations shall be chosen from this list in the order in which they are ranked

The delegates shall be chosen to reflect the strength of support a candidate or uncommitted delegation has received in each congressional district by first determining the applicable percentage threshold for each congressional district. The applicable percentage or threshold shall be determined by dividing the number of

delegates in the congressional district into 100 percent to find the threshold The threshold, however, shall not exceed 20 percent

After determining the threshold percent, calculate the percentage of the vote received in that district by each presidential candidate or uncommitted delegation.

Next, divide the total vote received in that district by all the candidates or uncommitted delegations, or both, that meet or exceed the threshold into the number of votes received by each candidate or uncommitted delegation, to three decimals. Then, multiply the resulting percentages by the total number of delegates to be selected. Each candidate or uncommitted delegation shall be entitled to the whole number of delegates in the product. Remaining delegates, if any, shall be awarded in order of the highest fractional remainders. In case of a tie, the delegate shall be awarded to the candidate with the highest total vote, or if the vote is a tie, by drawing lots. Alternates shall be allocated in the same manner as delegates

If only one candidate or uncommitted delegation received a percentage of the votes which percent equaled or exceeded the threshold, one delegate must be awarded to the candidate or uncommitted delegation with the next highest vote total, except in the case where such candidate's or uncommitted delegation received 85 percent or more of the votes, or the front-running candidate or leading uncommitted delegation is at least 50 percent or more percentage points ahead of the next candidate or uncommitted delegation and the next candidate or uncommitted delegation received 15 percent or less of the vote, such candidate or delegation shall be awarded all the delegates.

If no candidate or uncommitted delegation in a particular congressional district received a percentage of the vote which equaled or exceeded the threshold percent for that district, the delegates shall be allocated by using a recalculated threshold, which shall be the percentage of the vote received by the frontrunner minus 10 percent Once the threshold is calculated, the formula set forth in this section shall be utilized for allocating delegates.

In the event of a tie, a delegate shall be awarded to the candidate with the highest statewide popular vote.

In the event that an uncommitted designation was included on the ballot pursuant to Section 6360, and in the event that the uncommitted designation qualifies for delegates pursuant to the provisions of this section, a designee of the chairperson of the Democratic State Central Committee shall convene an uncommitted caucus in each applicable congressional district for the purpose of electing delegates prior to the third Saturday following the primary.

SEC. 4. Section 6365.2 of the Elections Code is amended to read:

6365.2. (a) After the election of congressional district delegates and prior to the election of at-large delegates and one-half the alternates, those national convention delegates elected at the

congressional district level shall elect additional delegates equal in number to 10 percent of the publicly elected and at-large delegates from Democratic party leaders and elected officials.

In the election of party leaders and elected official delegates, priority of consideration shall be given to, among others, Democratic state constitutional officers, United States Senators, state party chair, state party vice chairs, members of the Legislature, members of the House of Representatives, and members of the Democratic National Committee Delegates elected at this level shall reflect the division of presidential or uncommitted delegation preference, and may be rejected pursuant to the provisions of Section 6329. Elected state officers shall have the option of being a candidate for delegate or alternate delegate at any level.

(b) The remaining 25 percent of the delegation shall be chosen at large, and in all cases the election of an at-large delegation shall be used, if necessary, for purposes of achieving the representational goals established in the Democratic State Central Committee's delegate selection and affirmative action plan, and shall be apportioned among the presidential candidates and uncommitted delegations based on recalculated percentages determined by the vote each candidate or uncommitted delegation received statewide divided by the total combined statewide vote for all candidates and uncommitted delegations meeting a 15 percent threshold. No at-large delegates shall be awarded to any candidate or uncommitted delegation that fails to meet the established threshold.

(c) The at-large delegates referred to in subdivision (b) and one-half of the alternates shall be elected by separate caucuses of the steering committee and the already elected delegates pledged to the various candidates or who are members of an uncommitted delegation. Such election proceedings shall be conducted in accordance with the rules of the Democratic National Committee and the Democratic State Central Committee. Each caucus shall be chaired by the chairperson of the appropriate steering committee.

(d) The delegation so formed shall thereafter select a chairperson and other officers of the delegation, select convention committee members, and proceed with such other business as they may choose to conduct.

CHAPTER 1206

An act to add and repeal Article 4 (commencing with Section 32230) to Chapter 2 of Part 19 of the Education Code, relating to school violence and vandalism.

[Became law without Governor's signature October 1, 1979 Filed with Secretary of State October 1, 1979]

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

SECTION 1. Article 4 (commencing with Section 32230) is added to Chapter 2 of Part 19 of the Education Code, to read:

Article 4 School Violence and Vandalism

32230. The Legislature recognizes that crime, including violence and vandalism, has reached an alarming level on school campuses throughout California, and that there is a need for the gathering of data and information relating to the complex problems of school-related crime and violence in order to develop effective techniques and programs to combat crime on campuses.

It is the intent of the Legislature that such data and information on school-related crime and violence be gathered by affected agencies, pursuant to this article, within the course of regular duties and without the expenditure of additional resources.

32231. The Department of Education shall request the governing board of every school district to report twice a year to the county superintendent of schools the information needed by the county superintendent for completion of the forms relating to school related crime and violence. The department shall request each county superintendent to compile the data and report to the Department of Education within 30 days, on forms prepared and supplied by the Department of Education, information relating to school-related crime and violence, which shall include, but shall not be limited to, all of the following:

(a) The techniques utilized to effectively combat crime and violence on school campuses.

(b) The nature, extent, cost, and effectiveness of prevention and control programs.

(c) Crime incident and cost information, including frequency of incidents, types of incidents, unit cost of incidents, and total cost of incidents.

(d) Victimization-incident descriptions.

(e) The modus operandi and the number of offenders.

(f) The school status of offenders.

32232. The Department of Education shall publish annually a statewide report on crime and violence in the public schools utilizing the information submitted pursuant to Section 32231 to be made available to the public and to school districts. Each report shall contain an evaluation of the statewide and district problems concerning school-related crime and violence and shall contain particular information on techniques which have been effectively utilized in any school district to combat crime and violence in the public schools.

32233 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.

CHAPTER 1207

An act to amend Sections 11011.1, and 65943, to add Section 65453 to, to add Article 6 (commencing with Section 65050) to Chapter 1.5 of Division 1 of Title 7 of, and to add Chapter 4.3 (commencing with Section 65915) to Division 1 of Title 7 of, the Government Code, and to amend Sections 50074, 50080, 50951, 51002, 51053, 51054, 51055, 51056, 51100, 51101, 51125, 51226, 51252, 51305, 51306, 51311, 51600, 51601, 51607, 51611, 51650, 51652, 51653, 51654, 51800, 51803, 51852, 51852.5, 51853, and 51900 of, to add Sections 50093.5 and 51901 to, and to repeal Sections 50088, 51307, 51309, 51606, 51651, 51801, and 51854 of, the Health and Safety Code, and to amend Section 17053.5 of the Revenue and Taxation Code, relating to housing, and making an appropriation therefor, to take effect immediately, tax levy.

[Approved by Governor October 1, 1979 Filed with Secretary of State October 2, 1979]

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

SECTION 1. The Legislature finds and declares that the present supply of housing in California is less than present demand, and that under present circumstances and law, imbalance between supply and demand is likely to increase in the foreseeable future. This problem is general in nature, and does and will exist in urban, suburban, and rural areas, and with regard to market rate housing and to housing which requires subsidization in order to be affordable to segments of the state's population. This situation creates an absolute present and future shortage of supply in relation to demand, as expressed in terms of housing needs and aspirations, and also creates inflation in the cost of housing, by reason of its scarcity, which tends to decrease the relative affordability of the state's housing supply for all its residents.

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

(a) It is a matter of urgent public necessity that the housing supply shortfall in California be eliminated.

(b) It is essential to address and remedy the basic causes of the problem rather than its symptoms, and that these causes include the following:

(1) Insufficient availability of land suitable and capable of being developed for the purpose of housing.

(2) Increases in the time and uncertainty for completion of housing development and construction, largely attributable to processing requirements, which significantly increase the cost of the completed housing and delay its availability to the public.

(3) Increases in costs relating to community objectives and services, placed directly upon new residential construction

(4) Government statutes, regulations, and policies which are insensitive to housing needs, or which individually or collectively,

tend to frustrate the production of housing.

(c) For all these and other reasons, a chaotic housing marketplace now exists in California, in which enough housing cannot be produced in some areas at any price to meet the demand, while in others, costs and uncertainties have combined to make essential new and existing housing stock unattractive to capital investment.

SEC. 3. The Legislature further finds and declares that·

(a) In order to meet California's statutory objectives relative to housing, the state must immediately embark on a comprehensive housing supply development program, and maintain that program until the balance between supply and demand is restored, and thereafter to the extent necessary to avoid future imbalance.

(b) In so doing, the state must and should rely primarily.

(1) On the private sector to produce and otherwise provide and maintain the necessary increase in both market rate units, and nonmarket rate units.

(2) On general purpose local government to guide the manner in which these units should be made available; provided, that such local discretion and powers not be exercised in a manner to frustrate the purposes of this act.

(c) While encouraging the expansion and increase utilization of federal programs, the state must not place primary reliance upon the federal government to eliminate the imbalance of supply and demand The appropriate role for state government is to:

(1) Assist in the removal of obstacles to the development of new housing units.

(2) Harmonize the activities of all state and local agencies to eliminate counterproductive actions and encourage actions which implement the policies of this act.

(d) The state should structure its relationship with other levels of government, particularly general purpose local government and with the private sector as a three-sided partnership, in which each party has specific rights and responsibilities The state should maintain its role in this partnership so that local government and the private sector can depend upon its commitment to its responsibilities.

SEC. 4. The Legislature further finds and declares that the purpose of this act is to bring the supply of housing back into balance with demand as rapidly as possible, and within a predictable future period of time.

SEC. 5. The Legislature further finds and declares that the specific objectives of this act are to:

(a) Ensure an adequate supply of housing in those areas where the citizens of this state elect to work and live.

(b) Relieve inflationary pressures on housing costs by restoring a more competitive marketplace for new units, and by extension, resale, and existing rental units.

(c) Minimize counterproductive effects of short term or interim responses to the present supply-demand

SEC. 6. The Legislature further finds and declares that if the state does not adopt these policies, and engage in a systematic program, as set forth in this act, to carry out its purpose and achieve objectives:

(a) Present trends responsible for the imbalance of supply and demand will not be reversed, and are likely to accelerate the imbalance and its consequences.

(b) The imbalance will become institutionalized as a permanent part of the state's housing situation, rather than being a temporary maladjustment.

(c) The state's statutory housing objectives will become unattainable.

(d) The citizens of this state will be forced to unnecessarily accept further limitations on their personal aspirations, their social and economic mobility, and their physical comfort and well-being.

SEC. 7. Section 11011.1 of the Government Code is amended to read·

11011.1 (a) Land that has been declared surplus by the Legislature, pursuant to Section 11011, and is not needed by any state agency shall be offered to local governmental agencies. Except as authorized in subdivisions (b), (c), and (d), transfers of surplus land to local governmental agencies pursuant to this section shall be at fair market value

(b) Where such land is to be used for park and recreation purposes and operated for such purposes by local agencies at no expense to the state, the Director of General Services with the approval of the State Public Works Board may, notwithstanding any provision in Section 11011, transfer the land to local governmental agencies at less than the fair market value of the land, if such transfer is in the public interest, under the following conditions:

(i) The local public agency has submitted a general development plan for the property which conforms to the agency's general plan pursuant to Article 5 (commencing with Section 65300) of Chapter 3 of Title 7, and which general development plan has been approved by the Director of Parks and Recreation.

(ii) The land shall be developed according to plan within a time period determined by the state but not to exceed 10 years. The deed or other instrument of transfer shall provide that the land shall revert to the state if the land is not developed within the time period so determined by the state

(iii) The deed or other instrument of transfer shall provide that the land would revert to the state if the use changed to a use not consistent with parks and recreation purposes during the period of 25 years following the sale.

(c) Where such land is to be used for open-space purposes, as defined herein, and operated by local agencies at no expense to the state, the Director of General Services with the approval of the State Public Works Board may transfer the land to local governmental agencies at fair market value of the land or at any lesser value of the land under the following conditions·

(i) The local public agency has submitted a plan for the use of the property which conforms to the agency's general plan pursuant to Article 5 (commencing with Section 65300) of Chapter 3 of Title 7, and which plan has been approved by the Director of Parks and Recreation.

(ii) The land shall be used according to plan within a time period determined by the state but not to exceed 10 years.

(iii) The deed or other instrument of transfer shall provide that the land would revert to the state if the use changed to a use not consistent with open-space purposes during the period of 25 years following the sale.

(iv) For the purpose of this subdivision, "open-space purpose" means the use of land for public recreation, enjoyment of scenic beauty, or conservation or use of natural resources.

(d) Where such land is suitable to be used for the purpose of providing housing for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, the Director of General Services, with the approval of the State Public Works Board, may offer the land to local agencies within whose jurisdiction the land is located. Provided, however, if the state has held title to such land for seven years or less and such land is not used for the purposes for which it was acquired, and such land is declared surplus land and is not needed by any other state agency pursuant to the provisions of Section 11011, the state, prior to offering such land to local agencies, shall extend to the individual from whom the land was acquired an offer to purchase such land at current fair market value. Such offer shall extend for 60 days and if not exercised within such period shall be irrevocably terminated. Such land may be transferred to local agencies at a reasonable cost which will enable the provision of housing for persons and families of low or moderate income. Such cost may be less than fair market value The Department of Housing and Community Development shall recommend to the Department of General Services a cost which will enable the provision of housing for persons and families of low or moderate income All transfers of land pursuant to this subdivision shall be subject to the following conditions:

(1) The local agency has made all of the following findings:

(A) There is a need for such housing in the community.

(B) The land is suitable for development of such housing.

(2) The local agency develops a plan for such housing in accordance with criteria established by the Department of Housing and Community Development, which shall include, but not be limited to, criteria respecting the financial condition of the developer, if the housing is to be developed by a private sponsor, and the cost of the project Such plan shall be approved by the Department of Housing and Community Development.

(3) After transfer of such property from the state to the local agency, the property shall be developed as housing for persons and families of low or moderate income. The local agency may lease or

sell such property to any nonprofit corporation, housing corporation, limited dividend housing corporation, or private developer if the local agency determines a private entity is best suited to develop housing for persons and families of low or moderate income. In authorizing such private development, the local agency shall impose reasonable terms and conditions as will further the purposes of this subdivision, which shall include, but not be limited to, continued use of the property for housing for persons and families of low or moderate income for not less than 40 nor more than 55 years. A lessee or purchaser of land pursuant to this subdivision shall agree to limitations on profit in the operation of such property which will benefit the public and assure that the housing provided thereon is within the means of persons and families of low or moderate income. Such agreement shall be binding upon successors in interest of the original lessee or purchaser and shall inure to the benefit of, and be enforceable by, the state.

(4) The local agency shall assure that the land will be used for the purpose of providing low- or moderate-income housing and shall not permit the use of the dwelling accommodations of the project for any other purpose for not less than 40 nor more than 55 years, except as provided in this section.

In the event a local agency does not comply with the land use requirements prescribed in this section, as determined by the Department of General Services, the Department of General Services may require that the local agency pay the state the difference between the actual price paid by the local agency for the property and the fair market value of such property, at the time of the department's determination of noncompliance, plus 6 percent interest on such amount for the period of time the land has been held by the local agency

If the local agency, with the approval of the Department of General Services, and in consultation with the Department of Housing and Community Development, determines that there is no longer a need for low- or moderate-income housing within the jurisdiction of the local agency and another valid public purpose could be achieved by utilizing the land in an alternative manner, the local agency shall not be required to make any payment to the state for the difference between purchase price and fair market value or interest charges for the period of time the land has been held by the local agency.

(5) Failure to comply with the provisions of this section shall not invalidate the transfer, sale, or conveyance of the real property to a bona fide purchaser or encumbrancer for value

(6) The project shall be commenced within 24 months of the original transfer to the local agency. However, the Department of General Services, in consultation with the Department of Housing and Community Development, may for justifiable cause extend the time for commencement of development for an additional 36 months. The aggregate time for commencing development shall not

exceed 60 months. The deed or other instrument of conveyance shall specify that, if development has not commenced within such time, the land shall revert to the Department of General Services for disposal pursuant to this section or as otherwise authorized by law.

(7) As used in this subdivision, "local agency" means and includes any county, city, city and county, redevelopment agency organized pursuant to Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code, or housing authority organized pursuant to Part 2 (commencing with Section 34200) of Division 24 of the Health and Safety Code, public district or other political subdivision of the state and any instrumentality thereof, which is authorized to engage in or assist in the development or operation of housing for persons and families of low or moderate income and also includes two or more such agencies acting jointly pursuant to Part 1 (commencing with Section 6500) of Division 7 of this code.

(8) Up to 40 percent of the housing developed on land purchased at below market value pursuant to this subdivision may be housing which is not regulated as to price, rent, or eligibility of occupants only if the purchaser of the land demonstrates that the proceeds from the sale or rental of such housing, in an amount equal to the difference between the fair market value and the actual price paid for the land, is used to reduce prices or rents on other housing units which are made available exclusively to persons and families of low and moderate income.

(e) Where such land is suitable to be used for the purpose of providing housing for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, and provided no local agency has acquired or is in the process of acquiring the land pursuant to subdivision (d), the Director of General Services, with the approval of the State Public Works Board, may lease or sell the land to a housing sponsor. Such land may be sold or leased at a reasonable cost which may be less than fair market value. The Department of Housing and Community Development shall recommend to the Director of General Services a cost which will enable the provision of housing for persons and families of low or moderate income. All transfers of land pursuant to this subdivision shall be subject to all of the following conditions:

(1) The housing sponsor has submitted a plan for the development of such housing pursuant to criteria established by the Department of Housing and Community Development. Such criteria shall include, but need not be limited to, standards with respect to the cost of the housing development and the proportion of the housing development to be occupied by persons and families of low and moderate income. Insofar as is practical, such plan shall provide for a mix of housing for all income groups.

(2) The housing development shall normally be developed or be under development within 24 months from the time of transfer or lease of the land to the housing sponsor However, the Department of General Services, in consultation with the Department of Housing

and Community Development, may, upon finding justifiable cause, extend the time for commencement of development for an additional period of 36 months. The aggregate of all extensions for commencement of development shall not exceed 60 months. The deed or other instrument of conveyance shall specify that if development has not commenced within such time, the land shall revert to the Department of General Services for disposal pursuant to this section or as otherwise authorized by law.

(3) Transfer of title to the land or lease of the land to a housing sponsor shall be conditioned upon continued use of the property as housing for persons and families of low and moderate income for not less than 40 nor more than 55 years. In accordance with regulations which shall be adopted by the Department of Housing and Community Development pursuant to the Administrative Procedure Act, the Director of General Services shall require that any housing sponsor purchasing or leasing land pursuant to this subdivision enter into an agreement which (A) provides for limitations on profit in the operation of such property which benefit the public and which assure that the housing is affordable to persons and families of low and moderate income, and (B) does not permit the use of the property for purposes other than the provision of housing for persons and families of low and moderate income except as provided in this subdivision. Upon recordation of the agreement in the office of county recorder in the county in which the real property subject to such agreement is located, the agreement shall be binding for a period of not less than 40 nor more than 55 years upon successors in interest to the original housing sponsor and shall inure to the benefit of, and be enforceable by, the state.

For the purposes of this subdivision, "housing sponsor" means a nonprofit corporation incorporated pursuant to Part 1 (commencing with Section 9000) of Division 2 of Title 1 of the Corporations Code; a cooperative housing corporation which is a stock cooperative, as defined by Section 11003.2 of the Business and Professions Code; a limited-dividend housing corporation; or a private housing developer who agrees to the conditions set forth in this subdivision.

(4) Up to 40 percent of the housing developed on land purchased at below market value pursuant to this subdivision may be housing which is not regulated as to price, rent, or eligibility of occupants only if the purchaser of the land demonstrates that the proceeds from the sale or rental of such housing, in an amount equal to the difference between the fair market value and the actual price paid for the land, is used to reduce prices or rents on other housing units which are made available exclusively to persons and families of low and moderate income.

(f) The Department of Housing and Community Development, in consultation with the Department of General Services and the Office of Planning and Research, shall make a report to the Legislature on or before January 1, 1981, with respect to effectiveness of the program and shall recommend any necessary legislative

changes to the provisions of subdivision (d).

(g) Where such land is to be used for public purposes other than specifically set forth in this section, is to be operated by the local agency at no expense to the state, and the use and enjoyment of the public purpose contemplated will be of broad public benefit, and not a benefit basically of local interest enjoyed and used primarily by the residents of the area of tax jurisdiction of the local agency, the Director of General Services, with the approval of the State Public Works Board, may transfer the land to local governmental agencies at a sales price not less than 50 percent of fair market value. Any such transfer shall provide that if the land is not used for the contemplated purpose during the period of 25 years following the sale, the land shall revert to the state. The Director of General Services may provide additional terms and conditions as he determines to be in the best interest of the state

(h) If there is more than one appropriate use and more than one offer for the use of a parcel of surplus land, the Department of General Services, in consultation with the Department of Housing and Community Development, the Department of Parks and Recreation, and the Office of Planning and Research, shall determine the most appropriate use for the parcel and the Department of General Services shall offer the land accordingly.

(i) Land that has been declared surplus by the Legislature, pursuant to Section 11011, is not needed by any state agency, is suitable for development for housing purposes, and is not in the process of being acquired pursuant to other provisions of this section, may upon the request of the Department of Housing and Community Development be retained by the Director of General Services for a period not exceeding five years, during which the Director of General Services shall continue to offer such lands for housing pursuant to subdivision (d).

(j) Transfer of state surplus lands under subdivision (d) shall be at a cost which will enable provision of economically feasible housing for persons and families of low or moderate income

SEC 8. Article 6 (commencing with Section 65050) is added to Chapter 1 5 of Division 1 of Title 7 of the Government Code, to read:

Article 6 Guidelines for Expeditious Local Permit Approval

65050. Subject to the availability of moneys appropriated therefor, the office shall develop guidelines to provide technical assistance to counties and cities in establishing and operating an expedited development permit process The guidelines shall include, but not be limited to, all of the following elements of a local permit process·

(a) A central contact point with a public agency where all permit applications can be filed and information on all permit requirements can be obtained.

(b) A referral process to (1) refer the applicant to the appropriate

functional area for resolution of problems and fulfillment of requirements, (2) refer the applicant to cities within the county in whose sphere of influence the proposed project lies for review, comment, or imposition of condition permits, (3) assign an individual from the local government to be responsible for guiding the application through all local permit bodies, or (4) include any combination of the above.

(c) A master permit document which covers permits for all functional areas and which could be used for obtaining the approvals of the various functional areas.

(d) A method of tracking progress on various permit applications, which may include identifying a staff person responsible for monitoring permits.

(e) A determination as to completeness of the master permit document upon its submission and a written statement of specific information that is missing, if any.

(f) Timetables for action on individual permits.

(g) An expedited appeal process to assure fair treatment to the applicant using existing agencies, staffs, commissions or boards, where possible.

(h) A variety of administrative mechanisms that will describe the least costly approaches for implementation in a variety of local circumstances

In developing the guidelines, local variations in population rate of growth, types of proposed development projects, geography and differences in local government structure shall be recognized.

65051.1. The guidelines established by the office pursuant to this article shall be advisory in nature and in no way shall they constitute a mandate upon cities and counties to take any of the actions contained therein.

65051.2. Subject to the availability of funds appropriated therefor, the Office of Planning and Research shall provide technical assistance and grants-in-aid to assist counties and cities in establishing an expedited permit process pursuant to this article. Any city or county receiving such a grant shall enact an expedited permit process within 10 months of the date of receipt. Nothing in this article shall in any way preclude a county or city from establishing an expedited permit process pursuant to a procedure established solely by that county or city. If the office has adopted guidelines pursuant to this article and a county or city has established an expedited permit process pursuant to its own procedures, in all cases the process established by the city or county shall prevail over conflicting provisions of the guidelines

SEC. 9 Section 65453 is added to the Government Code, to read:

65453 (a) The Legislature hereby declares its intent to encourage counties and cities to undertake the work and responsibility for development of specific plans At the time a specific plan is presented to the legislative body for adoption, the city or county shall also prepare and present a complete cost breakdown,

including costs incurred pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code, and the legislative body shall make a determination of the cost thereof The legislative body, after adopting a specific plan, may impose a special fee upon persons seeking governmental approvals which are required to be in conformity with the specific plan The amount of the fees shall be established so that, in the aggregate they defray, but as estimated do not exceed, the cost of development and adoption of the specific plan. As nearly as may be estimated, the fee charged shall be a prorated amount in accordance with the applicant's relative benefit derived from the specific plan. It is the intent of the Legislature in providing for such fees to charge those builders, developers, and others who benefit from development of specific plans for the costs thereof which result in savings to them by reducing the cost of documenting environmental consequences and advocating changed land uses which may be authorized pursuant to the specific plan

Copies of specific plans shall be made available to local agencies and the general public

(b) Notwithstanding any other provision of law, no environmental impact report or negative declaration need be filed pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code for any residential project, including any land subdivision or zoning change, which is undertaken pursuant to and in conformity with a specific plan for which an environmental impact report has been certified under such provisions after January 1, 1980. In such cases, the environmental impact report for the specific plan shall constitute compliance with the provisions of Division 13 (commencing with Section 21000) of the Public Resources Code However, if, after adoption of the specific plan, an event as specified in Section 21166 of the Public Resources Code should occur, the provisions of this subdivision shall be inapplicable to projects undertaken pursuant to (or in conformity with) such specific plan unless and until the city or county which adopted the specific plan prepares and certifies a supplemental environmental impact report for the specific plan in accordance with the provisions of Division 13 (commencing with Section 21000) of the Public Resources Code Where such a supplemental environmental impact report is prepared, the exemption specified in this subdivision shall be applicable to projects undertaken pursuant to the specific plan after the notice required by subdivision (a) of Section 21152 of the Public Resources Code has been filed for the specific plan as reconsidered by the supplemental environmental impact report

An action or proceeding alleging that a public agency has approved a project pursuant to (or in conformity with) a specific plan without having previously adopted a supplemental environmental impact report for the specific plan, where required by this subdivision, shall be commenced within 30 days of the public agency's decision to carry out or approve such project in accordance with the specific plan

(c) Subdivision (b) of this section does not supersede Section 21080.7 of the Public Resources Code, but shall provide an alternative procedure.

SEC. 10. Chapter 4.3 (commencing with Section 65915) is added to Division 1 of Title 7 of the Government Code, to read:

CHAPTER 4.3. DENSITY BONUSES AND OTHER INCENTIVES

65915. When a developer of housing agrees to construct at least 25 percent of the total units of a housing development for persons and families of low or moderate income, as defined by Section 50093 of the Health and Safety Code, a city, county, or city and county shall enter into an agreement with the developer to either grant a density bonus or provide not less than two other bonus incentives for the project

For the purposes of this chapter, "density bonus" means a density increase of at least 25 percent over the otherwise allowable residential density under the applicable zoning ordinance. The density bonus shall not be included when determining the otherwise allowable density. The density bonus shall apply to housing developments consisting of five or more dwelling units. Other bonus incentives which a city, county or city and county may agree to provide under this section include the following:

(a) Exemption of the development from the requirements of Section 66477 and any local ordinance adopted pursuant thereto.

(b) Construction of public improvements appurtenant to the proposed housing development, which may include, but shall not be limited to, streets, sewers and sidewalks

(c) Utilization of federal or state grant moneys or local revenues to provide the land on which the housing development will be constructed at a reduced cost.

(d) Exemption of the development from any provision of local ordinances which may cause an indirect increase in the cost of the housing units to be developed.

Nothing in this section shall preclude a city, county, or city and county from taking any additional actions which will aid housing developers to construct housing developments with 25 percent or more of the total units of a housing development for persons and families of low or moderate income. The determination of the means by which a city, county, or city and county will comply with this chapter shall be in the sole discretion of the city, county, or city and county; provided, that no developer shall be required to enter into an unacceptable agreement as a prerequisite to approval of a housing development.

65916 Where there is a direct financial contribution to a housing development pursuant to Section 65915 through participation in cost of infrastructure, write-down of land costs, or subsidizing the cost of construction, the city, county, or city and county shall assure continued availability for low- and moderate-income units for 30

years When appropriate, the agreement provided for in Section 65915 shall specify the mechanisms and procedures necessary to carry out this section.

65917. In enacting this chapter it is the intent of the Legislature that the agreement offered by the city, county, or city and county pursuant to this chapter contribute significantly to the economic feasibility of low-and moderate-income housing in proposed housing developments.

65918 The provisions of this chapter shall apply to charter cities.

SEC. 11 Section 65943 of the Government Code is amended to read:

65943. Not later than 30 calendar days after any public agency has received an application for a development project, such agency shall determine in writing whether such application is complete and shall immediately transmit such determination to the applicant for the development project. If such written determination is not made within 30 days after receipt of the application, the application shall be deemed complete for purposes of this chapter. In the event that the application is determined not to be complete, the agency's determination shall specify those parts of the application which are incomplete and shall indicate the manner in which they can be made complete.

SEC. 12. Section 50074 of the Health and Safety Code is amended to read

50074. "Housing sponsor" means any individual, joint venture, partnership, limited partnership, trust, corporation, cooperative, local public entity, duly constituted governing body of an Indian reservation or rancheria, or other legal entity, or any combination thereof, certified by the agency pursuant to rules and regulations of the agency as qualified to either own, construct, acquire or rehabilitate a housing development, whether for profit, nonprofit, or organized for limited profit, and subject to the regulatory powers of the agency pursuant to rules and regulations of the agency and other terms and conditions set forth in this division. "Housing sponsor" includes persons and families of low or moderate income who are approved by the agency as eligible to own and occupy a housing development and individuals and legal entities receiving property improvement loans through the agency.

SEC. 13 Section 50080 of the Health and Safety Code is amended to read:

50080 "Market interest" means, except with respect to neighborhood improvement loans, the interest rate determined by the agency, pursuant to its rules and regulations, to be the lowest interest rate generally available in the private market for construction loans, loans for new single-family housing, apartment project loans, or loans on existing housing, as the case may be, at the time of commitment of funds by the agency.

SEC 14. Section 50088 of the Health and Safety Code is repealed

SEC 15 Section 50093 5 is added to the Health and Safety Code,

to read:

50093.5. "Property improvement loan" means an advance of money, evidenced by a note, to finance rehabilitation and general repairs and improvements to a residence consistent with the purposes of this division. A property improvement loan may, but need not be, secured by a deed of trust. However, a property improvement loan made outside a neighborhood preservation area shall be unsecured and shall not exceed fifteen thousand dollars ($15,000).

SEC. 16. Section 50951 of the Health and Safety Code is amended to read:

50951. In meeting the housing needs of persons and families of low or moderate income, not less than 30 percent of the units financed by mortgage loans or property improvement loans pursuant to this part shall be available to, or occupied by, very low income households at affordable rents, unless it is not possible to obtain subsidies necessary to meet such requirement. No development loan, rehabilitation loan, or construction loan shall be made pursuant to this part if the agency determines that its ability to utilize currently available subsidies to meet the requirements of this section would be jeopardized thereby

SEC. 17 Section 51002 of the Health and Safety Code is amended to read:

51002. Subject to any agreements with holders of particular bonds, revenue derived pursuant to this part from property improvement loans and mortgage loans shall be deposited in a special account, which shall be used exclusively for the amortization of debt and the protection of the underlying security, until current debt service and reserves are funded.

SEC. 18 Section 51053 of the Health and Safety Code is amended to read:

51053. The agency may make and execute contracts with qualified mortgage lenders for the initiation or servicing of mortgage loans, construction loans, property improvement loans, or development loans made or acquired by the agency pursuant to this part or for other services rendered to the agency. The agency may pay the reasonable value of services rendered to the agency pursuant to such contracts.

SEC. 19. Section 51054 of the Health and Safety Code is amended to read:

51054. The agency may make or undertake commitments to make development loans, construction loans, mortgage loans, and property improvement loans to housing sponsors to finance housing developments, as provided in Chapter 5 (commencing with Section 51100) of this part.

The agency may, in conjunction with a construction loan, set aside a reserve to provide improvement security required under subdivision (c) of Section 66462 and Chapter 5 (commencing with Section 66499) of Division 2 of Title 7 of the Government Code,

which shall be in lieu of improvement security otherwise required by such provisions

SEC. 20 Section 51055 of the Health and Safety Code is amended to read:

51055 The agency may purchase and sell construction loans, mortgage loans, property improvement loans, obligations secured by such loans, and participation therein.

SEC. 21. Section 51056 of the Health and Safety Code is amended to read:

51056. Construction loans, mortgage loans, and property improvement loans made, purchased, assigned or serving as security for obligations or participations pursuant to this part shall be limited as to charges, interest, maximum loan amount, which shall be consistent with the purposes of this part.

SEC 22. Section 51100 of the Health and Safety Code is amended to read:

51100 Subject to the limitations prescribed by Article 4 (commencing with Section 51175) of this chapter, the agency may make, or undertake commitments to make, development loans, construction loans, property improvement loans, mortgage loans, and advances in anticipation of such loans to housing sponsors to finance housing developments.

SEC. 23 Section 51101 of the Health and Safety Code is amended to read:

51101 The agency shall make and publish rules and regulations respecting the making of development loans, construction loans, property improvement loans, and mortgage loans pursuant to this part, the terms and conditions upon which such loans may be made to housing sponsors, the admission of tenants to a housing development, the inclusion of nonhousing facilities in housing developments, the construction of nonhousing facilities, and supervision of housing sponsors, including housing sponsors owning and occupying a housing development.

SEC. 24. Section 51125 of the Health and Safety Code is amended to read:

51125. The agency may invest in, purchase, or make commitments to purchase, and take assignments from qualified mortgage lenders of, construction loans, mortgage loans, property improvement loans, obligations secured by construction loans, mortgage loans, property improvement loans and participations therein for financing or refinancing of housing developments

The agency may also invest in, purchase, or make commitments to purchase, and take assignments from qualified mortgage lenders of, loans for rehabilitation or home improvements not secured by a mortgage but wholly or partially insured by an agency or instrumentality of the United States, or participation in such loans

Such construction loans, mortgage loans, property improvement loans, obligations secured by construction loans, property improvement loans or mortgage loans, rehabilitation and home

improvement loans, or participations therein may be held or sold by the agency, or the agency may create pools of such loans, obligations, and participations held by the agency and may sell securities backed by such pools.

SEC. 24 7 Section 51226 of the Health and Safety Code is amended to read.

51226. (a) Subject to the availability of adequate subsidies, not less than 30 percent of the combined total units financed by mortgage loans and property improvement loans pursuant to this part during each fiscal year shall be made available on a priority basis to very low income households Subject to the availability of adequate subsidies, not less than 20 percent of the units in each housing development shall be made available on a priority basis to very low income households, except that such requirement shall not apply to housing developments of less than 12 units where the agency finds it is not necessary to make units available in the development for very low income households to meet the requirement of making 30 percent of total units available to very low income households Units required to be made available on a priority basis pursuant to this section, shall be offered exclusively to those within the priority group unless or until the agency permits the unit to be offered to other potential occupant groups.

(b) The agency shall actively and aggressively pursue all available federal housing programs and utilize fully all available subsidies in order to achieve the purposes of this section

SEC. 25. Section 51252 of the Health and Safety Code is amended to read·

51252. (a) Upon application to the department, any city, county, city and county, or combination thereof acting jointly, or the duly constituted governing body of an Indian reservation or rancheria shall be certified as a local housing agency by the department if the department determines that the applicant meets the criteria specified in subdivision (b) If a local housing agency consists of more than one city, county, or city and county, each such entity shall individually meet the criteria of subdivision (b) All applications of prospective housing sponsors for loans or grants authorized by this part for housing developments shall be reviewed by the local housing agent, if any, for the area in which the housing development is to be financed The local housing agent shall approve an application for a loan or grant for a housing development unless it expressly finds that the application does not meet one or more of the following criteria·

(1) The proposed housing development conforms with a housing element that meets the requirements of subdivision (b)

(2) The proposed housing development is consistent with the provision of a full range of housing opportunities within the jurisdiction of the local housing agent.

(3) The proposed housing development would be in compliance with applicable federal, state, and local laws, including laws prohibiting discrimination in housing

An application shall be deemed approved if the local housing agent fails to approve or reject it within 40 days following the date of submission.

(b) A local housing agent shall meet all of the following criteria:

(1) The local housing agent shall have adopted a housing element, as required by subdivision (c) of Section 65302 of the Government Code, and an affirmative housing plan, if required by Section 65008 of the Government Code. The housing element shall not conflict with any housing assistance plan submitted to the federal government as part of an application to obtain funds for community development or housing.

(2) The housing element of the local agency shall make adequate provision for all economic and racial segments of the community in new and rehabilitated housing throughout its jurisdiction.

(3) The local housing agent shall develop or specify a procedure, which shall be identified in its application to the agency, to expedite the processing of zoning changes, use permits, building permits, environmental clearance, and any other type of permit, approval, or clearance which may be required by the city, county, or city and county or by any other local public entity or governmental agency *prior to construction or rehabilitation of a housing development.*

(c) No housing development shall be assisted by a loan authorized by this part, unless the housing development has received the approval of both the local housing agent and the agency This subdivision shall not be applicable to housing developments proposed for areas in which there is no local housing agent

(d) A local housing agent may delegate the function specified in this section to any local public entity, with the approval of the agency.

(e) At any time a local housing agent ceases to meet the criteria specified in subdivision (b), the department may decertify the local housing agent Certification of the local housing agent shall be reviewed annually by the department Recertification shall not be granted if the department finds that, during the preceding year, the local housing agent has unreasonably denied approval of applications or has ceased to perform its functions under subdivision (a)

SEC 26. Section 51305 of the Health and Safety Code is amended to read.

51305. Upon approval of an application for designation of an area as a concentrated rehabilitation area, the agency may, with respect to such area, do any one of the following·

(a) Enter into an agreement with the applicant local agency or another local public entity for purchase by the agency of bonds and notes issued pursuant to Chapter 3 (commencing with Section 37930) of Part 13 of Division 24, or

(b) Enter into an agreement with the applicant local agency or another local public entity for a program of rehabilitation assistance as provided in Section 51306, to be administered by the local agency or other local public entity, or

(c) Enter into an agreement with the local agency for a program of rehabilitation assistance as provided in Section 51306, to be administered by the agency, except that the agency shall make mortgage loans only under the conditions of Chapter 5 (commencing with Section 51100).

In addition, or instead, the agency may provide loan insurance assistance in such areas, which may include insurance of loans provided pursuant to this chapter or of other loans or bonds as provided in Part 5 (commencing with Section 51600) of this division.

SEC. 27. Section 51306 of the Health and Safety Code is amended to read:

51306. Financing assistance for housing developments in concentrated rehabilitation areas may include any or all of the following types of loans.

(a) Development loans to prepare for rehabilitation

(b) Mortgage loans for purchase of housing developments.

(c) Construction loans for rehabilitation, or for rehabilitation with acquisition or refinancing.

(d) Mortgage loans for rehabilitation, or for rehabilitation with acquisition or refinancing, where the cost of acquisition and rehabilitation or the cost of rehabilitation without refinancing exceeds the financial capability of the owner, or would result in rents which are not competitive for the area, as determined by the agency For owner-occupied housing developments, the terms and interest rates of such mortgage loans shall be commensurate with ability to pay, as established by regulations of the agency

SEC 28. Section 51307 of the Health and Safety Code is repealed

SEC 29 Section 51309 of the Health and Safety Code is repealed

SEC 30 Section 51311 of the Health and Safety Code is amended to read:

51311. Upon application by a local public entity the agency may agree to allocate funds for property improvement loans or mortgage loans for rehabilitation of residential structures or housing developments as required in a citywide or countywide program of systematic enforcement of rehabilitation standards The agreement between the local public entity and the agency shall provide for notice to potentially affected owners and tenants and for an opportunity for participation by them in the determination of criteria for selection or order of selection of dwelling units to be inspected and rehabilitated. Such assistance may be administered by the local public entity or the agency

SEC. 31 Section 51600 of the Health and Safety Code is amended to read

51600 The Legislature finds and declares as follows

(a) For reasons of prudent investment policy, private lending institutions are not making mortgage financing available for residential structures located in many older residential neighborhoods, or for certain housing developments occupied or intended to be occupied by substantial numbers of persons and

families of low and moderate income because of the perceived risks such loans entail. The lack of such financing has caused and contributed to deterioration of residential neighborhoods, inhibited local governments in their attempts to arrest and reverse deterioration through local code enforcement programs, and generally reduced or limited the supply of safe, decent, and sanitary housing available to persons and families of low and moderate income.

(b) The state has authorized local agencies, redevelopment agencies, and housing authorities to provide financing for preservation and construction of residential structures to enhance housing opportunities for persons and families of low or moderate income However, some of such local public entities will be unable to sell revenue bonds pursuant to such act on terms sufficiently favorable to enable them to make loans at less than the market-rate interest because of a lack of adequate bond security.

(c) The agency, although it is empowered to sell revenue bonds in order to raise funds for housing assistance, may be unable to market such bonds on terms and at interest rates adequate to enable the agency to accomplish its purposes.

SEC 32. Section 51601 of the Health and Safety Code is amended to read:

51601 It is the intent of the Legislature in enacting this part to establish a program of bond and loan insurance to encourage and facilitate the preservation of existing housing and improve housing opportunities for persons and families of low or moderate income by reducing the risk factor (1) for loans for housing in older deteriorating areas and neighborhood preservation areas, (2) for revenue bonds issued by local agencies for the purpose of providing housing for persons and families of low or moderate income, and (3) for loans to provide housing for persons and families of low or moderate income

SEC. 32 5. Section 51606 of the Health and Safety Code is repealed

SEC. 33. Section 51607 of the Health and Safety Code is amended to read:

51607 "Insurance fund" means the Housing Insurance Fund

SEC 34 Section 51611 of the Health and Safety Code is amended to read·

51611 "Qualified developer" means a housing sponsor which is certified by the agency to be qualified according to experience, financial capability, and such other pertinent criteria as the agency may establish to carry out rehabilitation and new construction with loans insured pursuant to this part

SEC 35 Section 51650 of the Health and Safety Code is amended to read·

51650. The agency shall, with respect to the implementation of this part, have the general powers set forth in Sections 51050 and 51058 and, in addition, may do any and all things necessary to carry

out its purposes and exercise the powers expressly granted by this part. The agency shall develop and maintain complete and current statistics and other information with respect to the loan insurance program, including, but not limited to, (1) mortgage arrearages, defaults, and foreclosures on insured loans, (2) expenses incurred as a result of such arrearages, defaults, and foreclosures, and (3) the extent of displacement caused by availability of insured loans. Such information shall be provided in the agency's annual report as required by Section 51005.

SEC 36. Section 51651 of the Health and Safety Code is repealed.

SEC. 37. Section 51652 of the Health and Safety Code is amended to read:

51652. (a) The agency may contract with any private or public agency for review of the administration of this part and for assistance in developing regulations to implement this part.

(b) Not less than once every two years after the effective date of this part, the agency shall contract for an independent evaluation of the program of loan and bond insurance authorized by this part. The report of such evaluation shall include an evaluation of program effectiveness in relation to cost and shall include recommendations and suggested legislation for the improvement of the program, if any. A copy of such report shall be transmitted to the Legislature.

SEC. 38 Section 51653 of the Health and Safety Code is amended to read·

51653. The Housing Rehabilitation Insurance Fund is hereby renamed the Housing Insurance Fund. All references in any provision of law to the Housing Rehabilitation Insurance Fund shall be deemed to refer to the Housing Insurance Fund All money in the insurance fund is hereby continuously appropriated to the agency without regard to fiscal year for the purpose of insuring loans and bonds pursuant to this part and for the purpose of defraying administrative expenses incurred by the agency in operating such programs of loan and bond insurance All insurance premiums shall be deposited in the insurance fund

SEC 39. Section 51654 of the Health and Safety Code is amended to read·

51654. Notwithstanding the provisions of Chapter 2 (commencing with Section 12850) of Part 2 5 of Division 3 of Title 2 of the Government Code or the provisions of Article 2 (commencing with Section 13320) of Chapter 3 of Part 3 of such division, application of the insurance fund shall not be subject to the supervision or budgetary approval of any other officer or division of state government. However, the agency's budget respecting such fund shall be prepared and reviewed in accordance with Section 50913

SEC 40 Section 51800 of the Health and Safety Code is amended to read

51800 The agency shall establish priorities for the allocation of loan-insurance assistance in accordance with the purposes and

general provisions of Chapter 2 (commencing with Section 50950) of Part 3 of this division and Article 6 (commencing with Section 51225) of Chapter 5 of Part 3 of this division and in compliance with the needs identified in the California Statewide Housing Plan

SEC. 41. Section 51801 of the Health and Safety Code is repealed

SEC 42. Section 51803 of the Health and Safety Code is amended to read:

51803. Not less than 75 percent of the aggregate amount of loan and bond insurance provided pursuant to this part shall be for loans and bonds, all or a portion of which are utilized for financing new construction or rehabilitation pursuant to this division.

SEC. 43 Section 51852 of the Health and Safety Code is amended to read:

51852 Loans insured under this part shall meet the following requirements.

(a) The loans shall be made for a period acceptable to the agency not to exceed 40 years or four-fifths of the remaining life of the structure, as determined by the agency in accordance with its regulations, whichever is less.

(b) The loans shall be subject to maximum loan amounts for each category of loan authorized to be insured under this part.

(c) The loans shall be secured by mortgages, or the loan shall be wholly or partially insured or guaranteed by an agency or instrumentality of the United States, except for property improvement loans under limits established by the agency

(d) The agency may establish loan-to-value limitations for each category of loan and may set forth limitations on the further encumbrance of structures and other real property securing loans, but only to the extent necessary to prevent unreasonable impairment of the agency's security In no case involving refinancing, shall the loan have a principal obligation in an amount exceeding the sum of the estimated cost of rehabilitation, if any, and the amount required to refinance existing indebtedness secured by the property and settlement and closing costs incurred in connection therewith

(e) Loans for the rehabilitation of residential structures shall have a principal obligation not exceeding an amount which, when added to any outstanding indebtedness constituting a lien upon the property securing the loan, creates a total outstanding indebtedness which would be reasonably secured by a mortgage of first priority on the property pursuant to subdivision (d), and as set forth in regulations of the agency

(f) Loans for refinancing may be insured only if refinancing is necessary to permit a borrower to afford the cost of rehabilitation or to minimize rent increases for occupants of the residential structure, where the rents would otherwise exceed affordable rents due to the expense of rehabilitation, or to achieve another purpose specified in this division.

(g) With respect to any loan for the rehabilitation of a residential

structure, the agency shall determine that such rehabilitation is economically feasible For purposes of this subdivision, the economic feasibility of commercial space in a mixed residential and commercial structure shall be determined independently for any structure to be rehabilitated for mixed residential and commercial uses

(h) No borrower shall be eligible for insurance of a loan or loans for acquisition or rehabilitation of more than one residential structure, unless the borrower is a qualified developer.

(i) For the purpose of increasing the efficiency and minimizing the cost of the loan insurance program, the agency may insure or issue commitments to insure loans, upon the certification of an officer of an approved lending institution that the proposed rehabilitation conforms to requirements specified by regulations of the agency regarding economic feasibility and commercial demand.

(j) With respect to any loan for rehabilitation or rehabilitation in combination with refinancing or purchase, the loan agreement shall provide that all funds loaned for repairs and improvements shall be paid after completion or according to a progress payment schedule to the owner and contractor or other provider of goods or services jointly at such times as payment becomes due, and provided the work or portion of the work for which payment is tendered is certified, as provided by regulation of the agency, to be in compliance with contract specifications and applicable state or local housing or building standards.

(k) The agency shall require that borrowers contract during the term of the loan not to raise residential rentals over an amount which the agency by regulation establishes will yield a fair rate of return and will allow for increases reasonably necessary to provide and continue proper maintenance of the property, except that residential structures with more than one but less than five dwelling units which are to be occupied by the owner shall be regulated as to rentals in a manner consistent with subdivision (h) of Section 51302.

(*l*) Relocation payments shall be made to persons and families displaced in making a site or residential structure available for rehabilitation or construction financed by loans insured under this part, and relocation advisory assistance provided to such persons, as specified by Section 51063. Relocation payments shall also be made to owners involuntarily displaced because of inability to afford costs of compliance required pursuant to this part, but any payment pursuant to Section 4623 of Title 42 of the United States Code or Section 7263 of the Government Code shall be limited to the reasonable costs of a replacement dwelling adequate to accommodate the displaced person or family without regard to whether the dwelling is otherwise comparable to the dwelling formerly occupied, less the amount received from sale of the dwelling Relocation payments may be made from the proceeds of insured loans as authorized by the agency

(m) The residential structure for which a loan is insured pursuant

to this part shall be insured against loss due to fire and other causes, as provided by the regulations of the agency.

(n) Such other terms and conditions as the agency, by regulation, determines are necessary to further the purposes of this part

SEC. 44. Section 51852.5 of the Health and Safety Code is amended to read:

51852 5 Upon application by a public entity the agency may agree to provide loan insurance pursuant to this part for the insurance of loans consistent with the purposes of this division.

SEC. 45. Section 51853 of the Health and Safety Code is amended to read:

51853. The agency may insure the following types of loans:

(a) Loans for acquisition of residential structures, provided such structures are in conformance with state and local housing and building standards

(b) Construction, development, and mortgage loans made or assisted pursuant to this division for financing housing developments.

(c) Loans for rehabilitation or home improvements wholly or partially insured or guaranteed by an agency or instrumentality of the United States, or participation in such loans.

SEC. 46. Section 51854 of the Health and Safety Code is repealed.

SEC. 47. Section 51900 of the Health and Safety Code is amended to read:

51900. The agency may insure revenue bonds issued by local agencies to finance the construction or rehabilitation of housing that will be made available primarily to persons and families of low or moderate income consistent with the purposes of this division. The agency may charge and collect insurance premiums for such insurance and make other reasonable charges for services performed in connection with approval and processing of such insurance. The agency shall take all reasonable steps to assure the following:

(a) The bonds contain, or are subject to, terms respecting repayment, dates of maturity, and other provisions satisfactory to the agency

(b) The bonds contain, or are subject to, provisions which the agency deems necessary with respect to security interests of the agency, including provisions relating to subrogation, liens and releases of liens, payment of taxes, escrow or trusteeship requirements, or other matters.

SEC 48. Section 51901 is added to the Health and Safety Code, to read·

51901 The agency may insure bonds pursuant to this chapter only if it determines that the proceeds of the bonds will be utilized, to the maximum extent feasible, for one of the following purposes:

(a) Construction or rehabilitation of multifamily rental housing for persons and families of low or moderate income.

(b) Construction or rehabilitation of housing which utilizes federal rental or other subsidies

(c) Construction or rehabilitation of other dwelling units for

persons and families of low or moderate income.

SEC 48 5 The sum of two hundred sixteen million dollars ($216,000,000) is hereby appropriated from the General Fund to the Franchise Tax Board for the increase in the credit for qualified renters under Section 49 of this act for taxable years beginning during the 1979 calendar year.

SEC 49. Section 17053.5 of the Revenue and Taxation Code is amended to read:

17053 5. (a) In the case of qualifed renters, there shall be allowed credits against the tax computed under this part, minus all other credits provided for in this part except the credit provided in Section 18551.1 (relating to withholding credit), the credit provided in Section 17061 (relating to excess tax credit), and the credit provided in Section 17061.5 (relating to worker contribution credits). The credit shall be in the amount of one hundred thirty-seven dollars ($137) for married couples, heads of household and surviving spouses, and sixty dollars ($60) for other individuals.

Except as provided in subdivision (b) of this section a husband and wife shall receive but one credit under this section If the husband and wife file separate returns, the credit may be taken by either or equally divided between them, except as follows.

(A) If one spouse was a resident for the entire taxable year and the other spouse was a nonresident for part or all of the taxable year, the resident spouse shall be allowed one-half the credit allowed to married persons and the nonresident spouse shall be permitted one-half the credit allowed to married persons, prorated as provided in subdivision (d).

(B) If both spouses were nonresidents for part of the taxable year, the credit allowed to married persons shall be divided equally between them subject to the proration provided in subdivision (d)

(b) In the case of a husband and wife, if each spouse maintained a separate place of residence and resided in this state during the entire taxable year, each spouse will be allowed one-half the full credit allowed to married persons provided in subdivision (a)

(c) For purposes of this section, a "qualified renter" means an individual who on March 1 of the taxable year—

(1) Was a resident of this state, as defined in Section 17014, and

(2) On such date rented and occupied premises in this state which constitute his principal place of residence.

The term "qualified renter" does not include an individual who on March 1 of the taxable year rented and occupied premises which were exempt from property taxes, except that an individual, otherwise qualified, shall be deemed a qualified renter if he is required to pay property taxes on his possessory interest in a residence that is otherwise tax exempt during the taxable year.

The term "qualified renter" does not include an individual whose principal place of residence is with any other person who claimed such individual as a dependent for income tax purposes

The term "qualified renter" does not include an individual who

has been granted or whose spouse has been granted the homeowners' property tax exemption during the taxable year. This paragraph shall not apply in the case of an individual whose spouse has been granted the homeowners' property tax exemption if each spouse maintained a separate residence for the entire taxable year.

(d) Any individual who is a nonresident for any portion of the taxable year shall claim the credits set forth in subdivision (a) at the rate of one-twelfth of such credits for each full month such individual resided within this state during the taxable year

(e) Every person claiming the credit provided in this section shall, as part of such claim, and under penalty of perjury, furnish such information as the Franchise Tax Board prescribes on a form supplied by such board.

(f) The credit provided in this section shall be claimed on returns in such form as the Franchise Tax Board may from time to time prescribe, and shall be filed with the Franchise Tax Board on the date prescribed by Section 18432

(g) For the purposes of this section, the term "premises" means a house or a dwelling unit used to provide living accomodations in a building or structure and the land incidental thereto, but does not include land only, except in the case where the dwelling unit is a mobilehome

(h) In the case of qualified renters whose credits provided in this section exceed their tax liability computed under this part, minus all other credits provided for in this part except the credits provided in Section 18551.1, Section 17061, and Section 17061.5, the qualified renter shall be allowed a credit to the extent of his tax liability plus a refund in excess of that amount up to a combined credit and refund equal to the credit otherwise provided in this section.

(i) The changes made to paragraph (2) of subdivision (c) of this section by the 1977–78 Legislature and the changes made to subdivisions (a) and (b) of this section by the 1979–80 Legislature, shall be applied with respect to taxable years beginning on January 1, 1979, and thereafter.

SEC. 50. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections 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. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code

SEC 51. Section 49 of this act shall be applied to taxable years commencing on or after January 1, 1979

SEC 52. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CONCURRENT AND JOINT RESOLUTIONS
AND CONSTITUTIONAL AMENDMENTS

1979–80

REGULAR SESSION

1979 RESOLUTION CHAPTERS

RESOLUTION CHAPTER 1

Senate Concurrent Resolution No. 1—Relative to the organizational recess.

[Filed with Secretary of State December 6, 1978]

Resolved by the Senate of the State of California, the Assembly thereof concurring,

First—That following its meeting on December 4, 1978, each house of the Legislature shall be in recess from such time as it determines, but not later than December 8, 1978, and until January 2, 1979;

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 organizational recess, a Senate Daily Journal and Assembly Daily Journal and Senate and Assembly Daily and Weekly Histories.

RESOLUTION CHAPTER 2

Assembly Concurrent Resolution No. 1—Relative to the selection of the Legislative Counsel of California.

[Filed with Secretary of State December 7, 1978]

Resolved by the Assembly of the State of California, the Senate thereof concurring, That pursuant to Section 10201 of the Government Code, Bion M. Gregory is selected as Legislative Counsel of California.

RESOLUTION CHAPTER 3

Assembly Concurrent Resolution No. 2—Relative to the Joint Rules.

[Filed with Secretary of State December 7, 1978.]

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the following rules be adopted as the Temporary Joint Rules of the Senate and Assembly for the 1979–80 Regular Session.

Standing Committees

1. Each house shall appoint such standing committees as the business of the house may require, the committees, the number of members, and the manner of selection to be determined by the rules of each house.

Joint Meeting of Committees

3. Whenever any bill has been referred by the Senate to one of its committees, and the same or a like bill has been referred by the Assembly to one of its committees, the chairmen or chairwomen of the respective committees, when in their judgment the interests of legislation or the expedition of business will be better served thereby, shall arrange for a joint meeting of their committees for the consideration of such bill.

Effect of Adoption of Joint Rules

3.5. The adoption of the Joint Rules for any extraordinary session shall not be construed as modifying or rescinding the Joint Rules of the Senate and Assembly for any previous session, nor as affecting in any way the status or powers of the committees created by those rules.

Definition of Word Bill

4. Whenever the word "bill" is used in these rules, it shall include constitutional amendments, resolutions ratifying proposed amendments to the United States Constitution, and resolutions calling for constitutional conventions.

Concurrent and Joint Resolutions

5. Concurrent resolutions relate to matters to be treated by both houses of the Legislature.

Joint resolutions are those which relate to matters connected with

the federal government.

Resolutions Treated as Bills

6. Concurrent and joint resolutions, other than resolutions ratifying proposed amendments to the United States Constitution and resolutions calling for constitutional conventions, shall be treated in all respects as bills except as follows:

(a) They shall be given only one formal reading in each house.

(b) They shall not be deemed bills within the meaning of subdivision (a) of Section 8 of Article IV of the Constitution.

(c) They shall not be deemed bills for the purposes of Rules 10.8, 53, 55, 56, and 61, and subdivision (b) of Rule 54 and subdivisions (a) and (b) of Rule 62.

(d) They shall not, except for those relating to voting procedures on the floor or in committee, be deemed bills for the purposes of subdivision (c) of Rule 62.

PREPARATION AND INTRODUCTION OF BILLS

Title of Bill

7. The title of every bill introduced shall convey an accurate idea of the contents of the bill and shall be indicative of the scope of the act and the object to be accomplished. In amending a code section, the mere reference to the section by number shall not be deemed sufficient.

Division of Bill Into Sections

8. A bill amending more than one section of an existing law shall contain a separate section for each section amended.

Bills which are not amendatory of existing laws shall be divided into short sections, where this can be done without destroying the sense of any particular section, to the end that future amendments may be made without the necessity of setting forth and repeating sections of unnecessary length.

Digest of Bills Introduced

8.5. No bill shall be introduced unless it is contained in a cover attached by the Legislative Counsel and unless it is accompanied by a digest, prepared and attached to the bill by the Legislative Counsel, showing the changes in the existing law which are proposed by the bill. No bill shall be printed where the body of the bill or the Legislative Counsel's Digest has been altered, unless the alteration has been approved by the Legislative Counsel. If any bill is presented to the Secretary of the Senate or Chief Clerk of the Assembly for introduction, which does not comply with the foregoing

requirements of this rule, the Secretary or Chief Clerk shall return it to the member who presented it. The digest shall be printed on the bill as introduced, commencing on the first page thereof.

Digest of Bills Amended

8.6. Whenever a bill is amended in either house, the Secretary of the Senate or the Chief Clerk of the Assembly, as the case may be, shall request the Legislative Counsel to prepare an amended digest and cause it be printed on the first page of the bill as amended. The digest shall be amended to show changes in the existing law which are proposed by the bill as amended with any material changes in the digest indicated by the use of appropriate type.

Errors in Digest

8.7. If a material error in a printed digest referred to in Joint Rule 8.5 or 8.6 is brought to the attention of the Legislative Counsel, he shall prepare a corrected digest which shall show the changes made in the digest as provided in Joint Rule 10 for amendments to bills. He shall deliver the corrected digest to the Secretary or the Chief Clerk, as the case may be. If the correction warrants it in the opinion of the President pro Tempore of the Senate or the Speaker of the Assembly, a corrected print of the bill as introduced shall be ordered with the corrected digest printed thereon.

Bills Amending Title 9 of the Government Code

8.8. A member who is the first-named author of a bill which would amend, add, or repeal any provision of Title 9 (commencing with Section 81000) of the Government Code, upon introduction or amendment of such bill in either house shall notify the Chief Clerk or the Secretary, as the case may be, of the nature of such bill. Thereafter, the Chief Clerk or the Secretary shall deliver a copy of such bill as introduced or amended to the Fair Political Practices Commission pursuant to Section 81012 of the Government Code.

Restrictions as to Amendments

9. A substitute or amendment must relate to the same subject as the original bill, constitutional amendment, or resolution under consideration. No amendment shall be in order when all that would be done to the bill is the addition of a coauthor or coauthors, unless the Rules Committee of the house in which such an amendment is to be offered grants prior approval.

Changes in Existing Law to Be Marked by Author

10. In a bill amending or repealing a code section or a general law, any new matter shall be underlined and any matter to be omitted shall be in type bearing a horizontal line through the center and commonly known as "strikeout" type. When printed the new matter shall be printed in italics, and the matter to be omitted shall be printed in "strikeout" type.

In any amendment to a bill which sets out for the first time a section being amended or repealed, any new matter to be added and any matter to be omitted shall be indicated by the author and shall be printed in the same manner as though the section as amended or repealed were a part of the original bill and was being printed for the first time.

When an entire code is repealed as part of a codification or recodification or when an entire title, part, division, chapter, or article of a code is repealed, the sections comprising such code, title, part, division, chapter, or article shall not be set forth in the bill or amendment in strikeout type.

Rereference to Fiscal and Rules Committees

10.5. Bills shall be rereferred to the fiscal committee of each house when they would do any of the following:

(1) Appropriate money.

(2) Result in substantial expenditure of state money by: (a) imposing new responsibilities on the state or (b) new or additional duties on a state agency or (c) liberalization of any state program, function, or responsibility.

(3) Result in a substantial loss of revenue to the state.

(4) Result in substantial reduction of expenditures of state money by reducing, transferring, or eliminating any existing responsibilities of any state agency, program or function.

Concurrent and joint resolutions shall be rereferred to the fiscal committee of each house when they contemplate any action which would involve any of the following:

(1) Any substantial expenditure of state money.

(2) A substantial loss of revenue to the state.

The above requirements do not apply to bills or concurrent resolutions which contemplate the expenditure or allocation of contingent funds.

A bill which assigns a study to the Joint Legislative Budget Committee or to the Legislative Analyst shall be rereferred to the respective Rules Committee. Before the committee shall act upon such bill, it shall obtain from the Joint Legislative Budget Committee an estimate of the amount required to be expended to make the study.

Short Title

10.6. No bill may add a short title which names a Member of the Legislature.

Heading of Bills

10.7. No bill shall indicate in its heading or elsewhere that it was introduced at the request of a state agency or officer or any other person. No bill shall contain the words "By request" or words of similar import.

Consideration of Bills

10.8. The limitation contained in subdivision (a) of Section 8 of Article IV of the Constitution may be dispensed with as follows:

(a) A written request for such dispensation entitled "Request to Consider and Act on Bill Within 30 Calendar Days" shall be filed with the Chief Clerk of the Assembly or the Secretary of the Senate, as the case may be, printed in the Journal and transmitted to the Rules Committee of the appropriate house.

(b) The Rules Committee of the Assembly or Senate, as the case may be, shall determine whether there exists an urgent need for dispensing with the 30-calendar-day waiting period following the bill's introduction.

(c) If the Rules Committee recommends that the waiting period be dispensed with, the member may offer a resolution, without further reference thereof to committee, authorizing hearing and action upon the bill before the 30 calendar days have elapsed. The adoption of the resolution shall require an affirmative recorded vote of three-fourths of the elected members of the house in which the resolution is presented.

Printing of Amendments

11. All bills amended by either house shall be immediately reprinted; in case new matter is added by the amendment such new matter shall be printed in italics in the printed bill, and in the case of matter being omitted, the matter to be omitted shall be printed in strikeout type. When a bill is amended in either house, the first or previous markings shall be omitted.

Manner of Printing Bills

12. The State Printer shall observe the directions of the Joint Rules Committee in printing all bills, constitutional amendments, and concurrent and joint resolutions.

Distribution of Legislative Publications

13. All requests by members for mailing or distribution of copies of the Weekly Histories and the Legislative Index shall be filed with the Secretary of the Senate or the Chief Clerk of the Assembly. Except as otherwise provided by either the Assembly or Senate, each Member of the Senate and Assembly shall be permitted to submit a list of 10 organizations or individuals. The Secretary of the Senate and the Chief Clerk of the Assembly shall order a sufficient number of copies of the Weekly Histories and the Legislative Index to supply this list together with such number of bills and legislative publications as may be necessary for legislative requirements.

No complete list of bills shall be delivered except upon payment therefor of such sum as may be fixed by the Joint Rules Committee for any regular or extraordinary session. No more than one copy of any bill or other legislative publication, nor more than a total of 100 bills or other legislative publications during a session, shall be distributed free to any person, office, or organization. The limitations imposed by this paragraph do not apply to Members of the Legislature, the President of the Senate, the Secretary of the Senate and the Chief Clerk of the Assembly for the proper functioning of their respective houses; the Legislative Counsel Bureau; Attorney General's office; Secretary of State's office; Controller's office; Governor's office; the Clerk of the Supreme Court; the clerk of the court of appeal for each district; the Judicial Council; the California Law Revision Commission; the State Library; the Library of Congress; the libraries of the University of California at Berkeley and at Los Angeles; and accredited members of the press. The State Printer shall fix the cost of such bills and publications, including postage, and such moneys as may be received by him shall, after deducting the cost of handling and mailing, be remitted on the first day of each month, one-half each to the Secretary of the Senate and the Chief Clerk of the Assembly for credit to legislative printing. Legislative publications heretofore distributed through the Bureau of Documents shall be distributed through the Bill Room. Unless otherwise provided for, the total number of each bill to be printed shall not be more than 2,500.

Summary Digest and Legislative Index

13.1. The Legislative Counsel shall provide for the periodic publication of a cumulative Legislative Index which shall include tables of sections affected by pending legislation. The State Printer shall print the Legislative Index in such quantities, and at such times, as are determined by the Secretary of the Senate and the Chief Clerk of the Assembly. The costs of such printing shall be paid from the legislative printing appropriation.

13.3. The Legislative Counsel shall compile and prepare for publication a summary digest of legislation passed at each regular

and extraordinary session, which digest shall be prepared in a form suitable for inclusion in the publication of statutes. The digest shall be printed as a separate legislative publication on the order of the Joint Rules Committee and may be made available to the public in such quantities and at such prices as the Joint Rules Committee may determine.

13.5. The Legislative Counsel shall prepare for publication from time to time a cumulative statutory record. The statutory record shall be printed as a legislative publication on the order of the Secretary of the Senate or the Chief Clerk of the Assembly.

OTHER LEGISLATIVE PRINTING

Printing of the Daily Journal

14. The State Printer shall print in such quantity as directed by the Secretary of the Senate and the Chief Clerk of the Assembly, copies of the journal of each day's proceedings of each house. At the end of the session he shall also print, as directed by the Secretary of the Senate and the Chief Clerk of the Assembly a sufficient number of copies properly paged after being corrected and indexed by the Secretary of the Senate and the Chief Clerk of the Assembly, to bind in book form as the journal of the respective houses of the Legislature.

What Shall Be Printed in the Journal

15. The following shall always be printed in the journal of each house:

(a) Messages from the Governor and messages from the other house, and the titles of all bills, joint and concurrent resolutions and constitutional amendments when introduced in, offered to, or acted upon by the house.

(b) Every vote taken in the house, and a statement of the contents of each petition, memorial, or paper presented to the house.

(c) A true and accurate account of the proceedings of the house, when not acting as a Committee of the Whole.

Printing of the Daily File

16. A daily file of bills ready for consideration shall be printed each day for each house when the Legislature is not in joint recess except days when a house does not meet.

Printing of History

17. Each house shall cause to be printed, once each week, a complete history of all bills; constitutional amendments; and concurrent, joint, and house resolutions originating in, considered, or

acted upon by the respective houses and committees thereof. A regular form shall be prescribed by the Secretary of the Senate and the Chief Clerk of the Assembly. Such history shall show the action taken upon each measure up to and including the legislative day preceding its issuance. Except for periods when the houses are in joint recess, for each day intervening there shall be printed a daily history showing the consideration given to or action taken upon any measure since the issuance of the complete history.

Authority for Printing Orders

18. The State Printer shall not print for use of either house nor charge to legislative printing any matter other than provided by law or by the rules, except upon a written order signed by the Secretary of the Senate, on behalf of the Senate, or the Chief Clerk of the Assembly or other person authorized by the Assembly, on behalf of the Assembly. Persons authorized to order printing under this rule may, when necessity requires it, order certain matter printed in advance of the regular order, by the issuance of a rush order.

The Secretary of the Senate, on behalf of the Senate, and the Chief Clerk of the Assembly or other person authorized by the Assembly, on behalf of the Assembly, are hereby authorized and directed to order and distribute for the members stationery and legislative publications for which there is a demand, and, subject to the rules of their respective houses, to approve the bills covering such orders. All bills for printing must be presented by the State Printer within 30 days after the completion of the printing.

RECORD OF BILLS

Secretary and Chief Clerk to Keep Records

19. The Secretary of the Senate and the Chief Clerk of the Assembly shall keep a complete and accurate record of every action taken by the Senate and Assembly on every bill.

Secretary and Chief Clerk Shall Endorse Bills

20. The Secretary of the Senate and the Chief Clerk of the Assembly shall endorse on every original or engrossed bill a statement of any action taken by the Senate or Assembly concerning such bill.

ACTION IN ONE HOUSE ON BILL TRANSMITTED FROM THE OTHER

After a Bill Has Been Passed by the Senate or Assembly

21. When a bill has been passed by either house it shall be transmitted promptly to the other unless a motion to reconsider or

a notice of motion to reconsider has been made or it is held pursuant to some rule or order of the house.

The procedure of referring bills to committees shall be determined by the respective houses.

Messages to Be in Writing Under Proper Signatures

22. Notice of the action of either house to the other shall be in writing and under the signature of the Secretary of the Senate or the Chief Clerk of the Assembly from which such message is to be conveyed. A receipt shall be taken from the officer to whom such message is delivered.

Uncontested Bills

22.1. Each standing committee may report an uncontested bill out of committee with the recommendation that it be placed on the consent calendar. The Secretary of the Senate and the Chief Clerk of the Assembly shall provide to each committee chairman or chairwoman appropriate forms for such report. As used in this rule, "uncontested bill" means a bill, except a revenue measure or a measure as to which the 30-day limitation prescribed by subdivision (a) of Section 8 of Article IV of the Constitution has been dispensed with, which: (a) receives a do-pass or do-pass-as-amended recommendation from the committee to which it is referred, by unanimous vote of the members present provided a quorum is present; and (b) has no opposition expressed by any person present at the committee meeting with respect to the final version of the bill as approved by the committee; and (c) prior to final action by the committee has been requested, by the author, to be placed on the consent calendar.

Consent Calendar

22.2. Following their second reading and the adoption of any committee amendments thereto, if any, all bills certified by the committee chairman or chairwoman as uncontested bills shall be placed by the Secretary of the Senate or the Chief Clerk of the Assembly on the consent calendar, and shall be known as "consent calendar bills." Any consent calendar bill which is amended from the floor shall cease to be a consent calendar bill and shall be replaced on the third reading file. Upon objection of any member to the placement or retention of any bill on the consent calendar, such bill shall cease to be a consent calendar bill and shall be replaced on the third reading file. No consent calendar bill shall be considered for adoption until the second legislative day following the day of its placement on the consent calendar.

Consideration of Bills on Consent Calendar

22.3. Bills on the consent calendar are not debatable, except that the President of the Senate or the Speaker of the Assembly shall allow a reasonable time for questions from the floor and shall permit the proponents of such bills to answer such questions. Immediately prior to voting on the first bill on the consent calendar, the President of the Senate or the Speaker of the Assembly shall call to the attention of the members the fact that the next rollcall will be the rollcall on the first bill on the consent calendar.

The consent calendar shall be considered as the last order of business on the daily file.

PASSAGE AND ENROLLING OF BILLS

Procedure on Defeat of More Than Majority Bill

23.5. Whenever a bill containing a section or sections requiring for passage an affirmative recorded vote of more than 21 votes in the Senate and more than 41 votes in the Assembly is being considered for passage and the urgency clause, if the bill is an urgency bill, or the bill, in any case, fails to receive the necessary votes to make all sections effective, no further action may be taken on the bill; provided that an amendment to remove all sections requiring the higher vote for passage from the bill shall be in order prior to consideration of further business. If the amendment is adopted, the bill shall be reprinted to reflect such amendment. When the bill is reprinted, it shall be returned to the same place on the file as when it failed to receive the necessary votes.

Enrollment of Bill After Passage

24. After a bill has passed both houses it shall be printed in enrolled form, omitting symbols indicating amendments, and shall be compared by the Engrossing and Enrolling Clerk and the proper committee of the house where it originated to determine that it is in the form approved by the houses. The enrolled bill shall thereupon be signed by the Secretary of the Senate and Chief Clerk of the Assembly and, except as otherwise provided by these rules, presented without delay to the Governor. The committee shall report the time of presentation of the bill to the Governor to the house and the record shall be entered in the journal. After enrollment and signature by the officers of the Legislature, constitutional amendments, and concurrent and joint resolutions shall be filed without delay in the office of the Secretary of State and the time of filing shall be reported to the house and the record entered in the journal.

AMENDMENTS AND CONFERENCES

Amendments to Amended Bills Must Be Attached

25. Whenever a bill or resolution which shall have been passed in one house shall be amended in the other, it shall immediately be reprinted as amended by the house making such amendment or amendments. Two copies of such amendment or amendments shall be attached to the bill or resolution so amended, and endorsed "adopted" and such amendment or amendments, if concurred in by the house in which such bill or resolution originated, shall be endorsed "concurred in," and such endorsement shall be signed by the Secretary or Assistant Secretary of the Senate, or the Chief Clerk or Assistant Clerk of the Assembly, as the case may be; provided, however, that an amendment to the title of a bill adopted after the passage of such bill shall not necessitate reprinting, but such amendment must be concurred in by the house in which such bill originated.

Amendments to Concurrent and Joint Resolutions

25.5. When a concurrent or joint resolution is amended, and the only effect of the amendments is to add coauthors, the joint or concurrent resolution shall not be reprinted unless specifically requested by one of the added coauthors, but a list of the coauthors shall appear in the journal and history.

To Concur or Refuse to Concur in Amendments

26. In case the Senate amend and pass an Assembly bill, or the Assembly amend and pass a Senate bill, the Senate (if it be a Senate bill) or the Assembly (if it be an Assembly bill) must either "concur" or "refuse to concur" in the amendments. If the Senate concur (if it be a Senate bill), or the Assembly concur (if it be an Assembly bill), the Secretary or Chief Clerk shall notify the house making the amendments and the bill shall be ordered to enrollment.

Reference to Committee

26.5. Pursuant to Joint Rule 26, whenever a bill is returned to its house of origin for a vote on concurrence in an amendment made in the other house, the Legislative Counsel shall promptly prepare and transmit to the Chief Clerk of the Assembly and the Speaker in the case of an Assembly bill, or to the Secretary of the Senate and Chairman of the Senate Rules Committee in the case of a Senate bill, a brief digest summarizing the effect of the amendment made in the other house. The secretary or chief clerk shall cause the digest to be printed in the Daily File immediately following any reference to the bill covered by the digest. A motion to concur or refuse to concur in

the amendment shall not be in order until such time as the Legislative Counsel's Digest has appeared in the file.

If the digest discloses that the amendment of the other house has made a substantial substantive change in the bill as first passed by the house of origin the bill shall on motion of the Chairman of the Committee on Rules, if it be a Senate bill, be referred to the Committee on Rules for reference to an appropriate standing committee; and shall, on the motion of the Speaker, if it be an Assembly bill, be referred to an appropriate standing committee.

Upon receipt of such a bill, the committee may vote to recommend concurrence or nonconcurrence in the amendment or the committee may hold the bill. The committee shall be subject to all the requirements for procedure provided under Joint Rule 62 for committees other than for committees of first referral, and such other requirements for normal committee procedure as the Assembly or Senate may separately provide in the standing rules of their respective houses.

Any of the provisions of this rule may be dispensed with regard to a particular bill in its house of origin upon an affirmative vote of a majority of the members of that house.

Concurring in Amendments Adding Urgency Section

27. When a bill which has been passed in one house is amended in the other by the addition of a section providing that the act shall take effect immediately as an urgency statute and is returned to the house in which it originated for concurrence in the amendment or amendments thereto, the procedure and vote thereon shall be as follows:

The presiding officer shall first direct that the urgency section be read and put to a vote. If two-thirds of the members elected to the house vote in the affirmative, the presiding officer shall then direct that the question of whether the house shall concur in the amendment or amendments shall be put to a vote. If two-thirds of all the members elected to the house vote in the affirmative, concurrence in the amendments shall be effective.

If the affirmative vote on either of such questions is less than two-thirds of all the members elected to such house, the effect is a refusal to concur in the amendment or amendments, and the procedure thereupon shall be as provided in Joint Rule No. 28.

When Senate or Assembly Refuse to Concur

28. If the Senate (if it be a Senate bill) or the Assembly (if it be an Assembly bill) refuse to concur in amendments to the bill made by the other house, and when the other house has been notified of such refusal to concur, a conference committee shall be appointed for each house in the manner prescribed by these rules. The Committee on Rules in the case of the Senate and the Speaker in the

case of the Assembly shall each appoint a committee of three (3) on conference, and the Secretary or the Chief Clerk shall immediately notify the other house of the action taken.

Committee on Conference

28.1. The Committee on Rules and the Speaker, in appointing a committee on conference, shall each select two members from those voting with the majority on the point about which the difference has arisen, and the other member from the minority, in the event there is a minority vote.

Whether a member has voted with the majority or minority on the point about which the difference has arisen is determined by his vote on the appropriate rollcall, as follows:

(1) In the Assembly—

(a) The rollcall on the question of final passage of a Senate bill amended in the Assembly when the Senate has refused to concur with the Assembly amendments.

(b) The rollcall on the question of concurrence with Senate amendments to an Assembly bill.

(2) In the Senate—

(a) The rollcall on the question of final passage of an Assembly bill amended in the Senate when the Assembly has refused to concur with the Senate amendments.

(b) The rollcall on the question of concurrence with Assembly amendments to a Senate bill.

Meetings and Reports of Committees on Conference

29. The first Senator named on the conference committee shall act as chairman or chairwoman of the committee from the Senate, and the first Member of the Assembly named on such committee shall act as chairman or chairwoman of the committee from the Assembly. The chairman or chairwoman of the committee on conference for the house of origin of the bill shall arrange the time and place of meeting of the conference committee and shall prepare or direct the preparation of reports. It shall require an affirmative vote of not less than two of the Assembly Members and two of the Senate Members constituting the committee on conference to agree upon a report, and the report shall be submitted to both the Senate and the Assembly. The committee on conference shall report to both the Senate and Assembly. Such report is not subject to amendment, and if either house refuses to adopt such report, the conferees shall be discharged and other conferees appointed; provided, however, that no more than three different conference committees shall be appointed on any one bill. No member who has served on a committee on conference shall be appointed a member of another committee on conference on the same bill. It shall require the same affirmative recorded vote to adopt any conference report as

required by the Constitution upon the final passage of the bill affected by such report. It shall require an affirmative recorded vote of two-thirds of the entire elected membership of each house to adopt any conference report affecting any bill which contains an item or items of appropriation which are subject to subdivision (d) of Section 12 of Article IV of the Constitution. The report of a conference committee shall be in writing, and shall have affixed thereto the signatures of each Senator and each Member of the Assembly consenting to the report. Space shall also be provided where a member of a conference committee may indicate his dissent in the committee's findings. Any dissenting member may have attached to a conference committee report a dissenting report which shall not exceed, in length, the majority committee report. A copy of any amendments proposed in the majority report shall be placed on the desk of each member of the house before it is acted upon by the house.

The vote on concurrence or upon the adoption of such conference report shall be deemed the vote upon final passage of such bill.

Conference Committees

29.5. (a) All meetings of any conference committee on the Budget Bill shall be open and readily accessible to the public.

No conference committee on any bill may meet, consider, or act on the subject matter of the bill except in a meeting that is open and readily accessible to the public; unless the action is on a report determined by the Legislative Counsel to be nonsubstantive. The Legislative Counsel shall examine each proposed report and shall note upon the face of the report that the amendments proposed are "substantive" or "nonsubstantive" as the case may be.

The chairman or chairwoman of the conference committee of each house shall give notice to the file clerk of both houses of the time and place of such meeting. Notice of each public meeting shall be published in the file of each house one calendar day prior to the meeting, except that such notice shall not be required for a meeting of a conference committee on the Budget Bill. When the provisions of this subdivision are waived with respect to a meeting of any public conference committee, and when there is a meeting of a conference committee on the Budget Bill, every effort shall be made to inform the public that such a meeting has been called.

(b) The first committee on conference of the Budget Bill, if such a committee is appointed, shall submit its report to each house no later than 15 days after the Budget Bill has been passed by both houses. If such report is not submitted by such date, the conference committee shall be deemed to have reached no agreement and shall so inform each house pursuant to Rule 30.7.

(c) A committee on conference of the Budget Bill shall only consider differences between the Assembly version of the Budget Bill as passed by the Assembly and the Senate version of the Budget

Bill as passed by the Senate and shall not approve any item of expenditure nor control which exceeds that contained in one of the two versions before the conference committee.

(d) No conference committee on any bill, other than the Budget Bill, shall approve any substantial financial provision in any bill if such financial provision has not been heard by the fiscal committee of each house, nor shall any such conference committee approve substantial policy changes which have not been heard by the policy committee of each house.

When Conference Committee Report Is in Order

30. The presentation of the report of a committee on conference shall always be in order, except when a question of order or a motion to adjourn is pending, or during rollcall, and, when received, the question of proceeding to the consideration of the report, if raised, shall be immediately passed upon, and shall be determined without debate.

Conference Committee Reports on Urgency Statutes

30.5. When the report of a committee on conference recommends the amendment of a bill by the addition of a section providing that the act shall take effect immediately as an urgency statute, the procedure and the vote thereon shall be as follows:

The presiding officer shall first direct that the urgency section be read and put to a vote. If two-thirds of the members elected to the house vote in the affirmative the presiding officer shall then direct that the question of whether the house shall adopt the report of the committee on conference shall be put to a vote. If two-thirds of all the members elected to the house vote in the affirmative, the adoption of the report and the amendments proposed thereby shall be effective.

If the affirmative vote on either of such questions is less than two-thirds of all the members elected to such house, the effect is a refusal to adopt the report of the committee on conference.

Failure to Agree on Report

30.7. A conference committee may find and determine that it is unable to submit a report to the respective houses, upon the affirmative vote to that effect of not less than two of the Assembly Members and not less than two of the Senate Members constituting the committee. Such finding may be submitted to the Chief Clerk of the Assembly and the Secretary of the Senate in the form of a letter from the chairman of the committee on conference for the house of origin of the bill, containing the signatures of the members of the committee consenting to the finding and determination that the committee is unable to submit a report. The Chief Clerk of the

Assembly and the Secretary of the Senate, upon being notified that a conference committee is unable to submit a report, shall so inform each house, whereupon the conferees shall be discharged and other conferees appointed, in accordance with the provisions of Rule 29.

MISCELLANEOUS PROVISIONS

Authority When Rules Do Not Govern

31. All relations between the houses which are not covered by these rules shall be governed by Mason's Manual.

Press Rules

32. (a) Persons desiring privileges of accredited press representatives shall make application to the Joint Rules Committee. Such application shall constitute compliance with any provisions of the Rules of the Assembly or the Senate with respect to registration of news correspondents. Applications shall state in writing the names of the daily newspapers, periodic publications, news associations, or radio or television stations by which they are employed, and what other occupations or employment they may have, if any; and they shall further declare that they are not employed, directly or indirectly, to assist in the prosecution of the legislative business of any person, corporation or association, and will not become so employed while retaining the privilege of accredited press representatives.

(b) The applications required by the above rule shall be authenticated in a manner that shall be satisfactory to the Standing Committee of the Capitol Correspondents Association which shall see that occupation of seats and desks in the Senate and the Assembly Chambers is confined to bona fide correspondents of reputable standing in their business, who represent daily newspapers requiring a daily file of legislative news, qualified periodic publications, or news associations requiring daily telegraphic or radio or television service on legislative news. It shall be the duty of the standing committee at its discretion, to report violation of accredited press privileges to the Speaker of the Assembly, or to the Senate Committee on Rules, and pending action thereon the offending correspondent may be suspended by the standing committee.

(c) Except as otherwise provided in this subdivision, persons engaged in other occupations whose chief attention is not given to newspaper correspondence or to news associations requiring telegraphic or radio or television service shall not be entitled to the privileges accorded accredited press representatives; and the press list in the Handbook of the California Legislature and the Senate and Assembly Histories shall be a list only of persons authenticated by the standing committee of correspondents. Accreditation may be granted to bona fide correspondents of reputable standing employed

by periodic publications of general circulation, providing that the applicants are employed on a full-time basis in the capitol area preparing articles dealing with state government and politics and that their publications are not organs or organizations involved in legislative advocacy.

(d) The press seats and desks in the Senate and Assembly Chambers shall be under the control of the standing committee of correspondents, subject to the approval and supervision of the Speaker of the Assembly and the Senate Committee on Rules. Press cards shall be issued by the President of the Senate and the Speaker of the Assembly only to correspondents properly accredited in accordance with the provisions of this rule.

(e) One or more rooms shall be assigned for the exclusive use of correspondents during the legislative session, which rooms shall be known as the Press Room. The Press Room shall be under the control of the Chief of the Bureau of Buildings and Grounds; provided, that all rules and regulations shall be approved by the Senate Committee on Rules and the Speaker of the Assembly.

(f) No accredited member of the Capitol Correspondents Association shall, for compensation, perform any service for state constitutional officers or members of their staffs, for state agencies, for the Legislature, for candidates for state office, or for a state officeholder, or for any person registered or performing as a legislative advocate.

(g) An accredited member of the association who violates subdivision (a) or (f) of this rule shall be subject to the following penalties:

(1) For the first offense, the Standing Committee of the Capitol Correspondents Association shall send a letter of admonition to the offending member, his employer, and the Joint Rules Committee. The letter shall state the nature of the member's rule violation and shall warn of an additional penalty for a second offense.

(2) For a second offense, the Standing Committee of the Capitol Correspondents Association shall recommend to the Joint Rules Committee that the member's accreditation be suspended or revoked and that he lose all rights and privileges attached thereto. The Standing Committee of the Capitol Correspondents Association shall also dismiss the member from the association.

Any member of the Standing Committee of the Capitol Correspondents Association may propose that the committee make an inquiry to determine if an association member has violated subdivision (a) or (f) of this rule. Upon a majority vote of the Standing Committee of the Capitol Correspondents Association, an inquiry shall be made.

Upon receipt of a signed, written notice from any association member of his belief that another association member may have violated subdivision (a) or (f) of this rule, the Standing Committee of the Capitol Correspondents Association shall commence an inquiry into the possible violation.

If the Standing Committee of the Capitol Correspondents Association determines by majority vote that an association member has broken an association rule, it shall inform the member of its finding. Within two weeks of notification, the member may request a meeting of the membership. If the member makes such a request, the Standing Committee of the Capitol Correspondents Association shall promptly schedule a meeting at the soonest possible time. After hearing the member and the committee review the circumstances of the alleged violation, the membership may, by majority vote, nullify the finding of the Standing Committee of the Capitol Correspondents Association. If nullification does not occur, the Standing Committee of the Capitol Correspondents Association shall impose immediately the appropriate penalty.

Dispensing With Joint Rules

33. No joint rule shall be dispensed with except by a vote of two-thirds of each house, except as otherwise provided in these rules. If either house shall violate a joint rule a question of order may be raised in the other house and decided in the same manner as in the case of the violation of the rules of such house; and if it shall be decided that the joint rules have been violated, the bill involving such violations shall be returned to the house in which it originated, and such disputed matter be considered in like manner as in conference committee.

Opinions of Legislative Counsel

34. Whenever the Legislative Counsel issues an opinion to any person other than the first-named author analyzing the constitutionality, operation, or effect of a bill or other legislative measure which is then pending before the Legislature or of any amendment made or proposed to be made to such bill or measure, he is authorized and instructed to deliver two copies of the opinion to the first-named author as promptly as feasible after the delivery of the original opinion and also to deliver a copy to any other author of the bill or measure who so requests. A copy of any letter prepared by the Legislative Counsel for the sole purpose of advising a member of a conflict between two or more bills as to the sections of law being amended, repealed, or added shall be submitted to the chairman of the committee to which each such bill has been referred.

Resolutions Prepared by Legislative Counsel

34.1. Whenever the Legislative Counsel has been requested to draft a resolution commemorating or taking note of any event, or a resolution congratulating or expressing sympathy toward any person, and subsequently receives a similar request from another Member of the Legislature, he shall inform that requester and each

subsequent requester that such a resolution is being, or has been, prepared, and he shall inform them of the name of the member for whom the resolution was, or is being, prepared.

Resolutions

34.2. A concurrent resolution, Senate resolution, or House resolution may be introduced to memorialize the death of a present or former state or federal elected official or a member of their immediate families. In all other instances, a resolution other than a concurrent resolution, as specified by the Committee on Rules of each house, or as provided by the Joint Rules Committee in those cases which require that such resolution should emanate from both houses, shall be used for the purpose of commendation, congratulation, sympathy, or regret with respect to any person, group, or organization.

No concurrent resolution requesting the Governor to issue a proclamation shall be introduced without the prior approval of the Committee on Rules of the house in which the resolution is to be introduced.

Identical Drafting Requests

34.5. Whenever it shall come to the attention of the Legislative Counsel that a member has requested the drafting of a bill which will be substantially identical to one already introduced he shall inform such member of that fact.

Expense of Members

35. As provided in Section 8902 of the Government Code, each Member of the Legislature is entitled to reimbursement for living expenses while required to be in Sacramento to attend a session of the Legislature, or while traveling to and from or in attendance at a committee meeting, or while attending to any legislative function or responsibility as authorized or directed by legislative rules or the Rules Committee of the house of which he or she is a member at the same rate as may be established by the State Board of Control for other elected state officers. Each member shall be reimbursed for travel expenses incurred in traveling to and from a session of the Legislature, or when traveling to and from a meeting of a committee of which he or she is a member, or when traveling pursuant to any other legislative function or responsibility as authorized or directed by legislative rules or the Rules Committee of the house of which he or she is a member at the rate prescribed by Section 8903 of the Government Code.

Expense allowances for Members of the Senate and Assembly shall be approved and certified to the Controller by the Secretary of the Senate, on behalf of the Senate, and the Chief Clerk of the Assembly

or other person authorized by the Assembly Committee on Rules, on behalf of the Assembly, weekly or as otherwise directed by either house, and upon such certification the Controller shall draw his or her warrants in payment of the allowances to the respective members.

Investigating Committees

36. In order to expedite the work of the Legislature either house, or both houses jointly, may by resolution or statute provide for the appointment of committees to ascertain facts and to make recommendations as to any subject within the scope of legislative regulation or control.

The resolution providing for the appointment of a committee shall state the purpose of the committee, and the scope of the subject concerning which it is to act and may authorize it to act either during sessions of the Legislature or, when such authorization may lawfully be made, after final adjournment.

In the exercise of the power granted by this rule, each committee may employ such clerical, legal, and technical assistants as may be authorized by: (a) the Joint Rules Committee in the case of a joint committee, (b) the Senate Rules Committee in the case of a Senate committee, or (c) the Assembly Rules Committee in the case of an Assembly committee.

Except as otherwise provided herein for joint committees or by the Rules of the Senate or the Assembly for single house committees, each committee may adopt and amend such rules governing its procedure as may appear necessary and proper to carry out the powers granted and duties imposed under this rule. Such rules may include provisions fixing the quorum of the committee and the number of votes necessary to take action on any matter. With respect to all joint committees, a majority of the membership from each house constitutes a quorum and an affirmative vote of a majority of the membership from each house is necessary for the committee to take action.

Each such committee is authorized and empowered to summon and subpoena witnesses, require the production of papers, books, accounts, reports, documents, records, and papers of every kind and description, to issue subpoenas and to take all necessary means to compel the attendance of witnesses and to procure testimony, oral and documentary.

Each member of such committees is authorized and empowered to administer oaths, and all of the provisions of Chapter 4 (commencing with Section 9400), Part 1, Division 2, Title 2 of the Government Code, relating to the attendance and examination of witnesses before the Legislature and the committees thereof, shall apply to such committees.

The Sergeant at Arms of the Senate or Assembly, or such other person as may be designated by the chairman or chairwoman of the

committee, shall serve any and all subpoenas, orders, and other process that may be issued by the committee, when directed to do so by the chairman, chairwoman, or by a majority of the membership of the committee.

Every department, commission, board, agency, officer, and employee of the state government, including the Legislative Counsel and the Attorney General and their subordinates, and of every political subdivision, county, city, or public district of or in this state, shall give and furnish to these committees and to their subcommittees upon request such information, records and documents as the committees deem necessary or proper for the achievement of the purposes for which each such committee was created.

Each committee or subcommittee of either house in accordance with the rules of that respective house and each joint committee or subcommittee thereof, may meet at any time during the period in which it is authorized to act, either at the State Capitol, or at any other place in the State of California, in public or executive session, and do any and all things necessary or convenient to enable it to exercise the powers and perform the duties herein granted to it or accomplish the objects and purposes of the resolution creating it with the following exceptions:

(a) When the Legislature is not in joint recess:

(1) No committee or subcommittee of either house shall meet outside the State Capitol without the prior approval of the Rules Committee of the Senate with respect to Senate committees and subcommittees and the Speaker of the Assembly with respect to Assembly committees and subcommittees.

(2) No committee or subcommittee of either house, other than a standing committee or subcommittee thereof, shall meet unless notice of such meeting has been printed in the daily file for four days prior thereto. This requirement may be waived by a majority vote of either house with respect to a particular bill.

(3) No joint committee or subcommittee thereof, other than the Joint Committees on Legislative Audit, Legislative Budget, Legislative Ethics, and Rules, shall meet outside the State Capitol without the prior approval of the Joint Rules Committee.

(4) No joint committee or subcommittee thereof, other than the Joint Committees on Legislative Audit, Legislative Budget, Legislative Ethics, and Rules, shall meet unless notice of such meeting has been printed in the daily file for four days prior thereto.

(b) When the Legislature is in joint recess each joint committee or subcommittee, other than the Joint Committees on Legislative Audit, Legislative Budget, Legislative Ethics, and Rules, shall notify the Joint Rules Committee at least two weeks prior to any such meeting.

(c) The requirements placed upon joint committees by paragraphs (a) and (b) above may be waived where it is deemed necessary by the Joint Rules Committee

Each such committee may expend such money as may be made available to it for such purpose but no committee shall incur any indebtedness unless money shall have been first made available therefor.

No living expenses shall be allowed in connection with legislative business for a day on which the member receives reimbursement for expenses while required to be in Sacramento to attend a session of the Legislature. The chairman or chairwoman of each committee shall audit and approve the expense claims of the members of the committee including claims for mileage in connection with attendance on committee business, or in connection with specific assignments by the committee chairman or chairwoman, but excluding other types of mileage, and shall certify the amount approved to the Controller, and the Controller shall draw his warrants upon the certification of the chairman or chairwoman.

Subject to the rules of each house for the respective committees of each house, and subject to the joint rules for any joint committee, the chairman or chairwoman of any such committee may appoint subcommittees and chairmen or chairwomen thereof for the purpose of more expeditiously handling and considering matters referred to it, and such subcommittees and the chairmen or chairwomen thereof shall have all the powers and authority herein conferred upon the committee and its chairman or chairwoman. The chairman or chairwoman of such subcommittee shall audit the expense claims of the members of such subcommittees and other claims and the expenses incurred by it and shall certify the amount thereof to the chairman or chairwoman of the committee who shall, if he approves the same, certify the amount thereof to the Controller, and the Controller shall draw his warrant therefor upon such certification, and the Treasurer shall pay the same. Whenever such committee or any subcommittee thereof is authorized to leave the State of California in the performance of its duties, then such committee or subcommittee shall, while out of the state, have the same authority as if it were acting and functioning within the state, and the members thereof shall be reimbursed for expenses.

Notwithstanding any provision of this rule, if the standing rules of either house require that expense claims of committees for goods or services or pursuant to contracts or for expenses of employees or members of committees be audited or approved, after approval of the committee chairman or chairwoman, by another agency of either house, the Controller shall draw his warrants only upon the certification of such other agency. All expense claims approved by the chairman or chairwoman of any joint committee, other than the Joint Legislative Budget Committee and the Joint Legislative Audit Committee, shall be approved by the Joint Rules Committee and the Controller shall draw his warrants only upon the certification of the Joint Rules Committee.

Except salary claims of employees clearly subject to federal withholding taxes and the requirement as to loyalty oaths, claims

presented for services or pursuant to contract shall refer to the agreement, the terms of which shall be made available to the Controller.

Expenses of Committee Employees

36.1. Unless otherwise provided by respective house or committee rule or resolution, employees of legislative committees shall, when entitled to traveling expenses, be entitled to allowances in lieu of actual expenses for hotel accommodations, breakfast, lunch, and dinner, at the rates fixed by the Board of Control from time to time in limitation of reimbursement of expenses of state employees generally, provided, that if an allowance for hotel accommodations, breakfast, lunch, and dinner is made by a committee at a rate in excess of those fixed by the Board of Control the chairman or chairwoman of the committee shall notify the Controller of that fact in writing.

Appointment of Committees

36.5. The provisions of this rule shall apply whenever a joint committee is created by a statute or resolution which either provides that appointments be made and vacancies be filled in the manner provided for in the Joint Rules, or which makes no provision for the appointment of members or the filling of vacancies.

The Senate members of the committee shall be appointed by the Senate Committee on Rules; the Assembly members of the committee shall be appointed by the Speaker; and vacancies occurring in the membership of the committee shall be filled by the respective appointing powers. The members appointed shall hold over until their successors are regularly selected.

Appointment of Joint Committee Chairmen or Chairwomen

36.7. The chairman or chairwoman of each joint committee heretofore or hereafter created, except the Joint Legislative Budget Committee and the Joint Legislative Audit Committee, shall be appointed by the Joint Rules Committee from a member or members recommended by the Senate Committee on Rules and the Speaker of the Assembly.

Joint Committee Funds

36.8. Each joint committee, heretofore or hereafter created, except the Joint Legislative Budget Committee and the Joint Legislative Audit Committee, shall expend the funds heretofore or hereafter made available to it in compliance with the policies set forth by the Joint Rules Committee with respect to personnel, salaries, purchasing, office space assignment, contractual services, rental or

lease agreements, travel, and any and all other matters relating to the management and administration of committee affairs.

Joint Legislative Budget Committee

37. In addition to any other committee provided for by these rules, there shall be a joint committee to be known and called the Joint Legislative Budget Committee, which is hereby declared to be a continuing body.

It shall be the duty of the committee to ascertain facts and make recommendations to the Legislature and to the houses thereof concerning the state budget, the revenues and expenditures of the state, and of the organization and functions of the state, its departments, subdivisions and agencies, with a view of reducing the cost of the state government, and securing greater efficiency and economy.

The committee shall consist of seven Members of the Senate and seven Members of the Assembly. The Senate members of the committee shall consist of seven Members of the Senate appointed by the Committee on Rules. The Assembly members of the committee shall consist of seven Members of the Assembly appointed by the Speaker. The committee shall select its own chairman or chairwoman.

Any vacancies occurring between regular sessions in the Senate membership of the Joint Legislative Budget Committee shall be filled by the Senate Committee on Rules, and the Senators appointed shall hold over until their successors are regularly selected. For the purposes of this provision, a vacancy shall be deemed to exist as to a Senator whose term is expiring whenever he is not reelected at the general election.

Any vacancies occurring between regular sessions in the Assembly membership of the Joint Legislative Budget Committee shall be filled by the Speaker of the Assembly, and the Members of the Assembly appointed shall hold over until their successors are regularly selected. For the purposes of this provision, a vacancy shall be deemed to exist as to a Member of the Assembly whose term is expiring whenever he is not reelected at the general election.

Any vacancy occurring at any time in the Assembly membership of the committee shall be filled by appointment by the Speaker. The committee shall have the authority to make rules to govern its own proceedings and its employees. It may also create subcommittees from its membership, assigning to its subcommittees any study, inquiry, investigation, or hearing which the committee itself has authority to undertake or hold and the subcommittee for the purpose of this assignment shall have and may exercise all the powers conferred upon the committee, limited only by the express terms of any rule or resolution of the committee defining the powers and duties of the subcommittee. Such powers may be withdrawn or terminated at any time by the committee.

The Joint Legislative Budget Committee may render services to any investigating committee of the Legislature pursuant to contract between the Joint Legislative Budget Committee and the committee for which the services are to be performed. The contract may provide for payment to the Joint Legislative Budget Committee of the cost of such services from the funds appropriated to the contracting investigating committee. All legislative investigating committees are authorized to enter into such contracts with the Joint Legislative Budget Committee. Money received by the Joint Legislative Budget Committee pursuant to any such agreement shall be in augmentation of the current appropriation for the support of the Joint Legislative Budget Committee.

The provisions of Joint Rule 36 shall apply to the Joint Legislative Budget Committee, and it shall have all the authority provided in such rule or pursuant to Section 11 of Article IV of the Constitution.

The committee shall have authority to appoint a Legislative Analyst, to fix his compensation and to prescribe his duties, and to appoint such other clerical and technical employees as may appear necessary. The duties of the Legislative Analyst shall be as follows:

(1) To ascertain the facts and make recommendations to the Joint Legislative Budget Committee and under its direction to the committees of the Legislature concerning:

(a) State budget.

(b) Revenues and expenditures of the state.

(c) The organization and functions of the state, its departments, subdivisions, and agencies.

(2) To assist the Senate Finance Committee and the Assembly Ways and Means Committee in consideration of the budget and all bills carrying express or implied appropriations and all legislation affecting state departments and their efficiency; to appear before any other legislative committee, and to assist any other legislative committees upon instruction by the Joint Legislative Budget Committee.

(3) To provide all legislative committees and Members of the Legislature with information obtained under the direction of the Joint Legislative Budget Committee.

(4) To maintain a record of all work performed by the Legislative Analyst under the direction of the Joint Legislative Budget Committee and to keep and make available all documents, data, and reports submitted to him by any Senate, Assembly or joint committee. The committee may meet either during sessions of the Legislature, any recess thereof, or after final adjournment, and may meet or conduct business at any place within the State of California.

The chairman or chairwoman of the committee or, in the event of such person's inability to act, the vice chairman or vice chairwoman, shall audit and approve the expenses of members of the committee or salaries of the employees, and all other expenses incurred in connection with the performance of its duties by the committee, and the chairman or chairwoman shall certify the amount approved to

the Controller, and the Controller shall draw his warrants upon the certification of the chairman or chairwoman, and the Treasurer shall pay the same to the chairman or chairwoman of the committee to be disbursed by the chairman or chairwoman.

On and after the commencement of a succeeding regular session those members of the committee who continue to be Members of the Senate and Assembly, respectively, continue as members of the committee until their successors are appointed, and the committee continues with all its powers, duties, authority, records, papers, personnel, and staff, and all funds theretofore made available for its use.

Upon the conclusion of its work, any Assembly, Senate, or joint committee (other than a standing committee) shall deliver to the Legislative Analyst for use and custody all documents, data, reports and other materials that have come into the possession of such committee and which are not included within the final report of such committee to the Assembly, Senate, or the Legislature, as the case may be. Such documents, data, reports, and other material shall be available to Members of the Legislature, the Senate Office of Research, and the Assembly Office of Research, upon request.

The Legislative Analyst with the consent of the committee shall make available to any Member or committee of the Legislature any other reports, records, documents, or other data under his control, except that reports prepared by the Legislative Analyst in response to a request from a Member or committee of the Legislature shall only be made available with the written permission of the Member or committee who made the request.

The Legislative Analyst, upon the receipt if a request from any committee or Member of the Legislature to conduct a study or provide information which falls within the scope of his responsibilities and which concerns the administration of the government of the State of California shall at once advise the Joint Legislative Budget Committee of the nature of the request without disclosing the name of the member or committee making the request.

The Legislative Analyst shall immediately undertake to provide the requesting committee or legislator with the service or information requested, and shall inform the committee or legislator of the approximate date when this information will be available. Should there be any material delay he shall subsequently communicate this fact to the requester.

Neither the Rules Committee of either house nor the Joint Rules Committee shall assign any matter for study to the Joint Legislative Budget Committee or the Legislative Analyst without first obtaining from the Joint Legislative Budget Committee an estimate of the amount required to be expended by it to make the study.

Any concurrent, joint, Senate, or House resolution assigning a study to the Joint Legislative Budget Committee or to the Legislative Analyst shall be referred to the respective Rules Committees. Before

the committees shall act upon or assign such resolution they shall obtain an estimate from the Joint Legislative Budget Committee of the amount required to be expended to make the study.

Citizen Cost Impact Report

37.1. Any Member or committee of the Legislature may recommend that the Legislative Analyst prepare a citizen cost impact analysis on proposed legislation. However, such a recommendation shall first be reviewed by the Rules Committee of the house where the recommendation originated, and this committee shall make the final determination as to which bills shall be assigned for preparation of an impact analysis.

In selecting specific bills for assignment to the Legislative Analyst for preparation of citizen cost impact analyses, the Rules Committee shall request the Legislative Analyst to present an estimate of his time and prospective costs for preparing the analyses. Only those bills which have a potential significant cost impact shall be assigned. Where necessary, the Rules Committee shall provide funds to offset added costs incurred by the Legislative Analyst.

The citizen cost impact analyses shall include those economic effects which the Legislative Analyst deems significant and which he believes will result directly from the proposed legislation. Insofar as feasible, the Legislative Analyst shall consider, but not be limited to consideration of, the following:

(a) The economic effect on the public generally.

(b) Any specific economic effects on persons or businesses in the case of legislation which is regulatory.

The Legislative Analyst shall submit the citizen cost impact analyses when completed to the committee or committees and at the time or times designated by the Rules Committee.

The Legislative Analyst shall submit from time to time, but at least once a year, a report to the Legislature on the trends and directions of the state's economy, and shall list the alternatives and make recommendations as to legislative actions which, in his judgment, will insure a sound and stable state economy.

Joint Legislative Audit Committee

37.3. The Joint Legislative Audit Committee is created pursuant to the Legislature's rulemaking authority and specific constitutional authority by Chapter 4 (commencing with Section 10500) of Part 2, Division 2, Title 2 of the Government Code. The committee shall consist of four Members of the Senate and four Members of the Assembly who shall be selected in the manner provided for in these rules, of which one shall be the chairman of the fiscal committee for the Senate and one the chairman of the fiscal committee for the Assembly. Notwithstanding anything to the contrary in these rules, two members from each house constitute a quorum and the number

of votes necessary to take action on any matter. The Chairman of the Joint Legislative Audit Committee, upon receiving a request by any Member of the Legislature or committee thereof for a copy of a report prepared or being prepared by the Auditor General, shall provide the member or committee with a copy of such report when it is, or has been, submitted by the Auditor General to the Joint Legislative Audit Committee.

Registration of Legislative Representatives

37.5. The Joint Rules Committee shall have the rights, powers and duties prescribed in Section 9909 of the Government Code, specifically including but not limited to the authority to grant certificates of registration as legislative advocates.

The committee shall study and analyze all facts relating to legislative representation and the regulation thereof, and shall report thereon to the Legislature at each regular session and from time to time as the committee deems necessary, including in the reports its recommendations for appropriate legislation.

The committee may direct the Legislative Analyst to perform such duties as may be assigned to him by the committee.

Administrative Regulations

37.7. (a) Any Member of the Senate may request the Senate 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.

Designating Legislative Sessions

39. All extraordinary sessions shall be designated in numerical order by the session in which convened.

Joint Rules Committee

40. The Joint Rules Committee is hereby created. The committee has a continuing existence and may meet, act, and conduct its business during sessions of the Legislature or any recess thereof.

The committee shall consist of seven members of the Assembly Committee on Rules and five members of the Senate Committee on Rules, the Speaker of the Assembly, and three Members of the Senate to be appointed by the Senate Committee on Rules. Vacancies occurring in the membership shall be filled by the appointing power.

The committee and its members shall have and exercise all of the rights, duties, and powers conferred upon investigating committees and their members by the provisions of the Joint Rules of the Senate and Assembly as they are adopted and amended from time to time, which provisions are incorporated herein and made applicable to this committee and its members.

The committee shall ascertain facts and make recommendations to the Legislature and to the houses thereof concerning:

(a) The relationship between the two houses and procedures calculated to expedite the affairs of the Legislature by improving that relationship.

(b) The legislative branch of the state government and any defects or deficiencies in the law governing that branch.

(c) Methods whereby legislation is proposed, considered, and acted upon.

(d) The operation of the Legislature, and the committees thereof, and the means of coordinating the work thereof and avoiding duplication of effort.

(e) Aids to the Legislature.

(f) Information and statistics for the use of the Legislature, and respective houses thereof, and the members.

Any matter of business of either house, the transaction of which

would affect the interests of the other house, may be referred to the committee for action if the Legislature is not in recess, and shall be referred to the committee for action if the Legislature is in recess.

The committee has the following additional powers and duties:

(a) To select a chairman or chairwoman and vice chairman or vice chairwoman from its membership.

(b) To allocate space in the State Capitol Building and all annexes and additions thereto as provided by law.

(c) To approve, as provided by law, the appearance of the Legislative Counsel in litigation.

(d) To contract with such other agencies, public or private, as it deems necessary for the rendition and affording of such services, facilities, studies, and reports to the committee as will best assist it to carry out the purposes for which it is created.

(e) To cooperate with and secure the cooperation of county, city, city and county, and other local law enforcement agencies in investigating any matter within the scope of this resolution and to direct the sheriff of any county to serve subpoenas, orders and other process issued by the committee.

(f) To report its findings and recommendations, including recommendations for the needed revision of any and all laws and constitutional provisions relating to the Legislature, to the Legislature and to the people from time to time and at any time.

(g) The committee, and any subcommittee when so authorized by the committee, may meet and act without as well as within the State of California, and is authorized to leave the state in the performance of its duties.

(h) To expend such funds as may be made available to it to carry out the functions and activities related to the legislative affairs of the Senate and Assembly.

(i) To appoint a chief administrative officer of the committee, who shall have such duties relating to the administrative, fiscal and business affairs of the committee as the committee shall prescribe. The committee may terminate the services of the chief administrative officer at any time.

(j) To employ such persons as may be necessary to assist all other joint committees, except the Joint Legislative Budget Committee and the Joint Legislative Audit Committee, in the exercise of their powers and performance of their duties. In accordance with Joint Rule 36.8, the committee shall govern and administer the expenditure of funds by such other joint committees, requiring that the claims of such joint committees be approved by the Joint Rules Committee or its designee. All expenses of the committee as well as expenses of all other joint committees may be paid from the Contingent Funds of the Assembly and Senate.

(k) To appoint the chairmen or chairwomen of joint committees, as authorized by Joint Rule 36.7.

(*l*) To do any and all other things necessary or convenient to enable it fully and adequately to exercise its powers, perform its

duties, and accomplish the objects and purposes of this resolution.

(m) The members of the Joint Rules Committee from the Senate may meet separately as a unit, and the members of the Joint Rules Committee from the Assembly may meet separately as a unit, and consider any action which is required to be taken by the Joint Rules Committee. If the majority of members of the Joint Rules Committee of each house at the separate meetings vote in favor of such action, the action shall be deemed to be action taken by the Joint Rules Committee.

The committee shall succeed to, and is vested with, all of the powers and duties of the Joint Committee on Legislative Organization, State Capitol Committee, the Joint Committee on Interhouse Cooperation, the Joint Legislative Committee for School Visitations, and the Joint Standing Committee on the Joint Rules of the Senate and the Assembly.

Subcommittee on Legislative Space and Facilities

40.3. (a) A subcommittee of the Joint Rules Committee is hereby created to be known as the Subcommittee on Legislative Space and Facilities. The subcommittee shall consist of three Members of the Senate and three Members of the Assembly, appointed by the Chairman of the Joint Rules Committee, and the chairman of the fiscal committee of each house who shall have full voting rights on the subcommittee. The chairman of the subcommittee shall be appointed by the members thereof. For purposes of this subcommittee, the chairmen of the fiscal committees shall be ex officio members of the Joint Rules Committee, but shall not have voting rights on that committee, nor shall they be counted in determining a quorum. The subcommittee shall consider the housing of the Legislature and legislative facilities.

(b) The subcommittee and its members shall have and exercise all of the rights, duties and powers conferred upon investigating committees and their members by the provisions of the Joint Rules of the Senate and Assembly as they are adopted and amended from time to time, which provisions are incorporated herein and made applicable to this subcommittee and its members.

(c) The subcommittee has the following additional powers and duties:

(1) To contract with such other agencies, public or private, as it deems necessary for the rendition and affording of such services, facilities, studies and reports to the subcommittee as will best assist it to carry out the purposes for which it is created.

(2) To cooperate with and secure the cooperation of county, city, city and county, and other local law enforcement agencies in investigating any matter within the scope of this resolution and to direct the sheriff of any county to serve subpoenas, orders, and other process issued by the subcommittee.

(3) To report its findings and recommendations to the Legislature

and to the people from time to time and at any time.

(4) To do any and all other things necessary or convenient to enable it fully and adequately to exercise its powers, perform its duties, and accomplish the objects and purposes of this resolution.

(d) The subcommittee is authorized to leave the State of California in the performance of their duties.

Subcommittee on Legislative Assistance

40.5. A subcommittee of the Joint Rules Committee is hereby created to be known as the Subcommittee on Legislative Assistance. The Chairman or Chairwoman of the Joint Rules Committee shall appoint one member of the Joint Rules Committee from each house to be members of the subcommittee.

The subcommittee shall have the duty and responsibility of offering such assistance as may be desired by Members of the Legislature, former members, and their families and rendering such aid and assistance as is possible through the offices of the Sergeants at Arms and other officers and employees of the Legislature in the event of the death of a member, former member, or a member of their families.

The Sergeants at Arms and other officers and employees of each house of the Legislature shall render such aid or assistance as may be requested or directed by the subcommittee.

The Joint Rules Committee shall allocate to the subcommittee, from any funds available therefor, such funds as may be required to carry out its functions.

Claims for Worker's Compensation

41. The Chairman or Chairwoman of the Rules Committee of each house, or a designated representative, shall sign any required worker's compensation report regarding injuries or death arising out of and within the course of employment suffered by any member, officer, or employee of the house, or any employee of a standing or investigating committee thereof. In the case of a joint committee, the Chairman or Chairwoman of the Rules Committee of either house, or a designated representative, may sign any such report in respect to a member or employee of such joint committee.

Information Concerning Committees

42. The Rules Committee of each house shall provide for a continuous cumulation of information concerning the membership, organization, meetings, and studies of legislative investigating committees. Each Rules Committee shall be responsible for information concerning the investigating committees of its own house and concerning joint investigating committees under the chairmanship of a member of that house. To the extent possible, each

Rules Committee shall seek to insure that the investigating committees for which it has responsibility under this rule have organized, including the organization of any subcommittees, and have had all topics for study assigned to them within a reasonable period of time.

The information thus cumulated shall be made available to the public by the Rules Committee of each house and shall be published periodically under their joint direction.

Joint Committees

43. Concurrent resolutions creating joint committees of the Legislature and concurrent resolutions allocating moneys from the Contingent Funds of the Assembly and Senate to such committees shall be referred to the Committees on Rules of the respective houses.

Conflict of Interest

44. (a) No Member of the Legislature shall, while serving as such, have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity, or incur any obligation of any nature, which is in substantial conflict with the proper discharge of his or her duties in the public interest and of his or her responsibilities as prescribed by the laws of this state.

(b) No Member of the Legislature shall, during the term for which he or she was elected:

(1) Accept other employment which he or she has reason to believe will either impair his or her independence of judgment as to his or her official duties or require him or her, or induce him or her, to disclose confidential information acquired by him or her in the course of and by reason of his or her official duties;

(2) Willfully and knowingly disclose, for pecuniary gain, to any other person, confidential information acquired by him or her in the course of and by reason of his or her official duties or use any such information for the purpose of pecuniary gain;

(3) Accept or agree to accept, or be in partnership with any person who accepts or agrees to accept, any employment, fee, or other thing of value, or portion thereof, in consideration of his appearing, agreeing to appear, or taking any other action on behalf of another person regarding a licensing or regulatory matter, before any state board or agency which is established by law for the primary purpose of licensing or regulating the professional activity of persons licensed,pursuant to state law; provided, that this rule shall not be construed to prohibit a member who is an attorney at law from practicing in such capacity before the Workmen's Compensation Appeals Board or the Commissioner of Corporations, and receiving compensation therefor, or from practicing for compensation before any state board or agency in connection with, or in any matter

related to, any case, action, or proceeding filed and pending in any state or federal court; and provided that this rule shall not act to prohibit a member from making inquiry for information on behalf of a constituent before a state board or agency, if no fee or reward is given or promised in consequence thereof, and provided that the prohibition contained in this rule shall not apply to a partnership in which the Member of the Legislature is a member if the Member of the Legislature does not share directly or indirectly in the fee resulting from the transaction; and provided that the prohibition contained in this rule shall not apply in connection with any matter pending before any state board or agency on the operative date of this rule if the affected Member of the Legislature is attorney of record or representative in the matter prior to such operative date.

(4) Receive or agree to receive, directly or indirectly, any compensation, reward, or gift from any source except the State of California for any service, advice, assistance or other matter related to the legislative process, except fees for speeches or published works on legislative subjects and except, in connection therewith, reimbursement of expenses for actual expenditures for travel and reasonable subsistence for which no payment or reimbursement is made by the State of California.

(5) Participate, by voting or any other action, on the floor of either house, or in committee or elsewhere, in the enactment or defeat of legislation in which he or she has a personal interest, except as follows:

(i) If, on the vote for final passage by the house of which he or she is a member, of the legislation in which he or she has a personal interest, he or she first files a statement (which shall be entered verbatim on the journal) stating in substance that he or she has a personal interest in the legislation to be voted on and notwithstanding such interest, he or she is able to cast a fair and objective vote on such legislation, he or she may cast his or her vote without violating any provision of this rule;

(ii) If the member believes that, because of his or her personal interest, he or she should abstain from participating in the vote on the legislation, he or she shall so advise the presiding officer prior to the commencement of the vote and shall be excused from voting on the legislation without any entry on the journal of the fact of his or her personal interest. In the event a rule of the house, requiring that each member who is present vote aye or nay is invoked, the presiding officer shall order the member excused from compliance and shall order entered on the journal a simple statement that the member was excused from voting on the legislation pursuant to law.

(c) A person subject to this rule has an interest which is in substantial conflict with the proper discharge of his duties in the public interest and of his responsibilities as prescribed in the laws of this state or a personal interest, arising from any situation, within the scope of this rule, if he or she has reason to believe or expect that he or she will derive a direct monetary gain or suffer a direct monetary

loss, as the case may be, by reason of his or her official activity. He or she does not have an interest which is in substantial conflict with the proper discharge of his or her duties in the public interest and of his or her responsibilities as prescribed by the laws of this state or a personal interest, arising from any situation, within the scope of this rule, if any benefit or detriment accrues to him or her as a member of a business, profession, occupation, or group to no greater extent than any other member of such business, profession, occupation, or group.

(d) A person subject to the provisions of this rule shall not be deemed to be engaged in any activity which is in substantial conflict with the proper discharge of his or her duties in the public interest and of his or her responsibilities as prescribed by the laws of this state, arising from any situation, or to have a personal interest, arising from any situation, within the scope of this rule, solely by reason of any of the following:

(1) His or her relationship to any potential beneficiary of any situation is one which is defined as a remote interest by Section 1091 of the Government Code or is otherwise not deemed to be a prohibited interest by Section 1091.1 or 1091.5 of the Government Code.

(2) Receipt of a campaign contribution regulated, received, reported, and accounted for pursuant to Division 9 (commencing with Section 11500) of the Elections Code, so long as the contribution is not made on the understanding or agreement, in violation of law, that the person's vote, opinion, judgment, or action will be influenced thereby.

(e) The enumeration in this rule of specific situations or conditions which are deemed not to result in substantial conflicts with the proper discharge of the duties and responsibilities of a legislator or legislative employee or in a personal interest shall not be construed as exclusive.

The Legislature in adopting this rule recognizes that Members of the Legislature and legislative employees may need to engage in employment, professional, or business activities other than legislative activities, in order to maintain a continuity of professional or business activity, or may need to maintain investments, which activities or investments do not conflict with the specific provisions of the chapter. However, in construing and administering the provisions of the rule, weight should be given to any coincidence of income, employment, investment, or other profit from scources which may be identified with the interests represented by those sources which are seeking action of any character on matters then pending before the Legislature.

(f) No employee of either house of the Legislature shall, during the time he is so employed, commit any act or engage in any activity prohibited by any part of this rule.

(g) No person shall induce or seek to induce any Member of the Legislature to violate any part of this rule.

(h) Violations of these rules are punishable as provided in Section 8926 of the Government Code.

Joint Legislative Ethics Committee

45. (a) The Joint Legislative Ethics Committee is hereby created. The committee shall consist of three Members of the Senate appointed by the Senate Committee on Rules and three Members of the Assembly appointed by the Speaker of the Assembly. Of the three members appointed from each house, at least one from each house shall be a member of the political party having the largest number of members in that house and at least one from each house shall be a member of the political party having the second largest number of members in that house. The committee shall elect its own chairman or chairwoman. Vacancies occurring in the membership of the committee shall be filled in the manner provided for in these rules for other committees. A vacancy shall be deemed to exist as to any member of the committee whose term is expiring whenever such member is not reelected at the general election.

(b) The committee is authorized to make rules governing its own proceedings. The provisions of Rule 36 of the Joint Rules of the Senate and Assembly relating to investigating committees shall apply to the committee.

Prior to the issuance of any subpoena by the committee with respect to any matter before the committee, it shall by a resolution adopted by a vote of two members of the committee from each house of the Legislature define the nature and scope of its investigation in the matter before it.

(c) Funds for the support of the committee shall be provided from the Contingent Funds of the Assembly and the Senate in the same manner that such funds are made available to other joint committees of the Legislature.

(d) The committee shall have power, pursuant to the provisions of this rule, to investigate and make findings and recommendations concerning alleged violations by Members of the Legislature of the provisions of Rule 44.

(e) Any person may: (1) file with the committee a verified complaint in writing which shall state the name of the Member of the Legislature alleged to have committed the violation complained of, and which shall set forth the particulars thereof, or (2) file a complaint concerning the alleged violation by a Member of the Legislature with the district attorney of the appropriate county.

If a person files a complaint with respect to any alleged violation by a Member of the Legislature with the committee, he or she may not thereafter file a complaint to institute a criminal prosecution for such violation until the committee has rendered its report or until a period of 120 days has elapsed since the filing of the complaint. If a complaint is filed with the appropriate district attorney by any person concerning an alleged violation by a Member of the

Legislature of any provision of Rule 44, such person may not thereafter file a complaint with respect to such alleged violation with the committee.

If a complaint is filed with the committee, the committee shall promptly send a copy of the complaint to the Member of the Legislature alleged to have committed the violation complained of, who shall thereafter be designated as the respondent.

No complaint may be filed with the committee after the expiration of six months from the date upon which the alleged violation occurred.

(f) If the committee determines that the verified complaint does not allege facts, directly or upon information and belief, sufficient to constitute a violation of any of the provisions of Rule 44, it shall dismiss the complaint and notify the complainant and respondent thereof. If the committee determines that such verified complaint does allege facts, directly or upon information and belief, sufficient to constitute a violation of any of the provisions of Rule 44, the committee shall promptly investigate the alleged violation and, if after such preliminary investigation, the committee finds that probable cause exists for believing the allegations of the complaint, it shall fix a time for a hearing in the matter, which shall be not more than 30 days after such finding. If, after the preliminary investigation, the committee finds that probable cause does not exist for believing the allegations of the complaint, the committee shall dismiss the complaint. In either event the committee shall notify the complainant and respondent of its determination.

(g) After the complaint has been filed the respondent shall be entitled to examine and make copies of all evidence in the possession of the committee relating to the complaint.

(h) If a hearing is to be held pursuant to subdivision (f) the committee, before the hearing has commenced, shall issue subpoenas and subpoenas duces tecum at the request of any party in accordance with the provisions of Chapter 4 (commencing with Section 9400), Part 1, Division 2, Title 2 of the Government Code. All of the provisions of Chapter 4, except Section 9410, shall be applicable to the committee and the witnesses before it.

(i) At any hearing held by the committee:

(1) Oral evidence shall be taken only on oath or affirmation.

(2) Each party shall have these rights: to be represented by legal counsel; to call and examine witnesses; to introduce exhibits; and to cross-examine opposing witnesses.

(3) The hearing shall be open to the public.

(j) Any official or other person whose name is mentioned at any investigation or hearing of the committee and who believes that testimony has been given which adversely affects him, shall have the right to testify or, at the discretion of the committee, to file a statement of facts under oath relating solely to the material relevant to the testimony of which he complains.

(k) After the hearing the committee shall state its findings of fact.

If the committee finds that the respondent has not violated any of the provisions of Rule 44, it shall order the action dismissed, and shall notify the respondent and complainant thereof and shall also transmit a copy of the complaint and the fact of dismissal to the Attorney General and to the district attorney of the appropriate county. If the committee finds that the respondent has violated any of the provisions of Rule 44, it shall state its findings of fact and submit a report thereon to the house in which the respondent serves, send a copy of such findings and report to the complainant and respondent, and the committee shall also report thereon to the Attorney General and to the district attorney of the appropriate county.

(*l*) Nothing in this rule shall preclude any person from instituting a prosecution for violation of any provision of Rule 44 unless such person has filed a complaint with the committee concerning such violation, in which case such person may not file a complaint with the district attorney of the appropriate county to institute a criminal prosecution for such violation until the committee has made its determination of the matter for a period of 120 days has elapsed since the filing of the complaint with the committee.

(m) The filing of a complaint with the committee pursuant to this rule suspends the running of the statute of limitations applicable to any violation of the provisions of Rule 44 while such complaint is pending.

(n) The committee shall maintain a record of its investigations, inquiries, and proceedings. All records, complaints, documents, reports filed with or submitted to or made by the committee, and all records and transcripts of any investigations, inquiries or hearings of the committee under this rule shall be deemed confidential and shall not be open to inspection by any person other than a member of the committee, an employee of the committee, or a state employee designated to assist the committee, except as otherwise specifically provided in this rule. The committee may, by adoption of a resolution, authorize the release to the Attorney General or to the district attorney of the appropriate county of any information, records, complaints, documents, reports, and transcripts in its possession material to any matter pending before the Attorney General or the district attorney. All matters presented at a public hearing of the committee and all reports of the committee stating a final finding of fact pursuant to subdivision (k) shall be public records and open to public inspection. Any employee of the committee who divulges any matter which is deemed to be confidential by this subdivision is punishable as provided in Section 8953 of the Government Code.

(o) All actions of the committee shall require the concurrence of two members of the committee from each house.

(p) The committee may render advisory opinions to Members of the Legislature with respect to the provisions of Rule 44 and their application and construction. The committee may secure an opinion

from the Legislative Counsel for this purpose or issue its own opinion.

Legislative Hearing Rooms

46. The Rules Committee of each house shall provide designated space for nonsmokers in each legislative hearing room under its jurisdiction; provided, however, that nothing in this rule shall prevent any committee chairman from prohibiting smoking completely, or from further restricting smoking to a greater extent than provided by the Rules Committee of that house.

Designating Legislative Sessions

50. Regular sessions shall be identified with the odd-numbered year subsequent to each general election, followed by a hyphen, and then the last two digits of the following even-numbered year. For example: 1973–74 Regular Session.

Days and Dates

50.5. (a) As used in these rules, "day" means a calendar day, unless otherwise specified.

(b) When the date of a deadline, recess, other requirement, or circumstances, falls on a Saturday, Sunday, or Monday that is a holiday, such date shall be deemed to refer to the preceding Friday, except where January 1 is a Sunday, such date shall be deemed to refer to the following Tuesday. When such a date falls on a holiday on a weekday other than a Monday, such date shall be deemed to refer to the preceding day.

Legislative Calendar

51. (a) The Legislature shall observe the following calendar during the first year of the regular session:

(1) Organizational Recess—The Legislature shall meet on the first Monday in December following the general election to organize. Thereafter, each house shall be in recess from such time as it determines, but not later than the following Friday until the first Monday in January, except when the first Monday is January 1, in which case, the following Tuesday.

(2) Easter Recess—The Legislature shall be in recess from the 10th day prior to Easter until the Monday after Easter.

(3) Summer Recess—The Legislature shall be in recess from the last Friday in June until the first Monday in August. This recess shall not commence until the Budget Bill is enacted.

(4) Interim Study Recess—The Legislature shall be in recess from September 15 until the first Monday in January, except when the first Monday is January 1, or January 1 is a Sunday, in which case, the

following Tuesday.

(b) The Legislature shall observe the following calendar for the remainder of the legislative session:

(1) Easter Recess—The Legislature shall be in recess from the 10th day prior to Easter until the Monday after Easter.

(2) Summer Recess—The Legislature shall be in recess from the last Friday in June until the first Monday in August. This recess shall not commence until the Budget Bill is enacted.

(3) Final Recess—The Legislature shall be in recess on September 1 until adjournment sine die on November 30th.

(c) Recesses shall be from the hour of adjournment on the day specified to reconvene at the time designated by the respective houses.

(d) The recesses specified by this rule shall be designated as joint recesses.

Recall From Recess

52. Notwithstanding the power of the Governor to call a special session, the Legislature may be recalled from joint recess and reconvene in regular session by any of the following means:

(1) It may be recalled by joint proclamation, which shall be entered in the journal, of the Senate Rules Committee and the Speaker of the Assembly or, in his absence from the state, the Assembly Rules Committee.

(2) Ten or more Members of the Legislature may present a request for recall from joint recess to the Chief Clerk of the Assembly and the Secretary of the Senate. The request shall immediately be printed in the journal. Within 10 days thereafter the Speaker of the Assembly, or if the Speaker is absent from the state, the Assembly Rules Committee, and the Senate Rules Committee shall act upon the request. If they concur in desiring to recall the Legislature from joint recess, they shall issue their joint proclamation entered in the journal no later than 20 days after publication of the request in the journal.

(3) If either or both of the parties specified in subdivision (2) does not concur, 10 or more Members of the Legislature may request the Chief Clerk or Secretary of the respective house to petition the membership of that house. The petition shall be entered in the journal and shall contain a specified reconvening date commencing not later than 20 days after the date of the petition. If two-thirds of the members of the house or each of the two houses concur, the Legislature shall reconvene on the date specified. The necessary concurrences must be received at least 10 days prior to date specified for reconvening.

Procedure on Suspending Rules by Single House

53. Whenever these rules authorize suspension of the Joint Rules as to a particular bill by action of a single house after approval by the Rules Committee of that house, the following procedure shall be followed:

(a) A written notice of intention to suspend the joint rule shall be filed with the Chief Clerk of the Assembly or the Secretary of the Senate, as the case may be, and shall be transmitted to the Rules Committee of the appropriate house. The notice shall be printed in the journal of that house.

(b) The Rules Committee of the Assembly or Senate, as the case may be, shall determine whether there exists an urgent need for the suspension of the joint rule with regard to the bill.

(c) If the Rules Committee recommends that the suspension be permitted, the member may offer a resolution, without further reference thereof to committee, granting permission to suspend the joint rule. The adoption of the resolution granting such permission shall require an affirmative recorded vote of the elected members of the house in which the request is made.

Introduction of Bills

54. (a) Bills may be introduced at any time except when the houses are in joint recess. Each house may provide for introduction of bills during a recess other than a joint recess. Bills shall be numbered consecutively during the regular session.

(b) A member may not author a bill during a session that would have substantially the same effect as a bill he or she had previously introduced during that session. This restriction shall not apply in cases where a previously introduced bill has been vetoed by the Governor or has had its provisions "chaptered out" by a later chaptered bill pursuant to Section 9605 of the Government Code. An objection may be raised only while the bill is being considered by the house in which it is introduced. In such case the objection shall be referred to the Rules Committee of the house for a determination. The bill shall remain on file or with a committee, as the case may be, until such determination is made. If upon consideration of the objection the Rules Committee determines that the bill objected to would have substantially the same effect as another bill previously introduced during the session by the author, the bill objected to shall be stricken from the file or returned to the desk by the committee, as the case may be, and shall not be acted upon during the remainder of the session. If the Rules Committee determines that the bill objected to would not have substantially the same effect as a bill previously introduced during the session by the author, the bill may thereafter be acted upon by the committee or the house, as the case may be. The Rules Committee may obtain such assistance as it may desire from the Legislative Counsel as to the similarity of a bill or

amendments to a prior bill. This joint rule may be suspended by approval of the Rules Committee and three-fourths vote of the house.

(c) During a joint recess, the Chief Clerk or Secretary shall order the preparation of preprint bills when so ordered by any of the following:

(1) The Speaker.

(2) The Committees on Rules of the respective houses.

(3) A committee with respect to bills within the subject matter jurisdiction of the committee.

Preprint bills shall be designated as such and shall be printed in the order received and numbered in the order printed. To facilitate subsequent amendment, preprint bills shall be so prepared that when introduced as a bill, the page and the line numbers will not change. The Chief Clerk and Secretary shall publish a list periodically of such preprint bills showing the preprint bill number, the title, and the Legislative Counsel's digest. The Speaker and Senate Rules Committee may refer preprint bills to committee for study.

30-Day Waiting Period

55. No bill other than the Budget Bill may be heard or acted upon by committee or either house until the bill has been in print for 30 days. The date a bill is returned from the printer shall be entered in the history. This rule may be suspended concurrently with the suspension of the requirement of Section 8 of Article IV of the Constitution or if such period has expired, this rule may be suspended by approval of the Rules Committee and two-thirds vote of the house in which the bill is being considered.

Return of Bills

56. Bills introduced in the first year of the regular session and passed by the house of origin on or before the January 30th constitutional deadline are "carryover bills." Immediately after January 30, bills introduced in the first year of the regular session that do not become "carryover bills" shall be returned to the Chief Clerk of the Assembly or Secretary of the Senate, respectively. Notwithstanding Rule 4, as used in this rule, "bills" does not include constitutional amendments.

Appropriation Bills

57. Appropriation bills that may not be sent to the Governor shall be held, after enrollment, by the Chief Clerk of the Assembly or Secretary of the Senate, respectively. The bills shall be sent to the Governor immediately after the Budget Bill has been enacted.

Urgency Clauses

58. An amendment to add a section to a bill to provide that the act shall take effect immediately as an urgency statute shall not be adopted unless the author of the amendment has first secured the approval of the Rules Committee of the house in which the amendments are offered.

Vetoes

58.5. The Legislature may consider a Governor's veto for only 60 days, not counting days when the Legislature is in joint recess.

Publications

59. During periods of joint recess, weekly, if necessary, the following documents shall be published: files, histories, and journals.

Hearings in Sacramento

60. (a) No standing committee or subcommittee thereof may take action on a bill at any hearing held outside of Sacramento.

(b) A committee may hear the subject matter of a bill during a period of recess. Four days' notice in the daily file is required prior to any such hearing.

(c) No bill may be acted upon by a committee during a joint recess.

Deadlines

61. The following deadlines shall be observed by the standing committees of the Assembly and Senate:

(a) Odd-numbered year:

(1) Between 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 constitutional amendments or those bills which go into immediate effect pursuant to Article IV, Section 8(c).

Committee Procedure

62. (a) Notice of a hearing on a bill by the committee of first reference in each house shall be published in the file at least four days prior to the hearing. Otherwise, notice shall be published in the file two days prior to the hearing. Such notice may be waived by a majority vote of the house in which the bill is being considered. A bill may be set for hearing in a committee only three times. A bill is "set" for purposes of this subdivision whenever notice of the hearing has been published in the file for one or more days. If a bill is set for hearing, and the committee, on its own initiation and not the author's, postpones the hearing on the bill or adjourns the hearing

while testimony is being taken, such hearing shall not be counted as one of the three times a bill may be set. After hearing the bill, the committee may vote on the bill. If the hearing notice in the file specifically indicates that "testimony only" will be taken, such hearing shall not be counted as one of the three times a bill may be set. A committee may not vote on a bill so noticed until it has been heard in accordance with this rule. After a committee has voted on a bill, reconsideration may be granted only one time. Reconsideration may be granted within 15 legislative days or prior to the interim study joint recess, whichever first occurs. A vote on reconsideration cannot be taken without the same notice required to set a bill unless such vote is taken at the same meeting at which the vote to be reconsidered was taken and the author is present. When a bill fails to get the necessary votes to pass it out of committee or upon failure to receive reconsideration, it shall be returned to the Chief Clerk of the Assembly or Secretary of the Senate of the house of the committee and may not be considered further during the session.

This subdivision may be suspended with respect to a particular bill by approval of the Rules Committee and two-thirds vote of the members of the house.

(b) If the committee adopts amendments other than those offered by the author and orders the bill reprinted prior to its further consideration, the hearing shall not be the final time a bill may be set under subdivision (a) of this rule.

(c) When a standing committee takes action on a bill, the vote shall be by rollcall vote only. All rollcall votes taken by a standing committee shall be recorded by the committee secretary on forms provided by the Chief Clerk of the Assembly and the Secretary of the Senate. The chairman or chairwoman of each standing committee shall promptly transmit a copy of the record of the rollcall votes to the Chief Clerk of the Assembly or the Secretary of the Senate, respectively, who shall cause the votes to be published as prescribed by each house.

The provisions of this subdivision shall also apply to action of a committee on a subcommittee report. The rules of each house shall prescribe the procedure as to rollcall votes on amendments.

Any committee may, with the unanimous consent of the members present, substitute a rollcall from a prior bill, provided that the members whose votes are substituted are present at the time of the substitution.

At no time shall a bill be passed out by a committee without a quorum being present.

The provisions of this subdivision shall not apply to:

(1) Procedural motions which do not have the effect of disposing of a bill.

(2) Withdrawal of a bill from a committee calendar at the request of an author.

(3) Return of bills to the house where the bills have not been voted

on by the committee.

(4) The assignment of bills to committee.

(d) The chairman or chairwoman of the committee hearing a bill, may, at any time, order a call of the committee. Upon a request by any member of a committee or the author in person, the chairman or chairwoman shall order the call.

In the absence of a quorum a majority of the members present may order a quorum call of the committee and compel the attendance of absentees. The chairman or chairwoman shall send the Sergeant at Arms for those members who are absent and not excused by their respective house.

When a call of a committee is ordered by the chairman or chairwoman with respect to a particular bill, he or she shall send the Sergeant at Arms or any other person to be appointed for that purpose for those members who have not voted on that particular bill and are not excused.

A quorum call or a call of the committee with respect to a particular bill may be dispensed with by the chairman or chairwoman without objection by any member of the committee, or by a majority of the members present.

If a motion is adopted to adjourn the committee while the committee is operating under a call, the call shall be dispensed with and any pending vote announced.

The committee secretary shall record the votes of members answering a call. The rules of each house may prescribe additional procedures for a call of a committee.

Uniform Rules

63. No standing committee of either house shall adopt or apply any rule or procedure governing the voting upon bills which is not equally applicable to the bills of both houses.

Votes on Bills

64. Every meeting of each house and standing committee or subcommittee thereof where a vote is to be taken on a bill, or amendments to a bill, shall be public.

Conflicting Rules

65. The provisions of Rule 50 and following of these rules prevail over any conflicting joint rule with a lesser number.

RESOLUTION CHAPTER 4

Senate Concurrent Resolution No. 2—Relative to memorializing the Honorable George R. Moscone.

[Filed with Secretary of State January 3, 1979.]

WHEREAS, It was with the most profound sorrow and deep sense of despair that word was received of the tragic loss of a former colleague and highly respected Member of the California State Legislature, the Honorable Mayor George R. Moscone of San Francisco, on November 27, 1978, at the age of 49; and

WHEREAS, Mayor Moscone was born in San Francisco and attended the University of San Francisco and he graduated from the University of the Pacific and from Hastings College of the Law; and

WHEREAS, After service in the United States Navy and after instructing law at Lincoln University for five years, Mayor Moscone began his brilliant career as a public official in 1963, when he was elected to the San Francisco Board of Supervisors at age 33 and became the second youngest member of that board in the City's history; and

WHEREAS, In 1966, he was elected to the California State Senate as a representative of the Sixth Senatorial District, and in 1970, he was reelected by the largest victory margin of any legislator in California after being chosen by his fellow senators as Majority Leader and named "Outstanding Freshman Senator" and "Most Effective Democratic Senator" by newsmen in the Capitol; and

WHEREAS, His legislative successes in the Senate included decriminalization of marijuana, a school lunch program for needy children, financial disclosure for elected officials, bilingual education, and reorganization and strengthening of the State Department of Consumer Affairs; and

WHEREAS, Mayor Moscone was a hard-working man with great compassion, and his familiarity with the issues under debate, as well as his articulateness as a speaker and keen sense of timing, made him a most persuasive and effective public leader; and

WHEREAS, Not content with his successful career in the State Senate, and because of his desire to be close to his family in San Francisco, in 1975 he ran for and was elected to Mayor of the City of San Francisco; and

WHEREAS, As Mayor, he was instrumental in keeping the San Francisco Giants' baseball team from moving to Toronto in 1977, and in giving impetus to the Yerba Buena redevelopment project to help revitalize the city's downtown area, which had previously been paralyzed by litigation for a dozen years; and

WHEREAS, Mayor Moscone was very accessible to the public, held news conferences almost daily to inform the people of his actions, and earned the respect and friendship of many peers and associates; and

WHEREAS, He is survived by his widow, Gina; his mother Lee; and four children, Jennifer, Jonathan, Christopher, and Rebecca; 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 their former colleague and good friend, the Honorable George R. Moscone, and by this resolution, memorialize his superior record of personal and professional achievement on behalf of the State of California, and in particular the San Francisco community and his fellow citizens, as well as the love and devotion he displayed on behalf of his family and friends; and be it further

Resolved, That the Secretary of the Senate transmit suitably prepared copies of this resolution to Gina Moscone, Lee Moscone, Jennifer Moscone, Jonathan Moscone, Christopher Moscone, and Rebecca Moscone.

RESOLUTION CHAPTER 5

Senate Concurrent Resolution No. 6—Relative to the Commission on Judicial Performance.

[Filed with Secretary of State January 17, 1979.]

WHEREAS, The Commission on Judicial Performance is conducting an investigation concerning the procedures by which decisions are written and released by the California Supreme Court; and

WHEREAS, Maintaining public faith in the judicial system at this time requires that as much information as possible be given to the public to ensure the soundness of judicial process; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Judicial Council is requested to approve a rule requiring the Commission on Judicial Performance to conduct hearings open to the public with respect to this investigation; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the members of the Commission on Judicial Performance.

RESOLUTION CHAPTER 6

Assembly Joint Resolution No. 6—Relative to New River.

[Filed with Secretary of State January 26, 1979.]

WHEREAS, The New River which flows across the border between California and Mexico through Calexico and several other Imperial Valley communities enroute to the Salton Sea is contaminated with raw and partially treated sewage and industrial wastes entering at Mexicali, Mexico, the capitol of Baja California Norte; and

WHEREAS, The burgeoning population of Mexicali, economic hardship, mechanical malfunction, earthquake damage, and tropical storms have combined to complicate the efforts of the Mexican government to adequately treat such pollutants with the result that state and county public health officials in California are seriously concerned about the threat of disease posed by the contaminated water; and

WHEREAS, Governor Roberto de la Madrid of Baja California has given assurances that necessary repairs to Mexicali's sewage pumping station will be carried out as a high priority project and the City of Mexicali is planning to build additional oxidation ponds, but, even at full operation, the city's sewage treatment system is inadequate and dated, many residences and businesses are not hooked up to the system, and industrial polluters continue to dump wastes into the river; and

WHEREAS, The problem of New River pollution has plagued California for the past quarter century and can be expected to remain as a serious health hazard in view of the fact that Mexicali's population is expected to double in the next decade; and

WHEREAS, Although there have been longstanding and earnest efforts by federal, state, and local officials and the Mexican government to deal with the contamination of New River, and such efforts must continue, the problem has reached such proportions that it should be the subject of discussions at the highest levels 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 of the United States to discuss the subject of the pollution of New River personally with President Lopez Portillo of Mexico during their meeting to be held in February 1979; and be it further

Resolved, That the Legislature of the State of California respectfully urges the appropriate agencies and officials of the United States and the Government of Mexico to cooperate fully to improve New River water quality; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United

States, to the Secretary of State, 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 7

Assembly Joint Resolution No. 7—Relative to Nazi war criminals.

[Filed with Secretary of State January 26, 1979.]

WHEREAS, It is a reprehensible policy that would assume that the moral obligation for the mass murder of over 11,000,000 innocent victims of the "Holocaust" can be eliminated by the passage of time; and

WHEREAS, The statute of limitations of the German Federal Republic relating to Nazi war criminals is scheduled to expire on December 31, 1979; and

WHEREAS, If such statute of limitations does expire, no investigation of murder, including genocide, committed by Nazi war criminals can be initiated after that date; and

WHEREAS, If such statute of limitations does expire, thousands of Nazi war criminals who were actively involved in the calculated and brutal mass murder of millions of innocent victims will be rewarded for having evaded justice; and

WHEREAS, Crimes of lessor horror than mass murder and genocide are subject to no statute of limitations either in California or in numerous other jurisdictions; and

WHEREAS, It is in the interest of all free people that new generations not be allowed to forget the dangers and consequences of the crime of genocide; and

WHEREAS, An international campaign to convince the German Federal Republic to eliminate or extend the current statute of limitations has been initiated by a broad base of concerned organizations and individuals; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Government of the United States urge the German Federal Republic and the legislators of that nation to abolish or extend the statute of limitations relating to Nazi war crimes; and be it further

Resolved, That the Legislature requests that the President and Secretary of State of the United States communicate the contents of this resolution on behalf of the people of California to the following officials of the German Federal Republic: the President, the Chancellor, the Ambassador to the United States, Chief Justice of the Supreme Court, and the national legislators; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President of the United States, to the Secretary

of State, to the Speaker of the House of Representatives, to the Majority Leader of the Senate, to the Chairman, Senate Foreign Relations Committee, to the National Security Council members, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 8

Assembly Concurrent Resolution No. 18—Relative to memorializing the Honorable Leo J. Ryan.

[Filed with Secretary of State January 30, 1979]

WHEREAS, It was with the most profound sorrow and deep sense of loss that word was received of the untimely passing of a highly esteemed Congressman, Representative Leo J. Ryan of the 11th Congressional District, whose entire life was devoted to helping his fellow man; and

WHEREAS, Elected in 1962 to the California Legislature, Leo J. Ryan served the people of his district and of the state with courage and ability; and

WHEREAS, His deep and abiding interest in public education led him to author and guide through the Legislature numerous important measures relating to that vital field, including the "Ryan Act" of 1970 for the preparation and licensing of public school teachers; and

WHEREAS, His firm and constructive chairmanship of the Joint Committee on Textbooks and Curriculum played no small part in the accomplishments of that committee; and

WHEREAS, He also served on the Rules Committee and the Ways and Means Committee, and his interest and incisive questioning on all the committees on which he served frequently led to notable improvements in proposed legislation; and

WHEREAS, Leo Ryan, during his career as a Member of the California Legislature, was remarkable for his firsthand investigation of problems confronting the Legislature, among other things, voluntarily spending time as a prisoner at Folsom Prison; and

WHEREAS, Born May 5, 1925, in Lincoln, Nebraska, Leo Ryan received both a Bachelor's and Master's degree from Creighton University in Omaha, and served his country in the United States Navy Submarine Service in the Pacific Ocean Theater during World War II and was a high school teacher and administrator prior to entering politics; and

WHEREAS, Representative Ryan served the people of South San Francisco as their Mayor and on the City Council for six years prior to his election to the Assembly; and

WHEREAS, Leo Ryan authored two important works on the

political process, and gave his time freely to numerous charitable and philanthropic societies; and

WHEREAS, Leo Ryan was elected to the 93rd Congress on November 7, 1972, and was reelected to each succeeding Congress; and

WHEREAS, Leo Ryan served on the House Foreign Affairs Committee, the International Relations Committee, the House Post Office and Civil Service Committee, and was Chairman of the Environment, Energy and Natural Resources Subcommittee; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Members express their sorrow at the passing of the Honorable Leo J. Ryan, whose great humanitarian efforts will live on in the hearts of the people of California, and by this resolution memorialize his illustrious record of unstinting devotion and love for his fellow man; and be it further

Resolved, That the Chief Clerk of the Assembly transmit suitably prepared copies of this resolution to Mrs. Autumn Ryan, Christopher Ryan, Shannon Ryan, Patricia Ryan, Kevin Ryan and Erin Ryan.

RESOLUTION CHAPTER 9

Assembly Concurrent Resolution No. 13—Relative to the Joint Rules.

[Filed with Secretary of State February 21, 1979.]

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Temporary Joint Rules of the Senate and Assembly for the 1979–80 Regular Session be amended, as follows:

First—That Rule 51 is amended to read:

51. (a) The Legislature shall observe the following calendar during the first year of the regular session:

(1) Organizational Recess—The Legislature shall meet on the first Monday in December following the general election to organize. Thereafter, each house shall be in recess from such time as it determines, but not later than the following Friday until the first Monday in January, except when the first Monday is January 1, in which case, the following Tuesday.

(2) Easter Recess—The Legislature shall be in recess from the 10th day prior to Easter until the Monday after Easter.

(3) Summer Recess—The Legislature shall be in recess from the third Friday in July until the third Monday in August. This recess shall not commence until the Budget Bill is enacted.

(4) Interim Study Recess—The Legislature shall be in recess from September 15 until the first Monday in January, except when the first

Monday is January 1, or January 1 is a Sunday, in which case, the following Tuesday.

(b) The Legislature shall observe the following calendar for the remainder of the legislative session:

(1) Easter Recess—The Legislature shall be in recess from the 10th day prior to Easter until the Monday after Easter.

(2) Summer Recess—The Legislature shall be in recess from the first Friday in July until the first Monday in August. This recess shall not commence until the Budget Bill is enacted.

(3) Final Recess—The Legislature shall be in recess on September 1 until adjournment sine die on November 30.

(c) Recesses shall be from the hour of adjournment on the day specified to reconvene at the time designated by the respective houses.

(d) The recesses specified by this rule shall be designated as joint recesses.

Second—That Rule 61 is amended to read:

61. The following deadlines shall be observed by the standing committees of the Assembly and Senate:

(a) Odd-numbered year:

(1) Between the first 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 on or before the first Friday in May. Such a report may be received from a fiscal committee on or before the fourth Friday in June, however, if after the first Friday in May the Legislative Counsel's digest of the bill is changed to indicate reference to fiscal committee.

(2) Between the fourth Friday in May 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 the fourth Friday in June 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) No bill introduced in the other house shall be set for hearing in the policy committee of the second house unless, no later than the first Friday in July, the author files a request for hearing with the chairman of the policy committee.

(6) Between the third Friday in July 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 on or before

the third Friday in July. Such a report may be received from a fiscal committee on or before the fourth Friday in August, however, if after the third Friday in July the Legislative Counsel's digest of the bill is changed to indicate reference to fiscal committee.

(7) Between the third Friday and the fourth Monday in June, and between the fourth Friday in August and the first Monday in September, no committee other than fiscal committees shall meet for the purpose of hearing any bill.

(8) Between the fourth Friday in June and the first Monday in July, and after the fifth Friday in August, no committee shall meet for the purpose of hearing any bill.

(9) Between the fifth Friday in August, 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 third Friday in April, 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 first Friday in June, however, if the Legislative Counsel's digest of the bill is changed to indicate reference to fiscal committee.

(4) After the second 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 first 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 second Friday in June, neither house shall pass bills introduced in that house.

(7) No bill introduced in the other house shall be set for hearing in the policy committee of the second house unless, no later than the third Friday in June, the author files a request for hearing with the chairman of the policy committee.

(8) After the first Friday in July, 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 the third Friday in August, however, if the Legislative Counsel's digest of the bill is changed to indicate reference to fiscal committee.

(9) After the second Friday in August, the Secretary of the Senate and the Chief Clerk shall not receive a report from a policy committee requiring further action on a bill.

(10) Between the fifth Friday in May, and the second Monday in June, and after the second Friday in August, no committee other than fiscal committees shall meet for the purpose of hearing any bill.

(11) After the third Friday in August, the Secretary of the Senate and the Chief Clerk shall not receive a report from a fiscal committee requiring further action on a bill.

(12) From the first Friday to the third Monday in June, and after the third Friday in August, 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) 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.

(h) Except as provided in subparagraphs (a) (8) and (b) (12), the deadlines imposed by this rule shall not apply to constitutional amendments or those bills which go into immediate effect pursuant to Article IV, Section 8(c).

RESOLUTION CHAPTER 10

Senate Concurrent Resolution No. 5—Relative to honoring Mervyn Dymally on his retirement.

[Filed with Secretary of State March 2, 1979]

WHEREAS, Upon the occasion of his retirement as Lieutenant Governor of the State of California, the Honorable Mervyn Dymally is deserving of special recognition and the highest commendations; and

WHEREAS, Lieutenant Governor Dymally has brought 12 years of experience as legislator, educational expertise, and political know-how to the Lieutenant Governor's office, plus a depth of knowledge and concern in a broad range of people-oriented programs; and

WHEREAS, He taught exceptional children in Los Angeles for six years before being elected to the California State Assembly in 1962, and his constant stream of bills to aid the state's children and youth demonstrated that the welfare of our youth was one of his major concerns during his 12 years as a Legislator; and

WHEREAS, In 1966, he was elected to the California State Senate, and he served as Chairman of the Democratic Caucus and as Chairman of the following committees: Social Welfare, Military and Veteran Affairs, Elections and Reapportionment, the Subcommittee on Medical and Health Needs, the Senate Select Committee on Children and Youth, the Joint Committee on Legal Equality, and the Joint Committee for the Revision of the Elections Code; and

WHEREAS, In 1974 he was elected as Lieutenant Governor of the State of California, and during his four years in office, he has done much to strengthen the working relationship between the Executive and Legislative branches of Government; and

WHEREAS, His most significant responsibilities as Lieutenant Governor have included his membership on the Board of Regents of the University of California and on the Board of Trustees of the State College and University System, and he has done much to assist groups in coming together to address their needs through the establishment of a California Youth Advisory Commission, the Rural Economic Development Task Force, and the Council on Intergroup Relations, which seeks to focus attention on California's merging ethnic minority population; and

WHEREAS, His office has also been a catalyst and leader in improving relations with Mexico through the Commission of the California's and the Southwest Regional Border States Commission, which addresses economic development along the United States and Mexico border; and

WHEREAS, Lieutenant Governor Dymally has assumed an active and responsible role within the governmental system and maintained a policy of openness and receptivity to ideas and

suggestions from the general public, which has brought together our diverse population in a way that makes state government more attentive and more responsive to the needs and concerns of all our citizens; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Members express their commendations and appreciation to their former colleague and friend, the Honorable Mervyn Dymally, for his outstanding record of dedicated service to the people of California as Lieutenant Governor, and convey to him their best wishes for every success in his future endeavors; and be it further

Resolved, That the Secretary of the Senate transmit a suitably prepared copy of this resolution to Lieutenant Governor Mervyn Dymally.

RESOLUTION CHAPTER 11

Assembly Joint Resolution No. 14—Relative to Armenian oppression.

[Filed with Secretary of State March 6, 1979]

WHEREAS, The State of California, as well as the federal government, has repeatedly gone on record in support of human rights around the world; and

WHEREAS, One of the most outrageous denials of human rights has occurred in the on-going persecution of Armenians; and

WHEREAS, The genocide of Armenians is a well-documented fact, with 1,500,000 Armenians massacred during the years 1915–1918 alone; and

WHEREAS, The Armenians in some countries must daily endure acts of oppression, such as denial of their basic human rights, confiscation of their churches and schools, and punishment for speaking their native language openly; and

WHEREAS, A key paragraph outlining the Armenian massacres has been deleted from a United Nations report on genocide, effectively supporting claims that no such massacres ever occurred; and

WHEREAS, The Armenian National Committee of America, Western Region, and the Armenian Rights Movement, Western Region, are demanding that the United Nations recognize historical reality and restore Paragraph 30 to its Report on Genocide prepared by its Sub-Commission on the Prevention of Discrimination and Protection of Minorities; now, therefore, be it

Resolved, by the Assembly and the Senate of the State of California, jointly, That the Members of the Legislature of the State of California join with the thousands of Armenian Americans living

in this state in strongly urging the United Nations to make its Report on Genocide historically accurate by restoring to the report Paragraph 30 which outlines the Armenian massacres; and be it further

Resolved, That the Members of the Legislature of the State of California join with the Armenian National Committee of America, Western Region, and the Armenian Rights Movement, Western Region, in expressing support for and strongly urging the recognition of basic human rights for Armenians around the world; and be it further

Resolved, That the Members of the Legislature of the State of California request that the United States Ambassador to the United Nations communicate the contents of this resolution on behalf of the people of California to the members of the United Nations; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President of the United States, to the Secretary of State, to the Speaker of the House of Representatives, to the Majority Leader of the Senate, to the Chairman, Senate Foreign Relations Committee, to the National Security Council members, to each Senator and Representative from California in the Congress of the United States, and to the United States Ambassador to the United Nations.

RESOLUTION CHAPTER 12

Assembly Concurrent Resolution No. 23—Relative to Southern California's First Urban Forest Run.

[Filed with Secretary of State March 9, 1979]

WHEREAS, There is an obligation to call the public's attention to the need for forestation in urban areas; and

WHEREAS, Citizen participation is one of the best ways to heighten public awareness; and

WHEREAS, For the beautification of the Marina Freeway, a demonstration forest will be planted in an unlandscaped portion of the freeway; and

WHEREAS, People from all over Southern California will gather between 8 and 10 o'clock, the morning of March 18, 1979, for a 3.1 mile run from the Slauson on ramp to the Lincoln Boulevard on ramp; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Department of Transportation is requested to close the Marina Freeway from the Slauson on ramp to the Lincoln Boulevard on ramp on Sunday, March 18, 1979, between the hours of 8 a.m. and 10 a.m. for the purpose of the running of

Southern California's First Urban Forest Run; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Director of Transportation and to the Assistant Director of Transportation in Los Angeles.

RESOLUTION CHAPTER 13

Assembly Concurrent Resolution No. 14—Relative to Dr. Martin Luther King, Jr.

[Filed with Secretary of State March 19, 1979]

WHEREAS, January 15 marks the 50th anniversary of the birth of Dr. Martin Luther King, Jr.; and

WHEREAS, Dr. King was a great American whose achievements in the Civil Rights Movement have helped raise the consciousness of this nation; and

WHEREAS, The life of Dr. King remains a symbol of the struggle against racism and oppression; and

WHEREAS, Dr. King's dream of freedom and equality for all people remains an inspiration to people all over the world; and

WHEREAS, The Legislature enacted a statute during the 1977–78 Regular Session directing the Governor to proclaim January 15 as Dr. Martin Luther King, Jr. Day; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature wishes to honor the late Dr. Martin Luther King, Jr. on the occasion of the 50th anniversary of his birth; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the widow of Dr. Martin Luther King, Jr.

RESOLUTION CHAPTER 14

Assembly Concurrent Resolution No. 17—Relative to congratulating Frank Lanterman on his retirement.

[Filed with Secretary of State March 20, 1979.]

WHEREAS, Upon the occasion of his retirement as a Member of the California State Legislature representing the 42nd Assembly District, the Honorable Frank Lanterman is deserving of special recognition and the highest commendations; and

WHEREAS, Assemblyman Lanterman was born in Los Angeles and attended the University of Southern California, where he majored in organ, piano and composition, and provided the musical arrangements for many of USC's traditional songs which are still in

use; and

WHEREAS, He became an internationally noted accompanist and organist, traveling to Melbourne, Australia, in 1928 to open its magnificent 4,000-seat State Theatre, the largest in Australia; and

WHEREAS, Frank has been a Member of the State Assembly since 1950 and is the principal architect of the Lanterman-Petris-Short Act, California's basic mental health act which established a national trend toward community-based mental health programs and which served as a model for other states; and

WHEREAS, He is also the author of the Lanterman Developmental Disabilities Act, which emphasizes community care and provides a wide array of service alternatives for parents of developmentally disabled children; and

WHEREAS, "Uncle Frank," as he is affectionately known by his friends and colleagues, has served as either Chairman or Vice Chairman of the Assembly Ways and Means Committee for the past 12 years, and on the Assembly-Senate Budget Conference Committee, which determines the ultimate shape of the state's budget; and

WHEREAS, Assemblyman Lanterman was part of the Transportation Subcommittee on Air Pollution which produced nationally recognized smog control laws and he pioneered legislation providing freeway sound protection for elementary and secondary schools; and

WHEREAS, In 1957, he introduced legislation calling for a professional reevaluation of the increasing workload of legislative members, and calling for adequate compensation for members and adoption of a strong conflict of interest statute and a strict code of ethics, which culminated in the Gibson-Waldie-Lanterman Act and Proposition 1-A of 1966; and

WHEREAS, Assemblyman Lanterman has also sponsored numerous other important measures, including the Graduate Fellowship Act of 1971 and amendments to the State Scholarship Program in 1972, 1973, and 1975, all of which increased financial assistance to qualified California students to enable them to attend the school of their choice; and

WHEREAS, He authored legislation in 1974 and 1977 which enacted into law California's Master Plan for Special Education, and he has also carried legislation which expanded educational opportunities for handicapped students, including adults, in California's community colleges; and

WHEREAS, Frank, who has steadfastly fought to maintain local control for counties, cities, and school districts, has a well-deserved reputation as a fiscal expert and a master of the workings of government who has exercised his persuasive talents and memory for detail above partisanship in the interest of the welfare of the people of California; and

WHEREAS, His honesty, energy, intelligence, and sense of duty identify him as one of the best lawmakers, and the more than 1,000

bills which he has successfully authored in the areas of education, welfare, environment, transportation, and health are an enduring testament to his sensitivity, legislative skills, and firm humanitarian principles; and

WHEREAS, Assemblyman Lanterman has been a selfless, constant, and ardent friend of disabled people in California, and he has worked ceaselessly and fervently in their cause in the California Legislature, while earning the University of California's highest honor, its Doctorate of Laws degree, in profound gratitude for the excellence with which he serves the state and his fellow man; 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 Frank Lanterman, 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 Frank Lanterman.

RESOLUTION CHAPTER 15

Assembly Concurrent Resolution No. 10—Relative to the Joint Legislative Committee on Tort Liability.

[Filed with Secretary of State March 26, 1979.]

Resolved, That the Joint Legislative Committee on Tort Liability as created by Resolution Chapter 160 of the Statutes of 1976, as amended by Resolution Chapter 119 of the Statutes of 1977, is continued in existence until July 1, 1979, or such later date as the Legislature may by resolution prescribe. The joint committee shall continue to have the powers and duties granted by Resolution Chapter 160 of the Statutes of 1976, as amended by Resolution Chapter 119 of the Statutes of 1977. The joint 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 expenditures 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 16

Assembly Joint Resolution No. 5—Relative to anchovies.

[Filed with Secretary of State March 26, 1979]

WHEREAS, The United States government, as part of the program consequent to the Fisheries Conservation and Management Act, Public Law 94-265, popularly known as the 200-mile law, after extensive preliminary research and consultation which included consultation with Mexican government scientists, has instituted the Anchovy Fishery Management Plan to conserve and manage the central subpopulation of northern anchovy off the Pacific Coast of the United States; and

WHEREAS, The National Marine Fisheries Service, in conformance with the plan, has announced the spawning biomass of northern anchovy (central subpopulation) estimates for the 1978–79 season and has set a substantially reduced harvest quota for this season; and

WHEREAS, The United States fishermen are conforming to these regulations in order to properly conserve and manage this vitally important fishery stock for the ultimate benefit of the commercial and recreational fishing interests and the consumer populations of the United States and Mexico; and

WHEREAS, The biological stability of the northern anchovy population may be severely impaired as a result of unregulated international competition for the resource; and

WHEREAS, The central subpopulation of northern anchovy is a transboundary stock which is fished by both United States and Mexican commercial and recreational fishermen, and consequently, the success of any fishery plan depends absolutely upon the joint cooperation of both countries; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California memorializes the Congress and the President of the United States to direct the Department of State to immediately take all steps necessary to effect a timely agreement between the governments of the United States and Mexico regarding the implementation of a joint anchovy fishery management plan for the conservation and management of the transboundary stocks of the central subpopulation of northern anchovy, in order that this important fishery be conserved and managed for the immediate and future benefit of the people of the United States and Mexico; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of the 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 17

Assembly Joint Resolution No. 25—Relative to memorializing President Jimmy Carter on his peace efforts in the Middle East.

[Filed with Secretary of State March 28, 1979]

WHEREAS, President Jimmy Carter is to be congratulated and praised for his dramatic and unprecedented six-day marathon Middle East peace journey which culminated in a peace treaty agreeable to, and accepted by, the largest and most powerful Arab nation, Egypt, and her neighbor and former enemy, Israel; and

WHEREAS, President Carter achieved such peace agreement by journeying between Egypt and Israel conferring with Egyptian President Anwar Sadat and Prime Minister Menachem Begin of Israel and at times conferring with the leaders by telephone via a hookup through the White House in Washington; and

WHEREAS, The peace agreement was achieved through the untiring and undaunted persistence of President Carter who refused to abandon efforts for peace even though at times hopes for peace seemed very dim; and

WHEREAS, The day the treaty is signed will be a great day in world history and will be a lasting tribute to the efforts of President Carter to achieve peace in the world; 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, congratulates and praises President Jimmy Carter on his successful journey for peace to the Middle East undertaken in March, 1979, and for his zestful, dynamic and selfless efforts to obtain a peace treaty between Egypt and Israel; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the President of the United States, Jimmy Carter.

RESOLUTION CHAPTER 18

Senate Constitutional Amendment No. 2—A resolution to propose to the people of the State of California an amendment to the Constitution of the state, by amending subdivision (a) of Section 7 of Article I thereof, relating to school pupils.

[Filed with Secretary of State April 2, 1979]

Resolved by the Senate, the Assembly concurring, That the Legislature of the State of California at its 1979–80 Regular Session commencing on the fourth day of December, 1978, 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 subdivision

(a) of Section 7 of Article I thereof, to read:

(a) A person may not be deprived of life, liberty, or property without due process of law or denied equal protection of the laws; provided, that nothing contained herein or elsewhere in this Constitution imposes upon the State of California or any public entity, board, or official any obligations or responsibilities which exceed those imposed by the Equal Protection Clause of the 14th Amendment to the United States Constitution with respect to the use of pupil school assignment or pupil transportation. In enforcing this subdivision or any other provision of this Constitution, no court of this state may impose upon the State of California or any public entity, board, or official any obligation or responsibility with respect to the use of pupil school assignment or pupil transportation, (1) except to remedy a specific violation by such party that would also constitute a violation of the Equal Protection Clause of the 14th Amendment to the United States Constitution, and (2) unless a federal court would be permitted under federal decisional law to impose that obligation or responsibility upon such party to remedy the specific violation of the Equal Protection Clause of the 14th Amendment of the United States Constitution.

Except as may be precluded by the Constitution of the United States, every existing judgment, decree, writ, or other order of a court of this state, whenever rendered, which includes provisions regarding pupil school assignment or pupil transportation, or which requires a plan including any such provisions shall, upon application to a court having jurisdiction by any interested person, be modified to conform to the provisions of this subdivision as amended, as applied to the facts which exist at the time of such modification.

In all actions or proceedings arising under or seeking application of the amendments to this subdivision proposed by the Legislature at its 1979–80 Regular Session, all courts, wherein such actions or proceedings are or may hereafter be pending, shall give such actions or proceedings first precedence over all other civil actions therein.

Nothing herein shall prohibit the governing board of a school district from voluntarily continuing or commencing a school integration plan after the effective date of this subdivision as amended.

In amending this subdivision, the Legislature and people of the State of California find and declare that this amendment is necessary to serve compelling public interests, including those of making the most effective use of the limited financial resources now and prospectively available to support public education, maximizing the educational opportunities and protecting the health and safety of all public school pupils, enhancing the ability of parents to participate in the educational process, preserving harmony and tranquility in this state and its public schools, preventing the waste of scarce fuel resources, and protecting the environment.

RESOLUTION CHAPTER 19

Assembly Concurrent Resolution No. 8—Relative to the California Law Revision Commission.

[Filed with Secretary of State April 9, 1979]

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 1978, lists the following topics, all of which the Legislature has previously authorized or directed the commission to study, as studies in progress:

Topics Under Active Consideration

(1) Whether the law relating to creditors' remedies including, but not limited to, attachment, garnishment, execution, repossession of property (including the claim and delivery statute, self-help repossession of property, and the Commercial Code repossession of property provisions), civil arrest, confession of judgment procedures, default judgment procedures, enforcement of judgments, the right of redemption, procedures under private power of sale in a trust deed or mortgage, possessory and nonpossessory liens, and related matters should be revised;

(2) Whether the law relating to custody of children, adoption, guardianship, freedom from parental custody and control, and related matters should be revised;

(3) Whether the law relating to eminent domain should be revised;

(4) Whether a Marketable Title Act should be enacted in California and whether the law relating to covenants and servitudes relating to land, and the law relating to nominal, remote, and obsolete covenants, conditions, and restrictions on land use should be revised;

(5) Whether the law relating to possibilities of reverter and powers of termination should be revised;

(6) Whether the law relating to community property 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 quiet title actions should be revised;

(6) Whether the law relating to involuntary dismissal for lack of prosecution should be revised;

(7) Whether Section 1464 of the Civil Code should be revised;

(8) Whether the law relating to the abandonment or vacation of public streets and highways by cities, counties, and the state should be revised.

Topics Continued on Calendar for Further Study

(1) Whether the Evidence Code should be revised;

(2) Whether the law relating to arbitration should be revised;

(3) Whether the law relating to the escheat of property and the disposition of unclaimed or abandoned property should be revised;

(4) 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;

(5) Whether the law relating to partition should be revised;

(6) Whether the law relating to modification of contracts should be revised;

(7) Whether the law relating to sovereign or governmental immunity in California 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;

(10) Whether the parol evidence rule should be revised; and

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 the following two new topics not presently authorized for study by the commission which the commission recommends be authorized for study by the commission and which are in need of study:

New Topics for Study

(1) Whether the law relating to the rights and disabilities of minors and incompetent persons should be revised; and

(2) Whether the law relating to powers of appointment 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 Legislature approves the topics listed above as new topics for 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.

RESOLUTION CHAPTER 20

Assembly Concurrent Resolution No. 39—Relative to the Joint Rules.

[Filed with Secretary of State April 9, 1979]

Resolved by the Assembly of the State of California, the Senate thereof concurring, That Rule 54 of the Temporary Joint Rules of the Senate and Assembly for the 1979–80 Regular Session is amended to read:

Introduction of Bills

54. (a) Bills may be introduced at any time except when the houses are in joint summer, interim, or final recess. Each house may provide for introduction of bills during a recess other than a joint recess. Bills shall be numbered consecutively during the regular session.

(b) The desks of the Senate and Assembly shall remain open, during a joint recess, other than a joint summer, interim, or final recess, for introduction of bills, during business hours on Monday through Friday, inclusive, except holidays. Bills received at the Senate desk during such periods shall be numbered and printed. After printing, such bills shall be delivered to the Secretary of the Senate and shall be referred by the 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.

(c) A member may not author a bill during a session that would have substantially the same effect as a bill he or she had previously introduced during that session. This restriction shall not apply in cases where a previously introduced bill has been vetoed by the

Governor or has had its provisions "chaptered out" by a later chaptered bill pursuant to Section 9605 of the Government Code. An objection may be raised only while the bill is being considered by the house in which it is introduced. In such case the objection shall be referred to the Rules Committee of the house for a determination. The bill shall remain on file or with a committee, as the case may be, until such determination is made. If upon consideration of the objection the Rules Committee determines that the bill objected to would have substantially the same effect as another bill previously introduced during the session by the author, the bill objected to shall be stricken from the file or returned to the desk by the committee, as the case may be, and shall not be acted upon during the remainder of the session. If the Rules Committee determines that the bill objected to would not have substantially the same effect as a bill previously introduced during the session by the author, the bill may thereafter be acted upon by the committee or the house, as the case may be. The Rules Committee may obtain such assistance as it may desire from the Legislative Counsel as to the similarity of a bill or amendments to a prior bill. This joint rule may be suspended by approval of the Rules Committee and three-fourths vote of the house.

(d) During a joint recess, the Chief Clerk or Secretary shall order the preparation of preprint bills when so ordered by any of the following:

(1) The Speaker.

(2) The Committees on Rules of the respective houses.

(3) A committee with respect to bills within the subject matter jurisdiction of the committee.

Preprint bills shall be designated as such and shall be printed in the order received and numbered in the order printed. To facilitate subsequent amendment, preprint bills shall be so prepared that when introduced as a bill, the page and the line numbers will not change. The Chief Clerk and Secretary shall publish a list periodically of such preprint bills showing the preprint bill number, the title, and the Legislative Counsel's digest. The Speaker and Senate Rules Committee may refer all preprint bills to committee for study.

RESOLUTION CHAPTER 21

Senate Concurrent Resolution No. 10—Relative to the Richmond-San Rafael Bridge Run.

[Filed with Secretary of State April 20, 1979]

WHEREAS, April 29, 1979, marks the occasion of the running of the Richmond-San Rafael Bridge Run, from which proceeds will

benefit institutionalized men, women, and youth; and

WHEREAS, The sponsor of the run is M-2 Sponsors, Inc., a group, which, since 1971, has helped thousands of institutionalized persons to successfully reenter society; and

WHEREAS, The Richmond-San Rafael Bridge Run promises to be one of the great races in the state, as it will allow participants to run across the spectacular bridge spanning the North Bay; and

WHEREAS, Abundant cooperation has been received from the California Highway Patrol, Department of Transportation, Richmond Police, Larkspur Police, San Rafael Police, and East Bay Regional Park District to make this an outstanding race; 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 two lanes of the Richmond-San Rafael Bridge for the period of time necessary to permit its use as part of the course for a run sponsored by M-2 Sponsors, Inc., if the department is requested to do so by the East Bay Regional Park District in accordance with Section 21104 of the Vehicle Code; and be it further

Resolved, That the Secretary of the Senate transmit suitably prepared copies of this resolution to the Secretary of the Business and Transportation Agency and to the Director of Transportation.

RESOLUTION CHAPTER 22

Senate Joint Resolution No. 15—Relative to Amtrak rail passenger service.

[Filed with Secretary of State May 1, 1979.]

WHEREAS, The United States Department of Transportation examined five alternative levels or systems of Amtrak service in its May 1978 Preliminary Report to Congress and the public, entitled "A Reexamination of the Amtrak Route Structure"; and

WHEREAS, Of the alternatives studied, the service level alternative known as Scenario "E" contains the most desirable full system of passenger train service for California, including the following service:

(a) Two trains daily connecting Sacramento, the San Francisco Bay Area, and Los Angeles,

(b) Extension of the "San Joaquin" beyond Bakersfield to connect with transcontinental trains in Barstow to continue to Los Angeles,

(c) Rerouting the "Coast Starlight" to serve Marysville and Chico,

(d) Six trains daily, funded by the federal government, between Los Angeles and San Diego,

(e) Daily service between Los Angeles and New Orleans via Palm

Springs, Indio, Phoenix, Tucson, and cities in Texas, and,

(f) Daily service between Los Angeles and Denver via Las Vegas and Salt Lake City; and

WHEREAS, Scenario "E" contains the lowest level of cost per passenger-mile and the highest ridership of the alternatives studied in the preliminary report; and

WHEREAS, The United States Department of Transportation has issued its final report to the Congress on the Amtrak route system which recommends severe reductions in the rail passenger service offered in California; and

WHEREAS, The implementation of the service recommended in this report will create regional inequities in that the already underserved West and South would be victims of severe cutbacks in service, while the Northeast Corridor would retain all its service; and

WHEREAS, Under the recommendations of the report, the State of California is required to pay one-half the cost of three of the six San Diego-Los Angeles trains, while Northeastern states receive total funding of the 40 Northeast Corridor trains from the federal government; and

WHEREAS, The report recommends against any track improvements in California, while the United States Department of Transportation recommends 2.5 billion dollars of such upgrading in the Northeast; and

WHEREAS, The proposed cutbacks would remove one of the most energy-efficient transportation modes at a time when there is uncertainty about gasoline availability; and

WHEREAS, Funding proposals of the United States Department of Transportation plan would prevent Amtrak from increasing frequency of service and from purchasing new equipment to handle peak travel demands; and

WHEREAS, Under the plan, California would not receive a fair share of federal resources for passenger train service, would not receive an adequate system of trains, but would be required, nevertheless, to pay for multi-billion-dollar service improvements in the Northeast; 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 support a resolution of disapproval of the United States Department of Transportation's proposal for restructuring and reducing Amtrak rail passenger service and in addition to provide funds to maintain that level of Amtrak service which is identified and described in Scenario "E" of the Preliminary Report to Congress; 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 United States Department of Transportation.

RESOLUTION CHAPTER 23

Assembly Concurrent Resolution No. 52—Relative to proclaiming April 22–29, 1979, as "The Days of Remembrance of Victims of the Holocaust" in California.

[Filed with Secretary of State May 3, 1979.]

WHEREAS, From 1933 to 1945, humanity's darkest hour in history was suffered in the Holocaust, in which 12 million people, six million of them Jews, were murdered by Nazis in Europe; and

WHEREAS, From this tragedy, we discovered a terrible side of human behavior—that a modern society could use its skill and technology to deny what is sacred in humanity; to kill others and inflict unrestrained evil on their fellow human beings; and

WHEREAS, Just as importantly, we discovered the price of indifference and the cost of apathy; that to ignore evil is to accept its triumph; and that only by confronting the memory of the Holocaust, and by examining our consciences, can we be committed enough to prevent its reoccurrence; and

WHEREAS, In accordance with the mandate of Congress and Executive Order Number 12093 of the President of the United States, April 22–29, 1979, has been designated as "The Days of Remembrance of Victims of the Holocaust" in the United States; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the members proclaim the week of April 22–29, 1979, as "The Days of Remembrance of Victims of the Holocaust" in California, in recognition of the terrible genocide inflicted on Jews and others during World War II; and urge Californians everywhere to observe, with appropriate ceremony, these "Days of Remembrance," so that we may help ensure that such crimes against humanity never again take place.

RESOLUTION CHAPTER 24

Assembly Concurrent Resolution No. 26—Relative to physically handicapped persons.

[Filed with Secretary of State May 4, 1979.]

WHEREAS, The California Legislature has long been a national leader in supporting the rights of physically handicapped persons; and

WHEREAS, The California Legislature has enacted legislation enabling the physically handicapped to become contributing, taxpaying citizens; and

WHEREAS, The California Legislature has enacted legislation

improving the quality of life in all areas for the physically handicapped, including the removal of architectural barriers, the right to work, the right to a public education, the right to fully accessible public transportation, the right to vocational rehabilitation, and the right to housing; and

WHEREAS, The California Legislature recognizes that in order for the physically handicapped to become equal, active, contributing, taxpaying citizens, they must continue to have their rights protected in all of the areas previously cited; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Members publicly declare that the Legislature reaffirms and will continue its position of national leadership in protecting the rights of the physically handicapped in all areas, as represented by existing statutes, and will continue to support the efforts of the physically handicapped to lead independent lives and to become equal, active, participating, contributing, employed, taxpaying citizens.

RESOLUTION CHAPTER 25

Senate Joint Resolution No. 5—Relative to federally mandated programs.

[Filed with Secretary of State May 18, 1979.]

WHEREAS, California statutes provide for the reimbursement of local governmental agencies for state-mandated programs; and

WHEREAS, The federal government can mandate programs for state or local governments to implement without being required to reimburse such governments for the costs involved in carrying out such programs; and

WHEREAS, In order to implement new programs and provide increased levels of service as required by the federal government, the states must incur significant costs which must be paid for out of state revenues, existing or to be raised by the imposition of additional taxes; and

WHEREAS, There exists, throughout the United States, a growing resentment of the heavy burden of taxation and an active rejection of existing and proposed levels and methods of revenue raising; and

WHEREAS, The public outcry against taxation makes it increasingly difficult for the states to raise the revenues necessary to finance the programs and services which the states are required to provide by the federal government; and

WHEREAS, It is a matter of simple equity that a level of government which establishes programs or services in the public interest should provide the means for financing those programs and

services; 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 a law providing for federal reimbursement of state and local governments for the costs involved in complying with federally mandated programs; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 26

Assembly Joint Resolution No. 35—Relative to the fuel shortage.

[Filed with Secretary of State May 23, 1979.]

WHEREAS, The availability of gasoline to California motorists has deteriorated severely in recent months; and

WHEREAS, The State of California's largest supplier of gasoline has reduced fuel allocations to 80 percent of the amount apportioned during this same period in 1978; and

WHEREAS, The demand for gasoline in the first quarter of 1979 is up by five percent over the first quarter of 1978 in California; and

WHEREAS, Proved reserves of crude oil in the United States decreased an estimated 1.7 billion barrels in 1978 in the face of increased domestic crude oil production for a second consecutive year; and

WHEREAS, Retail gasoline outlets have resorted to the sharp curtailment of business hours in response to reduced fuel allotments; and

WHEREAS, Numerous incidents of retail and wholesale price gouging in the area of fuel sales have been cited by the Federal Economic Regulatory Administration of the Federal Department of Energy; and

WHEREAS, Gasoline pricing formulas established by the Federal Department of Energy are ludicrously complex at both wholesale and retail levels; and

WHEREAS, Approximately 6.7 million automobiles in California operate on unleaded fuel; and

WHEREAS, There is an apparent acute shortfall of unleaded fuel to meet California motorists' driving needs; and

WHEREAS, A growing number of citizens of California do not believe a true shortage exists; and

WHEREAS, The State of California is in need of swift, positive

action aimed at meeting its fuel requirements; 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 proposes that the Congress of the United States immediately hold joint investigative hearings in the State of California concerning the fuel shortage crisis, including the issuance of subpoena power to the investigative committee; 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. 61—Relative to Vietnam Veterans Week.

[Filed with Secretary of State June 1, 1979.]

WHEREAS, The United States is a peace-seeking nation, and while presently at peace, we must not forget the lessons war has taught us, nor the brave men and women who have sacrificed so much for us in all our wars; and

WHEREAS, The decade now drawing to a close began in the midst of a war that was the longest and most expensive in our nation's history and most costly in human lives and suffering; and

WHEREAS, Because it was a divisive and painful period for all Americans, we are tempted to want to put the Vietnam War out of our minds, but it is important that we remember—honestly, realistically, and with humility; and

WHEREAS, It is also important that we remember those who answered their nation's call in that war with the full measure of their valor and loyalty and trust, and that we pay full tribute at last to all Americans who served in the armed forces in Southeast Asia; and

WHEREAS, Their courage and sacrifices in that tragic conflict were made doubly difficult by the nation's lack of agreement as to what constituted the highest duty, so that instead of glory, United States servicemen were too often met with our embarrassment or ignored when they returned; and

WHEREAS, The honor of those who died there is not tarnished by our uncertainty at the moment of their sacrifice; and

WHEREAS, To them, we owe our respect and gratitude; to the loved ones they left behind, our concern, understanding, and help in the building of new lives; and to those who still bear the wounds, both physical and psychic, from all our wars, our continuing responsibility; and

WHEREAS, Of all the millions of Americans who served in Southeast Asia, the majority have successfully rejoined the mainstream of American life; and

WHEREAS, To them and to all who served or suffered in that war, we owe our solemn pledge to pursue all honorable means to establish a just and lasting place in the world that no future generation need suffer in this way again; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature of the State of California hereby declares the week of May 28 through June 3, 1979, as Vietnam Veterans Week so that we as a nation may express our thanks for the service of all Vietnam War veterans, to honor their patriotism, and to recognize their civilian contributions to their communities throughout California and the nation today.

RESOLUTION CHAPTER 28

Assembly Joint Resolution No. 32—Relative to peace between Israel and Egypt.

[Filed with Secretary of State June 1, 1979]

WHEREAS, Israel and Egypt have ended 30 years of hostility, signed a peace treaty, and embarked upon a new and peaceful relationship; and

WHEREAS, Both nations have taken exceptional risks and burdens upon themselves in order to implement the peace agreement; and

WHEREAS, The Israeli-Egyptian Treaty serves the American national interest by promoting peace and stability in the Middle East; and

WHEREAS, United States economic assistance for Egypt will serve to improve the standard of living of her people and thereby help to stabilize the region; and

WHEREAS, The peoples of both nations have borne the cost of defense and now carry a heavy burden to assure the peace; 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 to provide economic assistance to both Israel and Egypt in the understanding that such aid will represent a prudent and essential investment in the cause of peace; 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 29

Senate Concurrent Resolution No. 33—Relative to the Golden Gate Bridge Ten Kilometer Run.

[Filed with Secretary of State June 4, 1979.]

WHEREAS, Plans have been made to institute an annual Golden Gate Bridge Ten Kilometer Run and this year's run is scheduled to start at sunrise Sunday, June 10, 1979; and

WHEREAS, The proceeds of the run will benefit the San Francisco Art Institute, and will be used to strengthen the Institute's visual arts program; and

WHEREAS, The run will be a source of pride and pleasure to runners from the entire Bay Area and will attract runners from all over the United States to take advantage of the unique opportunity to run across the Golden Gate Bridge at sunrise; and

WHEREAS, The Golden Gate Bridge Authority, the United States Army, the Department of Transportation, the Highway Patrol, the San Francisco Board of Supervisors, the Marin County Board of Supervisors, and numerous private business organizations have given their enthusiastic cooperation; and

WHEREAS, The annual foot race will garner recognition and good public relations for San Francisco and the surrounding Bay Area from runners and tourists; 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 closure of two northbound lanes of the Golden Gate Bridge for the period of time necessary to permit its use as part of the course of the Golden Gate Bridge Ten Kilometer Run if the Golden Gate Bridge authority, in accordance with Section 21104 of the Vehicle Code, requests the department to close the lanes; 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 30

Assembly Concurrent Resolution No. 12—Relative to the distribution of unsolicited publications.

[Filed with Secretary of State June 12, 1979]

WHEREAS, It has come to the attention of the Legislature that state governmental entities are currently engaged in the practice of distributing numerous unsolicited publications to Members of the Legislature and to the general public; and

WHEREAS, Legislative offices dispose of many unsolicited publications, lacking time to study the overwhelming amounts of materials received and lacking space for storage and personnel for collating and cataloging such publications; and

WHEREAS, The general public and its representatives have expressed their concern regarding government expenditures in the unnecessary publication and distribution of such unsolicited reports; and

WHEREAS, "Report" means any document which is more than 10 pages in length and which is written and printed by a state agency, but does not include material written and published by a postsecondary institution relating to admissions, curriculum, enrollment, financial aid, student orientation, research, or the application thereof; and

WHEREAS, Nothing shall prohibit the unsolicited distribution of any agency publication that summarizes the contents of reports, or indicates the availability of reports, nor shall this prevent the unsolicited distribution of reports to the media, or to personnel within the agency, or to parties before administrative or quasi-judicial bodies in order to comply with due process; and

WHEREAS, The publication of reports, booklets, and studies for the purpose of unsolicited distribution is an unproductive use of trees, one of the nation's important natural resources; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That cost-saving alternatives shall be considered by state governmental entities, such as periodic notices of available materials or reports; and be it further

Resolved, That state governmental entities shall send reports, booklets, studies, and other publications to Members of the Legislature, agencies and subdivisions thereof, and to the general public, only upon request or when required to do so by statute.

RESOLUTION CHAPTER 31

Assembly Concurrent Resolution No. 20—Relative to the International Year of the Child.

[Filed with Secretary of State June 14, 1979]

WHEREAS, The General Assembly of the United Nations, the President of the United States, and the Governor of California have declared 1979 the Year of the Child; and

WHEREAS, The Legislature of California daily makes decisions affecting the welfare of our children; and

WHEREAS, One of every six children in California live in households whose total income is substantially below the poverty level; and

WHEREAS, Accidents and poor nutrition are the major causes of death and disability among California's children; and

WHEREAS, Each year countless children are victims of physical or mental abuse or neglect; and

WHEREAS, The children in far too many households live in unsafe, substandard housing; and

WHEREAS, Our educational system fails to reach or serve the individual needs of many children; and

WHEREAS, Innumerable children do not have access to elementary health and dental care or preventive services; and

WHEREAS, Complete immunizations are vital to prevent brain damage to, the loss of hearing and sight, as well as death of, California's children; and

WHEREAS, Increasing numbers of children suffer the emotional and mental hardships associated with broken homes; and

WHEREAS, Employment opportunities for young people are becoming ever more limited or nonexistent; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That all children of California deserve proper nourishment, adequate physical and mental health services, freedom from abuse, decent housing, basic educational preparation for their future and the elementary amenities of life; and be it further

Resolved, That our children are entitled to environments which promote, protect, and respect their healthy growth and development, their individualism and their cultural, ethnic, and religious heritage; and be it further

Resolved, That in reaching decisions affecting children the Assembly and Senate shall seek to relieve the problems described herein, strengthen the family, and encourage parental responsibility.

RESOLUTION CHAPTER 32

Assembly Constitutional Amendment No. 8—A resolution calling upon the Secretary of State to make amendments in Assembly Constitutional Amendment No. 47 (Resolution Chapter 72 of the Statutes of 1978).

[Filed with Secretary of State June 18, 1979]

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its 1979–80 Regular Session commencing on the fourth day of December, 1978, two-thirds of the members elected to each of the two houses of the Legislature voting therefor, hereby directs the Secretary of State to make the following amendment in Assembly Constitutional Amendment No. 47 of the 1977–78 Regular Session, as enrolled, (Resolution Chapter 72 of the Statutes of 1978): Amendment 1

On page 4, line 20 of the printed measure, as enrolled, strike out "of" and insert:

or

RESOLUTION CHAPTER 33

Senate Joint Resolution No. 12—Relative to currency.

[Filed with Secretary of State June 22, 1979.]

WHEREAS, Several nations throughout the world have their currency marked so that blind people can differentiate the various denominations by touch; 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 Treasury Department to study the feasibility of manufacturing currency that is marked in a distinctive manner so that the denominations may be distinguished by touch, based upon the manufacturing capacity and resources of the United States mints, considering the most effective and economical mark that may be utilized on such currency, the cost ramifications of manufacturing currency with such distinctive marks, and the extent to which such currency would be of assistance to the blind; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Treasury Department.

RESOLUTION CHAPTER 34

Senate Concurrent Resolution No. 15—Relative to the Insurance Commissioner.

[Filed with Secretary of State June 22, 1979]

WHEREAS, The Insurance Commissioner has issued Ruling No. 228 (File No. RH-192A) dated December 14, 1978, which promulgates new credit insurance regulations set forth in Articles 6.7

and 6.9, Subchapter 2, Chapter 5, Title 10 of the California Administrative Code, effective April 1, 1979; and

WHEREAS, It is alleged by certain credit insurers that the need for a new regulatory framework for credit insurance is questionable, complaints by insureds under existing regulations have been minimal, and studies of the credit insurance business have indicated that there is a strong demand for credit insurance by consumers; and

WHEREAS, It is also alleged by certain credit insurers that the regulations are unduly complex and burdensome and combine drastic reductions in income with substantial increases in the cost to provide credit insurance with the result that certain credit insurers have indicated an intention to withdraw from all or a major portion of the market or are inhibited from entering the market; and

WHEREAS, Many insurers and creditors contend that they are finding it impossible to reprogram their computers and publish new forms and rate charts to comply, by April 1, 1979, with the regulations; and

WHEREAS, The regulations require extensive and complex reports by insurers to the Department of Insurance, the complexity of which is both unnecessary and inflationary, resulting in substantial added costs to insurers; and

WHEREAS, Certain credit insurers allege that the new regulatory framework is discriminatory, unreasonable, and inequitable because it provides for different premium rates for similarly situated consumers and insurers by basing rates on creditor size rather than policy benefits or consumer characteristics; and

WHEREAS, It is also alleged that the regulations are contrary to the controlling provisions of the credit insurance statutes because they do not properly measure policy benefits in relation to premium charges as required by Section 779.9 of the Insurance Code, and their anticompetitive and monopolistic effect will violate the purpose of the credit insurance statutes as set forth in Section 779.1 of the Insurance Code to the detriment of consumers; and

WHEREAS, Certain credit insurers believe that the regulations fail to properly implement the credit insurance provisions of the California Financial Code applicable to personal property brokers (Section 22458.1, subdivision (e) of the Financial Code) and industrial loan companies (Section 18412 of the Financial Code); now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Insurance Commissioner rescind his Ruling No. 228 and the regulations set forth in the exhibit attached thereto and reconsider the need for and content of regulations to regulate the business of credit life and credit disability insurance; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Insurance Commissioner.

RESOLUTION CHAPTER 35

Assembly Concurrent Resolution No. 27—Relative to withdrawing Assembly Constitutional Amendment No. 82.

[Filed with Secretary of State June 25, 1979.]

WHEREAS, The Legislature may withdraw an amendment or revision of the Constitution in the same manner as it may propose such a measure pursuant to Section 1 of Article XVIII of the California Constitution; now, therefore, be it

Resolved by the Assembly of the State of California, two-thirds of the members voting therefor, the Senate thereof concurring, two-thirds of the members voting therefor, That the Secretary of State is directed to withdraw Assembly Constitutional Amendment No. 82 (Resolution Chapter 97, Statutes of 1978) from the ballot; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Secretary of State.

RESOLUTION CHAPTER 36

Assembly Concurrent Resolution No. 32—Relative to fire protection.

[Filed with Secretary of State June 25, 1979.]

WHEREAS, The Resources Agency and the Department of Forestry have initiated action to terminate contractual cooperative fire protection in Orange County and possibly in other areas; and

WHEREAS, This cooperative fire protection agreement was entered into in order to meet local government needs and enhance the statewide fire protection capability of the Department of Forestry, and is fully funded by local government; and

WHEREAS, Similar contractual arrangements are currently operative with 17 cities, 28 counties, and a number of districts providing cost-effective protection to lives, property, and natural resources; and

WHEREAS, The action currently being pursued by the Resources Agency and the Department of Forestry would eliminate more than 500 highly trained firefighters and fire managers from the statewide wild land fire protection force with no saving of funds to the state; and

WHEREAS, The administration's 1979–80 budget requests an additional one million three hundred sixty-six thousand nine hundred thirty-one dollars ($1,366,931) due to this action and the possible increased costs to both local and state government, and probable increases in losses of lives, property, and resources have not

been quantified; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Assembly Office of Research shall conduct a study of the health and safety, economic, and environmental impacts, the impact upon state and local taxpayers, and the impact on the ability of the Department of Forestry to perform its fire suppression mission if the cooperative fire protection agreement with Orange County is canceled; and be it further

Resolved, That the study of the Orange County cooperative fire protection agreement shall be completed and its findings shall be transmitted to the appropriate policy and fiscal committees of the Assembly and Senate not later than January 1, 1980; and be it further

Resolved, That the Resources Agency, the Department of Forestry, and all other state agencies are hereby requested to suspend any and all activities involved in canceling any cooperative fire protection agreement with Orange County until July 1, 1980; and be it further

Resolved, That the Department of Forestry is directed, until July 1, 1980, to initiate no new cooperative agreements for the provision of fire protection to any local government agency or add new agencies to existing contracts where such fire protection is currently being provided by an existing fire department or fire district, except that the Department of Forestry may honor requests for cooperative agreements authorized under Section 4144 of the Public Resources Code; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Secretary of the Resources Agency and to the Director of Forestry.

RESOLUTION CHAPTER 37

Assembly Concurrent Resolution No. 45—Relative to institutions of higher learning.

[Filed with Secretary of State June 28, 1979]

WHEREAS, California's institutions of higher learning have earned a reputation for the highest standards of intellectual integrity and academic freedom; and

WHEREAS, Institutions of higher learning depend on endowments, grants, and contracts from government and on gifts and grants from private individuals, corporations, and foundations; and

WHEREAS, The conditions attached to endowments, grants, contracts, and gifts can, on occasion, affect the independence and restrict the freedom of the recipient institution; and

WHEREAS, A strong safeguard against such an occurrence is full

knowledge and free debate by trustees and regents, faculty, students, staff, and general community of the terms of endowments, grants, contracts, and gifts; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature believes it to be in the best interests of California's institutions of higher learning and the citizens of California that the board of trustees or governing board of each such institution make available the terms and conditions, if any, of significant endowments, gifts, grants, and contracts, to the general community of higher learning and that those terms and conditions also be made available upon request from any person; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Board of Governors of the California Community Colleges, the Trustees of the California State University and Colleges, the Regents of the University of California, and the governing boards of independent postsecondary educational institutions in California, including those institutions with membership in the Association of Independent California Colleges and Universities.

RESOLUTION CHAPTER 38

Assembly Joint Resolution No. 16—Relative to Indochinese refugees.

[Filed with Secretary of State June 28, 1979]

WHEREAS, There are currently more than 5,000 Vietnamese refugees called the "boat people", who have fled their country in fear for their lives, packed aboard two freighters which are anchored in the bays of Hong Kong and Manila; and

WHEREAS, Officials in Hong Kong have refused to let 2,700 refugees off the Taiwanese freighter Huey Fong because Hong Kong was not the vessel's scheduled port of call; and

WHEREAS, Authorities in the Philippines have refused to admit 2,300 Vietnamese remaining aboard the freighter Tung An, claiming that refugee camps in that country are already overcrowded; and

WHEREAS, More than 200,000 Indochinese of various nationalities are situated in overcrowded and undersupplied United Nations refugee camps in Thailand, Malaysia, and the Philippines; and

WHEREAS, International refugee officials predict as many as one million more refugees will escape during the next five years, some traveling overland from Communist-ruled Laos and Cambodia but most traveling by sea from Vietnam; and

WHEREAS, The suffering to which the refugees are being subjected is a problem of immense proportion deserving of a

response from the United States government and the international community; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the President and Vice President of the United States and the Congress of the United States are requested to take such action as is necessary, including continued federal funding of the Indochinese Refugee Assistance Program, to secure relief for the plight of the 5,000 "boat people" presently stranded in the bays of Hong Kong and Manila, and for those refugees admitted to the United States, to ensure that they will be sustained by a federally funded program a minimum of two years to allow time to better assess the needs of recent and future arrivals for continuing assistance and giving those already here a better opportunity to become self-sufficient; and be it further

Resolved, That the President is requested to instruct the United States delegation to the United Nations to advocate in behalf of the human rights of one million Indochinese refugees scattered throughout Asia to all members of the General Assembly of the United Nations; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Secretary of State, and to the United States Ambassador to the United Nations.

RESOLUTION CHAPTER 39

Assembly Joint Resolution No. 26—Relative to fishery management.

[Filed with Secretary of State June 28, 1979]

WHEREAS, The Pacific Fishery Management Council includes the western states of Oregon, Washington, Idaho, and California which have few common characteristics; and

WHEREAS, Only one fishery exists in the State of Idaho, and yet Idaho votes on all fisheries subject to council jurisdiction; and

WHEREAS, California has a unique coastline over 1,100 miles in length; and

WHEREAS, California is much larger geographically than other states, and of comparable size to east coast states organized under one council; and

WHEREAS, The State of California and Mexico share resources not found north of the California border, which are subject to bilateral and cooperative research efforts between California and Mexico; and

WHEREAS, California alone has more fisheries in the fisheries conservation zone than the other Pacific council states combined, shares few fisheries, and, in fact, has more diverse fisheries not common with the other Pacific council member states; and

WHEREAS, The recreational fishery is a large and valuable asset to California and its problems are primarily inherent to this state; and

WHEREAS, The Pacific Fishery Management Council is formulating specific plans subjecting certain fisheries to council jurisdiction, and four of those plans relating to domestic fisheries for anchovies, jack mackerel, squid, and bill fish would affect only California; and

WHEREAS, Landings and shipments in California exceed one billion pounds annually and have a significant impact on California's fishing industry and all segments of California's economy; and

WHEREAS, Other fisheries only pursued in California may soon be the subject of council management planning efforts; and

WHEREAS, The Pacific Fishery Management Council recently voted to recommend to the Secretary of Commerce that the State of Alaska be given voting status, rather than observer status, on the council, thus creating a further voting disadvantage for California; 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 seek legislation to establish a fishery management council including only the State of California; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 40

Senate Joint Resolution No. 13—Relative to Human Rights' Atrocities.

[Filed with Secretary of State June 29, 1979]

WHEREAS, The State of California, as well as the federal government, has repeatedly gone on record in support of human rights around the world; and

WHEREAS, The countries of the USSR and the People's Republic of China continue the outrageous denials of human rights to millions of human beings throughout the world; and

WHEREAS, A major study by the United States Senate Internal Security Subcommittee documents facts showing that by the year

1971 the total lives attributed to Russian atrocities was 45 million and the total lives attributed to communist Chinese atrocities was 63 million, which figures include the 10 million kulaks (1932–37 and 1954–57) and four million lives lost in Operation Keelhaul (1943–47); and

WHEREAS, The atrocities since 1971 against the peoples of Tibet (1958–60), the Baltic States (1938–53), and Cambodia (1975–76) also total millions more; and

WHEREAS, In recent years, the lives lost in Viet Nam (1975 to present) and Cambodia, including the refugees known as "The Boat People," are believed to total approximately three million; and

WHEREAS, The government of the United States has documented facts that show conclusively that more than one thousand slave labor camps still exist within the USSR, confining an estimated two million human beings; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature respectfully requests that the United States Ambassador to the United Nations communicate the contents of this resolution on behalf of the people of California to the members of the United Nations; and be it further

Resolved, That the Legislature respectfully memorializes the President and Congress of the United States to mobilize public opinion and bring pressure to bear upon the countries of the USSR and the People's Republic of China by way of the United Nations or other suitable forum to stop the atrocities and denials of human rights to all peoples throughout the world; 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 41

Senate Concurrent Resolution No. 21—Relative to commending George N. Zenovich.

[Filed with Secretary of State July 3, 1979]

WHEREAS, On the occasion of his retirement as a Member of the California Legislature representing the 14th Senatorial District, which is comprised of Fresno, Madera, Mariposa, Merced, and Stanislaus Counties, and his appointment as Associate Justice to the Fifth District Court of Appeal, the Honorable George N. Zenovich is deserving of special recognition and the highest commendations; and

WHEREAS, A native of Fresno, Senator Zenovich attended local

schools, and received his law degree from the Southwestern University School of Law at Los Angeles, and attended the International Academy of Law at the Hague, Holland; and

WHEREAS, He served with honor and distinction during World War II in the United States Air Force in New Guinea, and the Philippines; and

WHEREAS, An active member and leader in his community, Senator Zenovich's affiliations are many, including the Fresno State College Alumni Association, California State College Stanislaus Art Guild, Veterans of Foreign Wars, California and American Bar Associations, and St. Peter the Apostle Serbian Orthodox Church in Fresno; and

WHEREAS, Senator Zenovich was elected to the Fresno County Democratic Central Committee in 1956, formed the first Fresno County Democratic Committee for John F. Kennedy in 1960, and was a member of the California Bobby Kennedy delegation to the 1968 Democratic Convention in Chicago; and

WHEREAS, He was elected to the Assembly in 1962, representing the 32nd Assembly District, comprised of metropolitan Fresno, and was successfully reelected to that seat three times before he ran for, and was elected to, the Senate in 1970; and

WHEREAS, He served in many leadership roles throughout his legislative career: in the Assembly as Majority Floor Leader during the 1966, 1967, and 1968 sessions, and as Democratic Caucus Chairman in 1969, a post he held until he left the lower House for the Senate in 1971; and he also served as a delegate to the National Legislative Leadership Conferences, a member of Governor Reagan's Auto Accident Study Commission, a member of Governor Brown's Workmens' Compensation Commission, Chairman of the Finance and Insurance Committee, and a member of the Ways and Means Committee; and

WHEREAS, In the Senate, he served as a member of the Rules Committee and as Chairman of the Industrial Relations Committee, during which time the Legislature enacted the Agricultural Labor Relations Act, the first of its kind in the nation; and

WHEREAS, He also chaired the Select Committee on Children and Youth and the Joint Committee on Community Development and Housing Needs, which led to the creation of the California Housing Finance Agency, and he provided leadership as Vice Chairman of the Senate Agriculture and Water Resources Committee and the Senate Judiciary Committee; and

WHEREAS, An Assembly bill carried by Senator Zenovich requiring electronic locator beacons on small aircraft became the model for federal legislation that has saved countless lives, and his extensive legislation in the area of developmentally disabled and the handicapped includes the creation of a Diagnostic School for the Neurologically Handicapped, located in Fresno, which serves all of central California; and

WHEREAS, During his 17 years of dedicated service in the

Assembly and the Senate, Senator Zenovich authored legislation in the areas of judiciary, veterans affairs, social insurance, agricultural land use, and conservation; and he was involved in the formation of the California Arts Commission in 1963, carried legislation in 1975 establishing the California Arts Council, and was also responsible for the establishment of the California Housing Finance Agency, one of the landmark consumer laws of the 1970's; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Members express their commendations and appreciation to their colleague and good friend, the Honorable George N. Zenovich, for his distinguished 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 Secretary of the Senate transmit a suitably prepared copy of this resolution to Senator George N. Zenovich.

RESOLUTION CHAPTER 42

Assembly Concurrent Resolution No. 11—Relative to the Joint Legislative Audit Committee.

[Filed with Secretary of State July 9, 1979.]

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 three million nine hundred thousand dollars ($3,900,000), 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 43

Assembly Concurrent Resolution No. 60—Relative to the 25th anniversary of the Brown decision.

[Filed with Secretary of State July 9, 1979.]

WHEREAS, The United States Supreme Court in the 1954 case of Brown v. Board of Education held that segregation in public education is unconstitutional; and

WHEREAS, This historic decision served as the catalyst for the shifting of judicial sanctions from segregation to desegregation and the elimination of legal barriers to equal opportunity; and

WHEREAS, The Brown decision formed the basis for enactment of the Civil Rights Acts of 1964, 1965, and 1968, thereby providing greater assurance of equal opportunity in employment, equal access to public accommodations, and desegregation in housing and education; and

WHEREAS, There continues to be widespread opposition to desegregation and a deceleration of the momentum toward equality of opportunity in all aspects of public life; and

WHEREAS, Despite removal of the more overt legal barriers, blacks are still faced with resistance to meaningful implementation of these civil rights laws by officials and individuals who pay only lipservice to the spirit and letter of the law as pronounced in the Brown decision; and

WHEREAS, This year, 1979, marks the 25th anniversary of Brown v. Board of Education; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the members hereby proclaim May 17 as a day for all citizens to rededicate themselves annually to the ideals and principles of equality and justice, particularly at a time when this nation should be attempting to transfer the noble pronouncement of the Brown decision into reality, and be it further

Resolved, That the members call upon all elected officials and citizens to exert active individual leadership in making equality a reality for all Americans, which action should include an annual objective analysis of the existing quality of education, specific steps to address community needs, and timetables and funding sources to implement effective public education.

RESOLUTION CHAPTER 44

Senate Concurrent Resolution No. 30—Relative to the State Bar.

[Filed with Secretary of State July 12, 1979]

WHEREAS, It is the intent of the California Legislature that the State Bar be invested with that authority which would most effectively enable it to accomplish its purposes; and

WHEREAS, It is the intent of the California Legislature that the State Bar conduct its activities in a manner that is efficient, frugal, and in accordance with sound management practices; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That a Special Legislative Investigating Committee on the State Bar is hereby created to review and make

recommendations regarding the scope, efficacy, and economy of the State Bar's activities and that such committee shall have and exercise all of the rights, duties and powers conferred upon investigating committees 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 therein and made applicable to this committee; and be it further

Resolved, That the special committee shall consist of six voting members, including the Chairman of the Senate Committee on Judiciary, two other Members of the Senate to be appointed by the Senate Committee on Rules, the Chairman of the Assembly Committee on Judiciary, and two other Members of the Assembly to be appointed by the Speaker of the Assembly, and three nonvoting members, to be appointed by the Board of Governors of the State Bar; and be it further

Resolved, That the Legislative Analyst shall conduct a study of and submit to the committee, no later than March 1, 1980, a report on the State Bar with respect to its management practices, the effectiveness of its programs, and any other subject related to its operational efficiency; and be it further

Resolved, That the special committee shall review the report of the Legislative Analyst and shall consider and make recommendations to the Legislature, the Supreme Court, and the Board of Governors of the State Bar regarding the following matters: the appropriate level of annual membership fees; whether the Board of Governors of the State Bar should have the authority to set the level of annual membership fees without legislative approval, subject to a referendum of the members of the State Bar; whether the types of activities to be financed by annual membership fees should be limited or expanded, and, if so, to which types of activities; what economies should the State Bar undertake with respect to those programs financed by annual membership fees; and other related matters deemed appropriate by the special committee; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Legislative Analyst.

RESOLUTION CHAPTER 45

Assembly Concurrent Resolution No. 53—Relative to air pollution requirements for motorcycles.

[Filed with Secretary of State July 13, 1979]

Resolved, by the Assembly of the State of California, the Senate thereof concurring, That the State Air Resources Control Board is hereby requested not to implement or enforce any existing order or

rule or regulation, nor to promulgate any new order or rule or regulation, relating to motorcycle fill pipe specifications or equivalent reductions from other motorcycle emission sources, unless the board has advised the Legislature with respect to such order or rule or regulation at least 90 days before such implementation or enforcement or promulgation; 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 46

Assembly Concurrent Resolution No. 78—Relative to proclaiming July 18, 1979, as POW/MIA Recognition Day.

[Filed with Secretary of State July 17, 1979]

WHEREAS, In each of America'a past wars, our prisoners of war have represented a special sacrifice; and

WHEREAS, On them has fallen an added burden of loneliness, trauma, and hardship; and

WHEREAS, Their burden becomes double when there is inhuman treatment by the enemy in violation of common human compassion, ethical standards, and international obligations; and

WHEREAS, As we now enjoy the blessings of peace, it is appropriate that all Californians recognize the special debt owed those Americans held prisoner during wartime; and

WHEREAS, It is also important that we remember the unresolved casualties of war, our fighting men who are missing; and

WHEREAS, The pain and bitterness of war endures for the families, relatives, and friends of those whose fate is unknown; and

WHEREAS, The President of the United States, together with the Congress of the United States, have proclaimed July 18, 1979, as National POW/MIA Recognition Day, a day dedicated both to all former prisoners of war as well as those still missing and to their families; and

WHEREAS, The President and Congress have called on all states to enact similar proclamations; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That July 18, 1979, shall be proclaimed in the State of California as POW/MIA Recognition Day, and that the Legislature urges all California citizens, local government entities, and private organizations to participate therein with appropriate ceremonies and activities.

RESOLUTION CHAPTER 47

Assembly Joint Resolution No. 22—Relative to federal reclamation law.

[Filed with Secretary of State July 20, 1979]

WHEREAS, Pine Flat Dam on the Kings River, California, was authorized by the Flood Control Act of 1944 for construction by the U.S. Army Corps of Engineers primarily as a flood control project with incidental conservation storage of water for irrigation; and

WHEREAS, The Kings River water users owned 100 percent of the rights to use such Kings River water for more than 80 years before such flood control dam was built; and

WHEREAS, The Kings River water users have paid or contracted to pay all the costs allocable to irrigation storage behind Pine Flat Dam; and

WHEREAS, For many years, representatives of the United States repeatedly stated that this project would not come under reclamation law or the restrictions thereof; and

WHEREAS, By virtue of building the dam, no "new" water was created, no "new" lands came into cultivation, no "arid" lands were reclaimed, and no "public" lands were opened for settlement; and

WHEREAS, No distribution facilities were built by the United States; and

WHEREAS, A substantial portion of the Kings River service area lies within the Tulare Lake Basin and is not susceptible to farming in small tracts due to periodic flooding and other factors; and

WHEREAS, In spite of such aforementioned facts, the Ninth Circuit Court of Appeals has reversed a judgment of the trial court and decreed that the reclamation laws of the United States apply to all waters stored behind Pine Flat Dam; and

WHEREAS, Such decree will cause the larger users to forego storage of their privately owned water and use it under natural flow conditions as was done before Pine Flat Dam was built; and

WHEREAS, Such natural flow use will destroy most of the recreation benefits of the reservoir and harm the smaller users of Kings River water by substantially increasing their reliance on already overdrafted and costly groundwater supplies; and

WHEREAS, As a matter of fairness and equity, such aforestated facts dictate that the beneficiaries of the Pine Flat Project should be exempt from the provisions of reclamation law; and

WHEREAS, Legislation has been introduced in the House of Representatives specifically to exempt such Kings River service area from such laws; and

WHEREAS, Legislation has also been introduced in the House of Representatives which would modernize such reclamation laws to recognize the changes that have taken place in agriculture, this state's number one industry, over the past 76 years; 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 specifically exempt the Kings River service area from the provisions of reclamation law and also to modernize such reclamation laws to recognize the changes that have taken place in agriculture; 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 48

Assembly Concurrent Resolution No. 30—Relative to street lighting.

[Filed with Secretary of State July 20, 1979.]

WHEREAS, Street lighting is recognized as an important public service in the enhancement of safety and deterrence of crime; and

WHEREAS, Since the adoption by the people of Proposition 13 at the June 1978 primary election with the resultant restrictions on local revenues from property taxes, many cities and counties are having difficulty raising the funds to pay for street lighting projects; and

WHEREAS, In addition, existing mechanisms for raising funds for such purposes are cumbersome and require an unproductive expenditure for overhead and administration; and

WHEREAS, A simpler and more direct means to obtain necessary street lighting may be the furnishing of this service by the public utility within whose electrical service area the street lighting project is situated; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That street lighting is an essential public service which could be provided by public utility electrical corporations pursuant to rules and orders of the Public Utilities Commission; and be it further

Resolved, That the Public Utilities Commission is requested to study rules and regulations governing street lighting service within local jurisdictions and that the study give consideration to adjustments in the rate structures of electrical corporations conducting street lighting projects to provide necessary reimbursement for related expenses; and be it further

Resolved, That the Public Utilities Commission report the results of this study to the Legislature on or before January 1, 1980.

RESOLUTION CHAPTER 49

Assembly Constitutional Amendment No. 52—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 XV thereof, relating to usury.

[Filed with Secretary of State July 20, 1979.]

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its 1979–80 Regular Session commencing on the fourth day of December, 1978, 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 XV thereof, to read:

SECTION 1. The rate of interest upon the loan or forbearance of any money, goods, or things in action, or on accounts after demand, shall be 7 percent per annum but it shall be competent for the parties to any loan or forbearance of any money, goods or things in action to contract in writing for a rate of interest:

(1) For any loan or forbearance of any money, goods, or things in action, if the money, goods, or things in action are for use primarily for personal, family, or household purposes, at a rate not exceeding 10 percent per annum; provided, however, that any loan or forbearance of any money, goods or things in action the proceeds of which are used primarily for the purchase, construction or improvement of real property shall not be deemed to be a use primarily for personal, family or household purposes; or

(2) For any loan or forbearance of any money, goods, or things in action for any use other than specified in paragraph (1), at a rate not exceeding the higher of (a) 10 percent per annum or (b) 5 percent per annum plus the rate prevailing on the 25th day of the month preceding the earlier of (i) the date of execution of the contract to make the loan or forbearance, or (ii) the date of making the loan or forbearance established by the Federal Reserve Bank of San Francisco on advances to member banks under Sections 13 and 13a of the Federal Reserve Act as now in effect or hereafter from time to time amended (or if there is no such single determinable rate of advances, the closest counterpart of such rate as shall be designated by the Superintendent of Banks of the State of California unless some other person or agency is delegated such authority by the Legislature).

No person, association, copartnership or corporation shall by charging any fee, bonus, commission, discount or other compensation receive from a borrower more than the interest authorized by this section upon any loan or forbearance of any money, goods or things in action.

However, none of the above restrictions shall apply to any

obligations of, loans made by, or forbearances of, any building and loan association as defined in and which is operated under that certain act known as the "Building and Loan Association Act," approved May 5, 1931, as amended, or to any corporation incorporated in the manner prescribed in and operating under that certain act entitled "An act defining industrial loan companies, providing for their incorporation, powers and supervision," approved May 18, 1917, as amended, or any corporation incorporated in the manner prescribed in and operating under that certain act entitled "An act defining credit unions, providing for their incorporation, powers, management and supervision," approved March 31, 1927, as amended or any duly licensed pawnbroker or personal property broker, or any loans made or arranged by any person licensed as a real estate broker by the State of California and secured in whole or in part by liens on real property, or any bank as defined in and operating under that certain act known as the "Bank Act," approved March 1, 1909, as amended, or any bank created and operating under and pursuant to any laws of this State or of the United States of America or any nonprofit cooperative association organized under Chapter 1 (commencing with Section 54001) of Division 20 of the Food and Agricultural Code in loaning or advancing money in connection with any activity mentioned in said title or any corporation, association, syndicate, joint stock company, or partnership engaged exclusively in the business of marketing agricultural, horticultural, viticultural, dairy, live stock, poultry and bee products on a cooperative nonprofit basis in loaning or advancing money to the members thereof or in connection with any such business or any corporation securing money or credit from any federal intermediate credit bank, organized and existing pursuant to the provisions of an act of Congress entitled "Agricultural Credits Act of 1923," as amended in loaning or advancing credit so secured, or any other class of persons authorized by statute, or to any successor in interest to any loan or forbearance exempted under this article, nor shall any such charge of any said exempted classes of persons be considered in any action or for any purpose as increasing or affecting or as connected with the rate of interest hereinbefore fixed. The Legislature may from time to time prescribe the maximum rate per annum of, or provide for the supervision, or the filing of a schedule of, or in any manner fix, regulate or limit, the fees, bonuses, commissions, discounts or other compensation which all or any of the said exempted classes of persons may charge or receive from a borrower in connection with any loan or forbearance of any money, goods or things in action.

The rate of interest upon a judgment rendered in any court of this state shall be set by the Legislature at not more than 10 percent per annum. Such rate may be variable and based upon interest rates charged by federal agencies or economic indicators, or both.

In the absence of the setting of such rate by the Legislature, the rate of interest on any judgment rendered in any court of the state

shall be 7 percent per annum.

The provisions of this section shall supersede all provisions of this Constitution and laws enacted thereunder in conflict therewith.

RESOLUTION CHAPTER 50

Senate Concurrent Resolution No. 35—Relative to making additional funds available to the Joint Legislative Budget Committee established by Chapter 1667 of the Statutes of 1951.

[Filed with Secretary of State July 23, 1979]

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 five hundred thousand dollars ($3,500,000), or so much thereof as may be necessary, is hereby allocated from the Contingent Funds of the Assembly and Senate for the payment of any and all expenses incurred by the Joint Legislative Budget Committee or its members pursuant to and under the authority of law or the provisions of Joint Rule 37.

RESOLUTION CHAPTER 51

Senate Concurrent Resolution No. 23—Relative to home fire sprinkler systems.

[Filed with Secretary of State July 23, 1979.]

WHEREAS, The major fire problem in California is in one-and two-family dwellings. One-and two-family dwelling fires in 1977 resulted in 200 deaths, 858 injuries, and over $55,000,000 in property loss in California; and

WHEREAS, Less costly ways of providing public fire protection must be explored; and

WHEREAS, Costly, rigid national standards discourage the use of automatic fire sprinkler systems in one-and two-family dwellings; and

WHEREAS, Automatic fire sprinkler systems in one-and two-family dwellings have been proven effective in eliminating the loss of life to fire; and

WHEREAS, Low cost, efficient, one-and two-family dwelling automatic fire sprinkler systems are now available; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,*That the State Fire Marshal, with the advice of the State Board of Fire Services, and in cooperation with local fire

departments and the fire sprinkler systems industry, develop a set of suggested voluntary standards for the design, installation, and maintenance of automatic fire sprinkler systems for one-and two-family dwellings; and be it further

Resolved, That the State Fire Marshal shall report to the Legislature on or before December 31, 1980, regarding the suggested standards for automatic fire sprinkler systems for one-and two-family dwellings; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the State Fire Marshal.

RESOLUTION CHAPTER 52

Senate Joint Resolution No. 20—Relative to taxation of savings account interest.

[Filed with Secretary of State July 23, 1979]

WHEREAS, The United States has one of the lowest savings percentages among the democracies of the world; and

WHEREAS, Almost every democracy in the world provides for the exemption of interest derived from savings accounts, to encourage savings; and

WHEREAS, It is essential that savings be encouraged to provide funds for housing for the people of the United States; and

WHEREAS, Savings accounts provide investment capital which is necessary for the advancement of the American economic system; 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 exempt from federal income taxes a portion of the interest derived annually from savings accounts; 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 53

Assembly Concurrent Resolution No. 75—Relative to the 100th Anniversary of the visit of Robert Louis Stevenson to California.

[Filed with Secretary of State July 24, 1979]

WHEREAS, In August 1879, the great author, Robert Louis Stevenson, came to California on a year-long sojourn that literary historians consider pivotal in his life and in his writing career; and

WHEREAS, Born at Edinburgh, Scotland, Mr. Stevenson was intended for the ancestral profession of engineer, but he abandoned that, instead trying law, with no better success, and finally, he devoted himself to his destined vocation of letters; and

WHEREAS, He began his career writing essays, then issued two charming volumes of humorous and contemplative travel, "An Inland Voyage" and "Travels with a Donkey in the Cevennes", and he then collected, in his "New Arabian Nights", a number of fanciful short stories he had been publishing in a magazine; and

WHEREAS, In August 1879, Robert Louis Stevenson made his own contemplative travel to California at the age of 29, and, in 1883, he first caught the attention of the larger public with "Treasure Island," considered one of the best, and probably the best written, boy's story in the English language; and

WHEREAS, His most sensational success was "The Strange Case of Dr. Jekyll and Mr. Hyde"; and

WHEREAS, A novelist, essayist, and poet, Mr. Stevenson was essentially an artist in words, a superb storyteller, an acute and sensitive critic, and a genial and wholehearted lover of life; and

WHEREAS, He wrote memorably about San Francisco and spent much time there, and, after he achieved fame, he visited San Francisco again before embarking for the South Seas, where he died in 1894; and

WHEREAS, His widow lived at Lombard and Hyde Streets in San Francisco for many years; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the month of August 1979, be proclaimed Robert Louis Stevenson month, during which time the citizens of California are urged to observe the 100th Anniversary of the visit of Robert Louis Stevenson to Californina; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a suitably prepared copy of this resolution to the City of San Francisco.

RESOLUTION CHAPTER 54

Assembly Concurrent Resolution No. 48—Relative to education of foster children.

[Filed with Secretary of State July 24, 1979]

WHEREAS, There exist in California large numbers of foster children under the jurisdiction of the California court system; and

WHEREAS, Such children are frequently placed by the courts in

either public or private institutions; and

WHEREAS, It is not unusual for some children to be placed in numerous different foster homes over a relatively short period of time; and

WHEREAS, Such children frequently have serious behavior problems, as well as serious problems of reduced self-esteem, guilt feelings associated with the breakup of the family, and low-level educational achievement; and

WHEREAS, Some school districts have experienced success in helping foster children by providing a variety of specialized services for them, including individual and family counseling, tutorial services designed to improve the child's level of education, vocational guidance programs, foster parent training, and continuous liaison between school authorities, the court system, the child's natural home, and his foster home; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the State Board of Education and the Department of Education encourage local school districts to examine the services they currently make available to assist foster children and that the objective of such examination be to increase the quality of such services; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the State Board of Education, the Department of Education, and to the governing board of each school district in the state.

RESOLUTION CHAPTER 55

Senate Concurrent Resolution No. 29—Relative to rural county government.

[Filed with Secretary of State July 25, 1979.]

Resolved, by the Senate of the State of California, the Assembly thereof concurring, That the Senate Committee on Local Government and the Assembly Committee on Local Government jointly convene interim hearings on the subject of strengthening the legal status and powers of county government in rural counties which have a population of 150,000 or less, including consideration of the Legislature's powers under Section 1 of Article XI of the California Constitution; and be it further

Resolved, That the Senate Committee on Local Government and the Assembly Committee on Local Government jointly report their findings, including proposed legislation, to the Legislature and to the Governor not later than October 1, 1980.

RESOLUTION CHAPTER 56

Senate Concurrent Resolution No. 12—Relative to income tax forms.

[Filed with Secretary of State August 21, 1979.]

WHEREAS, The Legislature finds that for the majority of California taxpayers the process of preparing the California income tax return is similar in most respects to that involved in preparing the federal income tax return; and

WHEREAS, The Legislature further finds that most income taxpayers prepare their federal income tax returns first and then use much of the information on the federal return as the basis for preparing the state return; and

WHEREAS, The Legislature further finds that whenever the taxpayer's efforts in preparing the federal return can also be used in preparing the state return, both the taxpayer's burden and the state's administrative costs are reduced; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Franchise Tax Board be requested to prepare state income tax return forms which resemble as closely as practicable the corresponding federal income tax return forms; and be it further

Resolved, That the Franchise Tax Board write its income tax return preparation instructions in such a way that the taxpayer who is able to use much of the federal return information for the state return will be guided in a step-by-step manner from the federal to the state return; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Franchise Tax Board.

RESOLUTION CHAPTER 57

Assembly Concurrent Resolution No. 21—Relative to pilot program evaluations.

[Filed with Secretary of State August 27, 1979]

WHEREAS, The Legislature of the State of California creates and funds numerous pilot and demonstration programs each year; and

WHEREAS, In the past such legislation has not always specified clear goals for these programs, the data to be collected, the policy questions to be answered, or the criteria by which the programs will be judged; and

WHEREAS, The Legislature does not have an adequate basis for determining whether it is in the state's interest to continue, expand, or duplicate these programs in the absence of an in-depth evaluation

thereof; and

WHEREAS, The Legislature finds that the necessary evaluations should be completed prior to continuation of such programs in order to promote the efficient expenditure of public funds; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature of the State of California should study and consider the adoption of a policy that all statutes enacted after January 1, 1979, which create a pilot, demonstration, or new program should contain the following provisions:

(1) Goals to be achieved by such program.

(2) A requirement that an evaluation of such program be conducted six months prior to any continuation of the program.

(3) Policy questions to be addressed by such evaluation.

(4) A requirement that 30 days prior to commencement of the evaluation procedure, the scope, content, and methodology of such evaluation be submitted to the Joint Legislative Budget Committee for review; and be it further

Resolved, That the Legislature of the State of California should study and consider the adoption of a policy that would refuse fourth year funding to any pilot, demonstration, or new program which has not been evaluated in a manner that fulfills the Legislature's need for information.

RESOLUTION CHAPTER 58

Assembly Joint Resolution No. 33—Relative to air travel safety.

[Filed with Secretary of State August 27, 1979.]

WHEREAS, An important function of government is to provide safe and efficient transportation facilities and services for the people of California and the United States including a safe air transportation system; and

WHEREAS, Many major airports in the State of California serve both commercial air carriers and general aviation; and

WHEREAS, The collision of a commercial passenger airliner with a small private airplane over San Diego on September 25, 1978, has focused attention on the concern for air travel safety in the congested airspace near major airports; and

WHEREAS, Aviation professionals across the nation have expressed concern that actions proposed by the Federal Aviation Administration as a result of the San Diego midair collision may not significantly improve air travel safety in congested airspace near major airports; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Congress of the United States is respectfully

memorialized to require an impartial agency not presently responsible for air safety matters at the earliest possible date to conduct a study of congested airspace problems and to consider appropriate measures to maximize air safety for the benefit of the traveling public, including the feasibility of allowing both general and commercial aviation traffic in the same airspace above major air carrier airports and the state of current technology on collision avoidance systems; and be it further

Resolved, That copies of this resolution be transmitted 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 Transportation, and to the Administrator of the Federal Aviation Administration.

RESOLUTION CHAPTER 59

Assembly Joint Resolution No. 36—Relative to discrimination against Air Force nurses.

[Filed with Secretary of State August 27, 1979]

WHEREAS, Section 301 of Title 37 of the United States Code has been amended to deny flight crew status, and thus incentive pay for flight duty, to Air Force nurses; and

WHEREAS, Air Force Regulation 35-41 requires Air Force Reserve and Air Guard nurses to be actively employed in their field two days per week or pursuing a degree in nursing; and

WHEREAS, Noncompliance with Air Force Regulation 35-41 results in nonactive, nonpay reserve status until the person dies or retires; and

WHEREAS, No other profession in the reserves imposes such a requirement, nor do Army or Navy reserves impose such requirements; and

WHEREAS, The result is a severe and disparate impact on females because a large majority of reserve nurses are female; and

WHEREAS, This disparate treatment is unfair to these loyal reserve nurses who have served their country with compassion and devotion; and

WHEREAS, The Air Force nurses have exhausted all available manners of redress at their disposal; and

WHEREAS, The Air Force nurses are supported by the American Nurses' Association as well as the California Nurses' Association which has long espoused the rights of registered nurses to fair and equitable treatment in conditions of employment; now, therefore, be it

Resolved by the Assembly and Senate of the State of California,

jointly, That the Legislature of the State of California memorializes the Congress of the United States to amend Section 301 of Title 37 of the United States Code and the Department of the Air Force to amend Air Force Regulation 35-41 so that they no longer produce a discriminatory impact on Air Force nurses; and be it further

Resolved, That the Legislature of the State of California memorializes the Congress of the United States to establish a special investigatory committee to review other labor practices engaged in by the Air Force which might result in discrimination against Air Force nurses and to implement a program to avoid any such discriminatory practices in the future; and be it further

Resolved, That the Secretary of the Assembly transmit copies of this resolution to the President and Vice President of the United States, the Secretary of Defense, the Secretary of the Air Force, the Assistant Secretary of the Air Force, the Air Force Chief of Staff, the Speaker of the House of Representatives, the Chairman of the Senate Committee on Armed Services, the Chairman of the House of Representatives Committee on Armed Services, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 60

Assembly Joint Resolution No. 40—Relative to Amtrak.

[Filed with Secretary of State August 27, 1979.]

WHEREAS, It is the policy of the State of California to encourage the preservation and improvement of rail passenger service as an important national resource and a necessary alternative to long-distance travel by private automobile during these times of scarcity and escalating costs of fuel; and

WHEREAS, The Department of Transportation of the State of California (Caltrans) on May 14, 1979, filed a complaint in the United States District Court for the Eastern District of California to enjoin the severe reductions in rail passenger service proposed by the President and Congress for the National Railroad Passenger Corporation (Amtrak) not only within California but also across the nation; and

WHEREAS, The proposed reduction in rail passenger service will, among other adverse impacts within California, eliminate approximately 300 route miles of service; terminate service to such important communities as Stockton, Riverbank, Merced, and Hanford; discourage prospective rail passengers between Los Angeles and Chicago by increasing the travel time 11½ hours; hinder the state program of underwriting certain Amtrak operating deficits instituted pursuant to Section 4 of Chapter 1130 of the Statutes of

1975; and cause increases in both air pollution and fuel consumption particularly within the San Joaquin Valley which is even presently not in compliance with federal air pollution standards; and

WHEREAS, The proposed reductions in rail passenger service will, among other adverse impacts for the rest of the nation, eliminate access to intercity rail passenger service for approximately 41 million persons; displace approximately 5,800 Amtrak and operating railroad employees; terminate rail passenger service at approximately 213 stations with consequent environmental, cultural, economic, and historical impacts; result in an increase in energy consumption in 28 of the 42 states directly affected by the proposed reductions in service; cause increased air pollution in 41 of these 42 states; burden interstate trucking by causing increases in the number of cars and buses on interstate highways; and disrupt local transportation and community planning; and

WHEREAS, These proposed cutbacks in Amtrak service are embodied in a controversial Final Report to Congress prepared by the United States Department of Transportation dated January 1979, and this report fails to include either a detailed environmental impact statement as required by the National Environmental Policy Act or the information required by the Amtrak Improvement Act of 1978; and

WHEREAS, The proposed reductions in service will violate the Clean Air Act, the National Historic Preservation Act, and significant constitutional rights of the citizens of California, such as the right of travel and the due process guarantee of a full and fair hearing relating to the discontinuance of rail passenger service; and

WHEREAS, The State of Texas has also filed a lawsuit in the United States District Court for the Southern District of Texas on May 22, 1979, to enjoin these rail passenger service reductions; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California expresses its support for the legal actions instituted by Caltrans to enjoin the proposed reductions in rail passenger service by Amtrak, respectfully memorializes the President and Congress to act swiftly to eliminate these ill-advised proposed cutbacks in Amtrak service, and urges all other states which would be adversely affected by restructured and reduced Amtrak service to institute legal actions similar to those instituted by California and Texas; 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 United States Department of Transportation, and to the Governors of all the other States in the United States.

RESOLUTION CHAPTER 61

Senate Concurrent Resolution No. 7—Relative to private conservators under the Lanterman-Petris-Short Act.

[Filed with Secretary of State August 29, 1979.]

WHEREAS, It is in the public interest that private conservators appointed pursuant to the Lanterman-Petris-Short Act be furnished with information needed by them concerning their rights, duties, and responsibilities as conservators under that act and the available community mental health treatment resources; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the State Department of Mental Health is requested to provide private conservators with information concerning their rights, duties and responsibilities as conservators under the Lanterman-Petris-Short Act and the available community mental health treatment resources in handbook form or any other means determined suitable by the department; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the State Department of Mental Health.

RESOLUTION CHAPTER 62

Assembly Concurrent Resolution No. 35—Relative to learning assistance centers at California State University and Colleges.

[Filed with Secretary of State August 30, 1979]

WHEREAS, The university-level educational process is predicated on the assumption that students have acquired basic learning and communication skills prior to admission to postsecondary education; and

WHEREAS, The California State University and Colleges currently admits students who satisfy the admissions criteria, but yet are deficient in basic learning and communication skills; and

WHEREAS, It is difficult to maintain high academic standards when students lack basic skills; and

WHEREAS, Facilities known as learning assistance centers have proven, on a referral and walk-in basis, to be efficient and effective in remedying deficiencies in basic skills; and

WHEREAS, California State University at Long Beach and California Polytechnic State University, San Luis Obispo, utilizing existing campus resources, already have active and ongoing learning assistance centers; 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 are requested to develop a comprehensive

systemwide program of learning assistance centers as a viable alternative to solve the problems of students deficient in basic learning and communication skills; and be it further

Resolved, That such a program of learning assistance centers be given a high priority by the Trustees of the California State University and Colleges; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Trustees of the California State University and Colleges.

RESOLUTION CHAPTER 63

Assembly Joint Resolution No. 18—Relative to the state contribution to the cost of the SSI/SSP program.

[Filed with Secretary of State August 30, 1979.]

WHEREAS, The federal government contributed 50 percent of the cost of the aged, blind and disabled program until that program was replaced by Supplemental Security Income (SSI) in January of 1974; and

WHEREAS, Under Section 1618 of the Social Security Act, the state is required to maintain the aggregate level of State Supplemental Program benefits (SSP) or lose eligibility to federal payments pursuant to Title XIX (Medi-Cal); and

WHEREAS, The cost of providing SSP benefits to eligible recipients in the state will exceed $902 million in fiscal year 1978–79; and

WHEREAS, The cost of the SSP portion now represents over 58 percent of the total cost of SSI/SSP program benefits; and

WHEREAS, The state's share of the program costs exceeds the federal share because in calculating the amount of aid a recipient is eligible to receive, nonexempt income of a recipient is first deducted from the SSI payment, with any remaining income deducted from the SSP payment; and

WHEREAS, The state will continue to assume more than 50 percent of the cost of providing SSI/SSP benefits to the aged, blind and disabled in the state until the method of calculating the federal and state share of the aid payment is changed; 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 Social Security Act to provide that recipient income be deducted from the SSI and SSP portions of the SSI/SSP benefit levels in amounts proportional to the relative contributions of the federal and state shares to the total benefit levels; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of

this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 64

Assembly Joint Resolution No. 19—Relative to sugary foods.

[Filed with Secretary of State August 30, 1979.]

WHEREAS, The American Dental Association's nutritional research consultants have reported that sugar is a major contributing factor to tooth decay in America today; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature respectfully memorializes the Federal Trade Commission to ban all advertising directed at children which promotes the use of high sugary foods that have 25 percent or more of total calories from added sweeteners, or 40 percent or more of total calories from fat content, or both; and be it further

Resolved, That the Legislature respectfully memorializes the Food and Drug Administration to require that all products in package form disclose the percentage of sugar present if it provides for a substantial amount of the total number of calories in the food. Such disclosure shall appear on the principal display panel or panels of the label, unless the product's label bears a declaration of the portion (stated as a percentage by dry weight) of the food which is sugar. For the purposes of this resolution, the term "sugar" means sucrose, corn sugar (dextrose), fructose, glucose, honey, invert sugar, molasses, raw sugar, corn syrup, or other nutritive sweeteners, or any combination thereof; the term "in package" does not include fresh fruits and vegetables; and the term "food" does not include any alcoholic beverage; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Federal Trade Commission, and to the Food and Drug Administration.

RESOLUTION CHAPTER 65

Assembly Joint Resolution No. 38—Relative to the Syrian Jewish community.

[Filed with Secretary of State August 30, 1979]

WHEREAS, Both the United States of America and the Syrian Arab Republic are parties and signatories to the Universal Declaration of Human Rights; and

WHEREAS, The Syrian Arab Republic is a party and signatory to the International Covenant on Civil and Political Rights of 1966, to which it adhered on April 21, 1969; and

WHEREAS, Article 391 of the Syrian Penal Code proscribes the use of torture and establishes penalties upon conviction for the use thereof; and

WHEREAS, The Syrian Jewish community has been completely barred from emigration from the Syrian Arab Republic; and

WHEREAS, Since January 1, 1979, the Syrian Jewish community has been subjected to the reimposition of previous restrictions upon personal and civil rights, including the imprisonment and torture of over 20 Syrian Jews, gross restrictions on internal travel, the requirement of a special designation "Musawi" ("of the Mosaic faith") in colored ink on identity cards and other legal documents, a 7 p.m. curfew, searches of Jewish homes, a prohibition on sales of real property without advance proof of replacement of disposed property, and restrictions on travel abroad which require the posting of 25,000 Syrian pounds and that family members remain in Syria to insure the traveler's return; and

WHEREAS, The foregoing oppressive and discriminating treatment of the Syrian Jewish community, which seeks religious freedom and the right to emigrate, offends the conscience of the American people and violates the provisions of the Universal Declaration on Human Rights and the International Covenant on Civil and Political Rights, and is in derogation of the rules of law in the Syrian Arab Republic; 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 condemns and deplores the oppression and imprisonment of Syrian Jews, the lack of religious liberty, and the inability of Jews to freely emigrate, as a direct violation of the provisions of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights; 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 undertake all possible and appropriate measures, including, but not limited to, the withholding of any foreign aid or economic support funds by the United States government pending compliance by the Syrian Arab Republic with the provisions set forth in the Universal Declaration on Human Rights and the International Covenant on Civil and Political Rights, so as to encourage and compel the government of the Syrian Arab Republic to honor and comply with the provisions of all of the aforesaid agreements to which it is a party and a signatory, and by which it is bound; 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 State, to the Senate Foreign Relations Committee, to the House Foreign Affairs Committee, and to the respective Senate and House Appropriations Committees.

RESOLUTION CHAPTER 66

Senate Concurrent Resolution No. 34—Relative to endorsing the California-Mexico Symposium on the Seismic Safety of the International Border Region.

[Filed with Secretary of State August 31, 1979.]

WHEREAS, The State of California, the United States of America, Baja California, and Mexico have a common international border; and

WHEREAS, The international border region is characterized by common geographic, economic and social relationships; and

WHEREAS, The international border region is vulnerable to earthquake damage due to the existence of active faults, especially the San Andreas, which present a continuing danger to the public in the area; and

WHEREAS, The California-Mexico Symposium has, as its principal objective, the continuation and promotion of the exchange of information and public safety programs between the Republic of Mexico and the State of California; and

WHEREAS, The California-Mexico Symposium will identify and study common problems expected during times of emergencies due to damaging earthquakes and can accelerate joint efforts in seeking viable measures to reduce the hazards and strengthen emergency preparedness; and

WHEREAS, The Seismic Safety Commission will be representing and coordinating the state's participation in the California-Mexico Symposium; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature endorses the California-Mexico Symposium on the Seismic Safety of the International Border Region and that the recommendations of the symposium be presented to the Legislature for its information and appropriate action.

RESOLUTION CHAPTER 67

Assembly Concurrent Resolution No. 34—Relative to the Escondido Freeway.

[Filed with Secretary of State September 5, 1979]

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the portion of Interstate Route 15 from the southern terminus of Interstate Route 15 East to its junction with Interstate Route 8 is hereby officially designated the Escondido Freeway; and be it further

Resolved, That the Department of Transportation is hereby requested to erect and maintain appropriate signs, on that portion of Interstate Route 15 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 68

Assembly Concurrent Resolution No. 42—Relative to a conference on the family.

[Filed with Secretary of State September 5, 1979.]

WHEREAS, More than 40 percent of California marriages end in divorce; and

WHEREAS, There are now annually in California, more than 150,000 children whose parents file for divorce; and

WHEREAS, There were more than 72,000 incidents of child abuse reported in California in 1977, with a large number of such cases going unreported; and

WHEREAS, The suicide rate for young persons has more than tripled in the last 15 years; and

WHEREAS, 50.7 percent of those persons arrested for murder in 1977 were in the 15 to 24 age group; and

WHEREAS, Approximately 304,000 of California's 1.6 million youth in the 14 to 17 age group are experiencing alcohol-related problems; and

WHEREAS, An estimated 300,000 adolescents in California are experiencing problems relating to drug abuse; and

WHEREAS, In California, it is estimated that a significant percentage of married women will be assaulted by their husbands at some time during the marriage relationship; and

WHEREAS, The above facts and figures indicate the deep unrest and deterioration in the vital institution known as the family; now therefore, be it

Resolved by the Assembly of the State of California, the Senate

thereof concurring, That the Legislature of the State of California requests the Secretary of the Health and Welfare Agency to convene a Conference on the Family to consider the contributing factors for the breakdown of the family in California; and be it further

Resolved, That topics to be examined by the conference shall include, but shall not be limited to, a study of the causes of divorce, child abuse, spouse abuse, adolescent suicide, family violence, and the role of religion in the American home; and be it further

Resolved, That experts and leaders in the fields of religion, education, mental health, sociology, psychology, and penology shall be asked to participate in the conference, together with a broad spectrum of family members, including individuals who represent positive models as well as those who have experienced family violence or child abuse, and advocates for and service providers to such persons; and be it further

Resolved, That the Secretary of the Health and Welfare Agency is requested to draft a preliminary plan for the Conference on the Family and include a recommendation for funding of such conference by January 1, 1980; and be it further

Resolved, That the Legislature expresses its desire that the conference result in a statement of findings and recommendations for possible action by the Legislature to improve family life in California.

RESOLUTION CHAPTER 69

Assembly Concurrent Resolution No. 54—Relative to reorganization of the Peralta Community College District.

[Filed with Secretary of State September 5, 1979.]

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Chancellor of the California Community Colleges conduct a comprehensive feasibility study of the reorganization of the Peralta Community College District, with respect to the territory included in the Plumas County portion of such district; and be it further

Resolved, That such study be done in cooperation with the California Postsecondary Education Commission, the Board of Trustees of the Peralta Community College District, and the County Board of Education of Plumas County, and that the boards of trustees of contiguous community college districts cooperate in participating in such study, as necessary; and be it further

Resolved, That such study shall include, but not be limited to, the following areas:

(a) Formation of a community college district of the territory.

(b) Formation of a community college district of the territory and

all or parts of one or more contiguous community college districts.

(c) Transfer of the territory to another existing community college district.

(d) Continued existence of the territory as part of the Peralta Community College District with provisions made for adequate funding and some measure of local control and governance.

(e) Formation of a community college district with provisions made for allowing nondistrict residents to attend community colleges maintained by such district without requiring payments otherwise required when a nondistrict resident attends community colleges outside the district of residence; and be it further

Resolved, That such study be completed by February 29, 1980, and be considered by the Board of Governors of the California Community Colleges at a regular or special meeting prior to June 1980; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Chancellor of the California Community Colleges, the Board of Trustees of the Peralta Community College District, the County Board of Education of Plumas County, and the California Postsecondary Education Commission.

RESOLUTION CHAPTER 70

Assembly Concurrent Resolution No. 69—Relative to rural housing regulations.

[Filed with Secretary of State September 5, 1979]

WHEREAS, The protection of valuable natural resources and wilderness areas of California belonging to all the people are a paramount concern to present and future residents of the state; and

WHEREAS, It is a policy of the state to preseve and protect wherever possible the natural resources and wilderness areas for the enjoyment of current and succeeding generations; and

WHEREAS, The existence of substandard housing in our wilderness areas endangers the conservation of such areas; and

WHEREAS, Substandard housing encourages unsanitary and unhealthy living conditions; and

WHEREAS, The Commission of Housing and Community Development has proposed the adoption of administrative regulations relating to substandard housing in rural areas, commonly referred to as "Class K Housing"; and

WHEREAS, The proposed regulations will require the authorization of "Class K Housing" in all areas designated as "rural"; and

WHEREAS, The regulations will mandate duties upon local governments without providing for reimbursement; now, therefore,

be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That in order to promote public safety, health, and welfare, and to prevent the further deterioration and destruction of our natural resources and wilderness areas, the Legislature hereby disapproves of the administrative regulations relating to substandard housing in rural areas, commonly referred to as "Class K Housing," and requests the Commission of Housing and Community Development not to adopt such administrative regulations; and be it further

Resolved, That the Commission of Housing and Community Development is requested to postpone any further action on these proposed regulations unless the commission has advised the Legislature with respect to any proposed hearing or action at least 90 days before any such hearing or action is taken; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Governor and to the Commission of Housing and Community Development.

RESOLUTION CHAPTER 71

Senate Concurrent Resolution No. 9—Relative to automotive part warranties.

[Filed with Secretary of State September 5, 1979]

WHEREAS, The State Air Resources Board, pursuant to Section 43204 of the Health and Safety Code, has adopted regulations concerning warranties for emissions-related parts on motor vehicles, and

WHEREAS, The Federal Trade Commission staff in recent comments submitted to the U. S. Environmental Protection Agency, has recommended several changes to the Air Resources Board's warranty regulations, including the regulations specifying the parts covered by the warranty, which the commission staff believes would clarify the regulations and thereby reduce anti-competitive impacts of the regulations on the small, independent aftermarket parts manufacturers and repair facilities; and

WHEREAS, The Legislature is concerned about the effects these regulations may have on small businesses in this state; and

WHEREAS, The Legislature is further concerned about the impact these regulations may have on new, emerging pollution control technologies which could provide substantial environmental, economic and energy benefits for the people of this state; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the State Air Resources Board review the

Federal Trade Commission's comments and amend California's emissions warranty regulations to clarify the regulations as set forth above and thereby address the significant concerns raised in those comments; and be it further

Resolved, That the State Air Resources Board shall exclude turbochargers on 1980 model year vehicles from warranty coverage, and that the State Air Resources Board shall adopt administrative procedures which clearly set forth the test procedures to be followed and the other requirements that must be satisfied in order for a permanent exclusion of a part from warranty coverage to be obtained under Section 2036(f) of the state board's warranty regulations if failure of the part will not be likely to result in a significant increase in air pollution; and be it further

Resolved, That the Air Resources Board shall revise their regulations in an expeditious manner as necessary to conform with federal regulations at such time as federal regulations are adopted; and be it further

Resolved, That the Air Resources Board, in cooperation with automobile manufacturers, adopt administrative procedures that provide vehicle manufacturers with reasonable notice of proposed changes in warranty requirement and reasonable time to comply with such changes as they are adopted by the board; and be it further

Resolved, That changes in warranty requirements adopted by the State Air Resources Board, including the addition of components to be covered by the defect warranty, shall apply only on a prospective basis and not retroactively to prior model year vehicles; and be it further

Resolved, That the board initiate a case-by-case review of each vehicle manufacturer's product to determine, based upon the importance of the carburetion and ignition systems to that vehicle's pollution control, whether or not the carburetion or ignition system components, or both, should be included as warrantable emission-related parts for that vehicle; and be it further

Resolved, That the board act in an expeditious manner to revise its adopted regulations to reflect the changes requested by this resolution and to delay implementation of its adopted regulations if necessary to accommodate these changes; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the State Air Resources Board.

RESOLUTION CHAPTER 72

Senate Joint Resolution No. 17—Relative to United States Forest Service lands in California.

[Filed with Secretary of State September 5, 1979.]

WHEREAS, The federal government has requested and solicited public participation in the program to develop recommendations to Congress regarding the Second Roadless Area Review and Evaluation (RARE II) program for the management of United States Forest Service lands; and

WHEREAS, The United States Forest Service, in its program to obtain such public participation in California, has received outstanding cooperation from individuals, organizations, and various affected counties through expressions of their locally elected officials; and

WHEREAS, The Legislature congratulates those who participated in helping develop the recommendations relative to RARE II; 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 urges the Congress of the United States to consider the wishes and points of view expressed to the United States Forest Service through the RARE II public participation program; and be it further

Resolved, That the Legislature of the State of California urges a speedy resolution of the management programs for United States Forest Service lands in California so that the counties in which the lands lie can escape from their present limbo; 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 Governor and the Secretary of the Resources Agency of the State of California.

RESOLUTION CHAPTER 73

Senate Concurrent Resolution No. 24—Relative to the Department of Transportation's Roadside Clearance Program.

[Filed with Secretary of State September 7, 1979]

WHEREAS, Because of the dry summer and fall months characteristic of California, roadside fires are a significant hazard along the highways of this state and create a major problem for fire departments responsible for roadside fire protection in California; and

WHEREAS, Many fire departments throughout California are manned by volunteers and the increased number of responses to roadside fires during the June to October months puts a severe financial burden on these departments; and

WHEREAS, The number of responses to roadside fires could be

reduced by clearance of roadside vegetation; and

WHEREAS, The Department of Transportation has a roadside clearance program as a part of which they clear a swath along the side of freeways by discing, mowing, or spraying the vegetation; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature requests the Department of Transportation to direct its district management supervisors responsible for roadside clearance to hold an annual meeting during the month of May in their respective districts with the fire chiefs of the area in order to: (1) identify high fire hazard areas for roadside clearance; (2) determine the best method of clearance; (3) determine the appropriate width of clearance to be maintained along roadways; and (4) discuss problems encountered in preventing and suppressing roadside fires; and be it further

Resolved, That the Department of Transportation notify the fire chiefs of California 30 days prior to the scheduled meeting; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Department of Transportation.

RESOLUTION CHAPTER 74

Senate Joint Resolution No. 18—Relative to the federal Airport Development Aid Program.

[Filed with Secretary of State September 7, 1979]

WHEREAS, The increase in near misses over California's populated airways and residential neighborhoods has caused great concern with respect to the safety of operation of both commercial and private aircraft; and

WHEREAS, California has some of the busiest air traffic corridors in the nation where potential conflicts frequently exist between commercial and private aircraft; and

WHEREAS, This state's worst air fatality occurred between a Pacific Southwest Airlines Boeing 727 and a Cessna 172 killing 144 persons near San Diego's Lindbergh Field on September 25, 1978; and

WHEREAS, The federally assisted Airport Development Aid Program has been instrumental in establishing a nationwide system of public airports adequate in meeting present and future needs of civil aeronautics; and

WHEREAS, This program will soon end its 10-year operation of allocating funds for updated navigational aids, safety equipment, and airport construction to our nation's 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 Congress of the United States to extend the Airport Development Aid Program in a manner that will assure that the approximately three billion dollars now accumulated in the fund, plus any additional funding, be expeditiously allocated for programs which will meet the pressing air safety needs that exist throughout the country; and be it further

Resolved, That the Legislature of the State of California urges the Congress of the United States to require the Federal Aviation Administration to develop a funds grant system within the Airport Development Aid Program that will give priority to safety related improvements, and to direct the Federal Aviation Administration to work in conjunction with the National Transportation Safety Board in developing a suitable priority system; 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 75

Senate Concurrent Resolution No. 20—Relative to Medi-Cal.

[Filed with Secretary of State September 7, 1979]

WHEREAS, Effective November 1, 1978, the Department of Health Services administratively ordered a 60 percent reduction in Medi-Cal payments to emergency physicians for many visits tc emergency departments of hospitals; and

WHEREAS, Emergency physicians treat indigents regardless of their ability to pay, as required by Section 1317 of the Health and Safety Code; and

WHEREAS, Already low Medi-Cal reimbursement to emergency physicians has been further reduced by this recent administrative order, so that emergency physicians are paid at low levels; and

WHEREAS, Emergency departments located in low income areas are particularly impacted by this administrative order, and may be forced to close or to reduce the level and quality of services provided to Medi-Cal patients; and

WHEREAS, This administrative order was adopted without benefit of public review or comment, as is required for proposed statutes or regulations; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Department of Health Services is requested to immediately develop a proposed regulation similar to the administrative order and after receiving public input with

respect to the matter, determine the advisability and effect of implementing such a proposed regulation; 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 the Department of Finance, and the Director of the Department of Health Services.

RESOLUTION CHAPTER 76

Assembly Joint Resolution No. 27—Relative to solar photovoltaic energy systems.

[Filed with Secretary of State September 7, 1979]

WHEREAS, Increased research and development of alternate means of generating electricity is a pressing national and state priority; and

WHEREAS, Generating electricity through the use of solar photovoltaic energy systems is one of the most promising new technologies available for the future; and

WHEREAS, The development of photovoltaic systems is particularly suitable for California because of the state's highly developed electronic industries and research facilities, which can provide a sound technical and scientific foundation for photovoltaic research; and

WHEREAS, Several California researchers have been investigating the technical feasibility of gallium arsenide concentrator and advanced silicon photovoltaic systems, and have made substantial progress in this regard; and

WHEREAS, Gallium arsenide concentrator and advanced silicon photovoltaic systems have demonstrated the potential for achieving substantial improvements in conversion efficiencies, and therefore greater cost-effectiveness, in generating electricity from solar energy; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the United States Department of Energy and the Congress of the United States be respectfully urged to provide support for photovoltaic energy systems research within California; and be it further

Resolved, That the Department of Energy give a special priority to supporting research and demonstration projects which utilize gallium arsenide concentrator and advanced silicon photovoltaic cells, and other systems with high conversion efficiencies; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the United States Department of Energy and to each Senator and Representative from California in the Congress of

the United States.

RESOLUTION CHAPTER 77

Assembly Concurrent Resolution No. 44—Relative to unemployment insurance.

[Filed with Secretary of State September 7, 1979]

WHEREAS, The Employment Development Department recently began delivery of unemployment insurance benefits by mail; and

WHEREAS, The Legislature is interested in a comparison of the operation of the current mail delivery system and the former system due to the considerable controversy that has resulted since the implementation of the mail-pay system; and

WHEREAS, The department firmly maintains that a mail-pay system of delivering benefits will improve the unemployment insurance program by allowing local office personnel to concentrate on more frequent and intensive periodic eligibility reviews (PERs) for claimants who have continuing claims, as well as more job counseling for claimants; that the emphasis on PERs for claimants is intended to insure greater compliance with seek-work requirements of the program; and that more job counseling is intended to enhance return to work efforts by claimants; and

WHEREAS, It is charged that the mail-pay system could lead to increased fraud by claimants who have no desire to work; that the declining volume of claims offers no justification for such an administrative change; that claims interviewers are unable to make a visual assessment of the claimant's ability to work when the claimants are paid by mail instead of presenting themselves in person at a local office of the department; that the new procedures result in no savings in administrative costs and could, in fact, represent an increase in these costs; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the impact of a mail-pay system program be studied by the Joint Legislative Audit Committee as to its effectiveness in achieving intended objectives and report the results of such study to the Legislature on or before January 31, 1980; and be it further

Resolved, That the report shall compare data since the start of the payment of benefits by mail with comparable information when claimants reported in person, and that such comparison include all of the following factors:

(a) The level of claimant fraud and overpayments.

(b) The duration of unemployment insurance claims.

(c) The number of claimant disqualifications as a result of issues

detailed in Section 1253 and subdivision (b) of Section 1257 of the Unemployment Insurance Code.

(d) The incidence of claimants returning to employment.

(e) The number, frequency and average length of time of periodic eligibility review (PERs).

(f) An evaluation of administrative cost savings resulting from the mail-pay system; and be it further

Resolved, That copies of this resolution be transmitted to the Joint Legislative Audit Committee and the Director of Employment Development; and be it further

Resolved, That the sum of up to thirty thousand dollars ($30,000) 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 as a result of the unemployment insurance study, 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. The exact amount to be paid shall be determined by the Joint Rules Committee.

RESOLUTION CHAPTER 78

Assembly Concurrent Resolution No. 51—Relating to the creation of a Task Force on City Government Fiscal Information.

[Filed with Secretary of State September 7, 1979.]

WHEREAS, City fiscal information is not now available on a timely, comparable, and consistent basis statewide; and

WHEREAS, Existing fiscal reporting under current statutory provisions is viewed as technically flawed and is not a completely reliable representation of the fiscal condition of cities; and

WHEREAS, The State Legislature faces major local government policy decisions as a result of Proposition 13, including reallocation of governmental resources in order to preserve essential local services, and the need to provide incentives to local government for more efficient and effective approaches to the delivery of local services; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That a Task Force on City Government Fiscal Information be created with the following composition, authorization, and responsibilities:

(1) The task force shall be assembled by the State Controller's office and shall include city representatives appointed by the League of California Cities, representatives of appropriate legislative committees and state agencies.

(2) The task force is charged with making recommendations for improving reporting city financial data so that it will be timely, comparable, and consistent on a statewide basis.

(3) The task force should consider the following criteria in developing its recommendations for improving city financial reporting:

(a) The information requested should be only that which can be reasonably defined as needed for state policy decisions.

(b) The information should be useful to cities.

(c) The information requirements should be stable and new information requests should be planned well in advance of implementation.

(d) Timelines for submission of information to the state should recognize the fiscal and budget-making timelines of city governments.

(e) The information base should, to the maximum extent feasible, be common to other local agencies and collected on a common format.

(f) The reporting system should be designed with careful regard to current fiscal information capabilities.

(g) To the extent that reporting systems require added net costs, they should be reimbursed by the state.

The task force shall complete work and make recommendations to the Assembly and Senate Local Government Committees no later than December 31, 1979.

RESOLUTION CHAPTER 79

Assembly Concurrent Resolution No. 68—Relative to school administrators.

[Filed with Secretary of State September 7, 1979]

WHEREAS, The Assembly Education Committee Task Force for the Improvement of Pre- and In-Service Training for Public School Administrators reviewed the role, professional problems, and needs of school administrators; and

WHEREAS, The task force found that many school administrators do not believe that their academic training prepared them for their major responsibilities as school administrators; and

WHEREAS, Learning activities should center around identified competencies which can be measured and those human relation skills necessary for effective administration; and

WHEREAS, Candidates for the services credential with a specialization in administrative services should have field experience which provides them with the opportunity to work under the direction of exemplary school administrators and to perform tasks

comparable to those performed by school administrators; and

WHEREAS, Continuing changes in school administration require that ongoing opportunities be provided for school administrators to develop and upgrade their skills; and

WHEREAS, There is no model for providing a comprehensive, ongoing development program for school administrators which meets their immediate needs and offers them practical experience; now, therefore, be it

Resolved, By the Assembly of the State of California, the Senate thereof concurring, That the Chancellor of the California State University and Colleges designate Los Angeles area campuses of the California State University and Colleges system to design, in cooperation with the Los Angeles County Superintendent of Schools, a one-year pilot program that examines alternative methods of providing preservice training to certificated employees seeking the services credential with a specialization in administrative services, and in-service training to persons currently employed as public school administrators, and enables campuses to use their resources cooperatively; and be it further

Resolved, That in designing the pilot program the need for modifying funding formula for public universities and colleges to provide field-based professional development programs for school administrators be addressed; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Chancellor of the California State University and Colleges and to the Los Angeles County Superintendent of Schools.

RESOLUTION CHAPTER 80

Senate Concurrent Resolution No. 16—Relative to motor vehicle inspection programs.

[Filed with Secretary of State September 7, 1979]

WHEREAS, The State of California and the California Legislature have for many years remained committed to the goal of clean and healthful air for all Californians; and

WHEREAS, In pursuit of that goal, the State of California is now operating both centralized and decentralized vehicle inspection programs, with inspection taking place upon change of ownership; and

WHEREAS, There is significant evidence to indicate that programs of annual inspection and maintenance are more effective in reducing vehicle emissions than are programs in which inspection and maintenance take place only upon change of ownership; and

WHEREAS, The Federal Clean Air Act requires a certified motor

vehicle inspection program to be implemented in all areas not attaining federal clean air standards by January 1, 1982; and

WHEREAS, Two bills to establish an annual vehicle inspection program in California received serious consideration during the 1979 legislative year, but were not enacted in large part because of serious concerns that there is not enough technical information available to make a well-informed choice between a centralized, decentralized, or other appropriate inspection programs; and

WHEREAS, It is the responsibility of the Legislature to take a major role in the creation of an annual inspection and maintenance program, rather than delegate the decision regarding which type of program is to be established to non-elected administrative agencies; and

WHEREAS, In October of 1979, the California State Air Resources Board will submit to the Legislature the first report on the effectiveness of California's centralized inspection program; and

WHEREAS, In December of 1979, the Bureau of Automotive Repair will submit to the Legislature its report on the possible effectiveness of an improved and well-enforced decentralized inspection program; and

WHEREAS, New information on the effectiveness of both centralized and decentralized programs in other states is becoming available; and

WHEREAS, A review of all this newly available information, combined with a review of earlier reports and studies should provide the Legislature with adequate technical information to choose between a centralized, decentralized, or other program that meets state and federal clean air goals; and

WHEREAS, The severe sanctions required by the Federal Clean Air Act for states not enacting a statute authorizing inspection and maintenance will serve to seriously disrupt the economy, health, and welfare of the people of California; and

WHEREAS, The Legislature is seriously concerned that a program not be selected in undue haste, without adequate deliberation and technical information so that the program that is selected provides the greatest possible benefits to the public, and in fact merits public support for cleaning California's ambient air; 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 respectfully memorializes the Administrator of the Environmental Protection Agency to extend the deadline for the enactment of inspection and maintenance authorization in California until the end of the 1980 legislative session, so that the analyses necessary for a choice between a centralized, decentralized, or other appropriate inspection program may be completed; and be it further

Resolved, That it is the intent of the Legislature to authorize during the 1980 legislative year and to implement during 1981 a periodic inspection and maintenance program that is effective, economical, and as acceptable as possible to the motoring public; and

be it further

Resolved, That the Legislative Analyst is hereby requested to study and report to the Chairmen of the Senate and Assembly Committees on Transportation on a recommended vehicle inspection and maintenance program for California; and be it further

Resolved, That the Legislative Analyst perform all of the following:

(1) Follow the progress of and review the results of the studies being done by the State Air Resources Board and the Bureau of Automotive Repair, and prepare a critique of the assumptions, methodology, and conclusions of these studies.

(2) Review the inspection programs now operating, or about to begin operation, in other states.

(3) Review all available information on the costs and effectiveness of vehicle inspection as a way to reduce undesirable motor vehicle emissions.

(4) Propose optimal centralized, decentralized, or other appropriate inspection programs and criteria that include, but are not limited to, consideration of (a) inspection of all vehicles for which inspection is cost-effective, (b) emission analyzer quality control, (c) mechanic training, (d) effective oversight of the repair industry, (e) licensing of inspection stations, (f) undercover surveillance of inspection stations, (g) opportunity for all motorists to have the emission test done at an independent referee station, and (h) necessary consolidation and coordination of state and local government functions associated with the proposed programs.

(5) Evaluate the expected costs and benefits of optimally designed programs, including emissions reductions, fuel economy changes, the cost of inspections, repairs, program administration, and program enforcement, and the value of the public's time required to comply with the requirements of each program, and any other identifiable costs and benefits of a fiscal or non-fiscal nature.

(6) Recommend measures to reduce the impact of inspection and maintenance on low-income persons.

(7) Recommend whether the state should consider not requiring inspection of older vehicles.

(8) Evaluate the cost and benefits of including, as part of each program, inspections for safety and noise reduction.

(9) Prepare a report containing the critiques, reviews, recommendations, and evaluations and submit this report to the Chairmen of the Senate and Assembly Committees on Transportation no later than April 15, 1980; and be it further

Resolved, That the State Air Resources Board, the Bureau of Automotive Repair, the Department of the California Highway Patrol, and the Department of Motor Vehicles cooperate with and assist the Legislative Analyst in all ways possible and that the Legislative Analyst, at his discretion, shall convene and chair an advisory group representing in a fair and impartial manner representative members of federal, state, and local public agencies and representatives of the private sector concerned with this study;

and be it further

Resolved, That the sum of one hundred fifty thousand dollars ($150,000) be allocated from the Senate and Assembly Contingent Funds to the Legislative Analyst for the costs involved in complying with the requests of this resolution; and be it further

Resolved, That the Legislative Analyst may contract with an independent consultant to carry out any or all of the requests made by this resolution; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President of the United States, the Administrator of the Environmental Protection Agency, the Governor, the State Air Resources Board, the Director of Consumer Affairs, the Director of Motor Vehicles, the Commissioner of the California Highway Patrol, the Legislative Analyst, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 81

Senate Concurrent Resolution No. 25—Relative to environmental health hazards.

[Filed with Secretary of State September 11, 1979]

WHEREAS, California has been in the forefront in the remarkable proliferation and use of new industrial chemicals since 1940, and the hazards to human health and the environment from these materials is just beginning to be realized; and

WHEREAS, The Love Canal disposal site problem in New York, the recently detected radium disposal sites in Colorado, the Stringfellow Quarry near Riverside, the PBB poisoning in Michigan, the radiation leakage from the Three Mile Island nuclear plant, the Kepone pesticide tragedy, and the ever-widening scope of asbestos-related illnesses, all reflect aspects of a problem whose elements exist in California to an as-yet almost-totally-unmonitored degree; and

WHEREAS, Over 26,000 potentially harmful substances are listed in the 1977 registry by the National Institute of Occupational Safety and Health. Of these, almost 2,000 are suspected carcinogens and 269 are confirmed carcinogens, 41 (so far) are mutagens, over 400 are teratogens (cause birth defects), and about 2,200 are pesticides. Thousands more may cause acute or chronic poisoning and other adverse effects. National production of new synthetic organic chemicals alone tops 300 billion pounds and has increased 250 fold since 1940; and

WHEREAS, Many of the most serious harmful effects from hazardous substances are delayed for decades (cancer) or for generations (genetic damage) thereby constituting "time bombs"

now going off with increasing frequency; and

WHEREAS, The federal Environmental Protection Agency now requires some health hazard information regarding new substances before use, but these provisions do not cover the backlog of over three decades of chemicals already in use and in the environment; and

WHEREAS, The health of citizens is being, and has been, jeopardized by failure to protect the human environment. This failure in large part is due to the lack of health data because of the absence of adequate surveillance of human health and of the status of the environment with respect to effects of hazardous substances; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the State Department of Health Services is requested to:

(1) Undertake an epidemiological study or other suitable health risk assessment study of the affected population at risk in the Stringfellow Quarry hazardous waste site area in Riverside County, to determine possible incidence of chemically-induced diseases resulting from the approximately 32 million gallons of liquid chemical wastes dumped there between 1956 and 1972; or in the event that the department does not feel such a study is warranted, to outline its reasons and backup data.

(2) Outline the department's current capabilities in coordination with other state departments for conducting an ongoing program to monitor human health and the environment in order to detect and investigate as early as possible, adverse effects on health and on the human environment from hazardous substances.

(3) In the event that the department does not have current capabilities to undertake studies of high quality in this area, to outline the funds and staffing necessary to provide the State of California with a laboratory and staff of high quality necessary for present and likely future needs in this area and the timetable required to set up such an operation.

(4) Investigate and report on the possibilities of utilizing federal laboratories and staff for such epidemiological studies, or for contracting with the private sector, and the relative costs and quality of work from these alternatives compared to the state's establishing its own facilities and staff.

(5) Explore whether there is potential for a state operation to receive funding and grants from the federal government, and contracts from other governmental and private sources, as a method of offsetting costs of establishing a state facility, as has been accomplished by the State of New York.

(6) Report to the Legislature within three months following adoption of this resolution; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the State Director of Health Services.

RESOLUTION CHAPTER 82

Senate Concurrent Resolution No. 26—Relative to the expanded availability and use of manufactured housing.

[Filed with Secretary of State September 11, 1979.]

WHEREAS, The manufactured housing industry is the only housing industry providing housing for Californians of low and moderate incomes without government subsidies; and

WHEREAS, Nationally, the manufactured housing industry provides 95 percent of all housing costing under $30,000; and

WHEREAS, Neither state nor local governments have indicated a full awareness of the potential of the manufactured housing industry to respond to the critical housing needs of California; now, therefore, be it

Resolved, by the Senate of the State of California, the Assembly thereof concurring, That the California Legislature urges all levels of government to take all reasonable steps, consistent with the policies, goals, and objectives of the governmental unit involved, to facilitate the use of manufactured housing as a response to state and local housing needs; and be it further

Resolved, That the Department of Housing and Community Development is requested to report to the Legislature, on or before June 30, 1980, its analysis of the condition of the manufactured housing industry in California, including, but not limited to, specific comment on:

(a) What the State of California has done to encourage and facilitate the use of manufactured housing.

(b) The number of manufactured housing units now in existence in the cities and counties of the state.

(c) The ways in which manufactured housing is treated under local land use law and policy and the extent to which that treatment differs from that accorded to so-called conventional housing; and be it further

Resolved, That the Director of Housing and Community Development consult with the Department of Finance, representatives of California cities and counties, and the manufactured housing industry to determine what an adequate supply of manufactured housing consists of, based upon data which includes a comparison of manufactured homes to site-built single-family housing starts; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Secretary of State and the presiding officer of each house of the Legislature, to each city and county within California, and to the Director of Housing and Community Development and the Director of Finance.

RESOLUTION CHAPTER 83

Assembly Concurrent Resolution No. 22—Relative to a wildlife preserve.

[Filed with Secretary of State September 11, 1979]

WHEREAS, The people of the state are concerned about protecting and preserving existing native wildlife; and

WHEREAS, Wildlife which exists or has existed naturally in areas of steep terrain is a unique and important representative of the natural history of California, and therefore, when possible and deemed appropriate by the Legislature, should be protected through the establishment of wildlife management areas or ecological reserves, as provided in Article 2 (commencing with Section 1525) and Article 4 (commencing with Section 1580) of Chapter 5 of Division 2 of the Fish and Game Code; and

WHEREAS, The terrain in the area of the Don Pedro Reservoir appears to be well suited as a natural habitat for a variety of animal and plant species, and may afford an opportunity for both the preservation of critical, unique, or scarce habitat and wildlife species and the enjoyment of these natural resources by the public; and

WHEREAS, The possibility of a wildlife management area or ecological reserve being created in such an area is partially dependent on ownership of the land, much of which may already be in public ownership; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Department of Fish and Game be requested to conduct a study to determine the feasibility of creating a wildlife management area or an ecological reserve in the area of the Don Pedro Reservoir; and be it further

Resolved, That the Department of Fish and Game be requested to report its findings, including expected costs to the state in establishing such a wildlife area, to the Assembly Water, Parks and Wildlife Committee and the Senate Natural Resources and Wildlife Committee by January 1, 1980; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Director of the Department of Fish and Game.

RESOLUTION CHAPTER 84

Assembly Concurrent Resolution No. 33—Relative to executive agencies.

[Filed with Secretary of State September 11, 1979]

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature urges the executive agencies of this state to issue only documents which are (1) written in a clear and coherent manner using words with common and everyday meanings and (2) appropriately divided and captioned by sections.

RESOLUTION CHAPTER 85

Assembly Concurrent Resolution No. 37—Relative to expenses of the state.

[Filed with Secretary of State September 11, 1979]

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 William G. Eberley, Department of Alcoholic Beverage Control, for a suggestion that results in increased revenue of thirty-one thousand nine hundred seventy-six dollars ($31,976), by suggesting that the fee charged for the taking of fingerprints be increased to offset the department's expense of manpower, equipment, and facilities; and

WHEREAS, An award of nine hundred ninety-nine dollars ($999), divided equally, has already been made to Shirley D. Lewallen, Virginia M. Chapman, and Bonnie Wood, Department of Alcoholic Beverage Control, for a suggestion that results in annual savings of twelve thousand one hundred thirty-nine dollars ($12,139), by suggesting the elimination of one set of file cards used to record license renewal information; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Arthur I. Winston, Department of Consumer Affairs, for a suggestion that results in annual savings of thirty-three thousand dollars ($33,000), by proposing a method which reduces the costs of the WATS telephone facilities in handling consumer complaints; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Norman L. Shoemaker, Department of Corrections, who with the material assistance of his immediate supervisor, W. A. Merkle, suggested a procedure which results in annual savings of sixty-nine thousand one hundred fifty-five dollars ($69,155), by recommending the installation of a linedex file system and a mail receipting system in the mailroom at San Quentin State Prison; and

WHEREAS, An award of one thousand dollars ($1,000), divided equally, has already been made to Donald P. Gorman and Jerry Kellar, Employment Development Department, for a suggestion

that results in annual savings of eighteen thousand two hundred thirty-four dollars ($18,234), by suggesting that the notices of claim filed and computation of benefit amounts be bar coded to permit insertion of more than one notice into one envelope instead of each being separately mailed; and

WHEREAS, An award of one thousand dollars ($1,000), divided equally, has already been made to Vivian C. DeCorreau and Catherine Burke, Employment Development Department, for a suggestion that results in annual savings of sixteen thousand eight hundred forty-three dollars ($16,843), by suggesting that disability insurance elective coverage wage records be updated weekly instead of quarterly to improve their accuracy; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Drew A. Martin, Employment Development Department, for a suggestion that results in annual savings of twelve thousand six hundred ninety-three dollars ($12,693), by recommending Employment Development Department purchase duplicating paper direct from a private vendor at a reduced rate; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to F. Lee Bunyard, Franchise Tax Board, for a suggestion that results in annual savings of eighty-five thousand seven hundred sixty-three dollars ($85,763), by suggesting that the Notice of Tax Change, prepared for personal income tax returns when a refund is due, be included in the refund warrant envelope prepared by the Controller's Office; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Beverly Jean Sinclair, Franchise Tax Board, for a suggestion that results in annual savings of twenty thousand six hundred twenty-six dollars ($20,626), by recommending a change in the key data entry procedure for computer processing personal income tax returns, reducing key data operator time and incidence of error; and

WHEREAS, A supervisory participation award is recommended for Gabriel G. Godina, Department of General Services, for materially assisting in the development of a suggestion, for which an award of one thousand dollars ($1,000), divided equally, has been made to Werner P. Schon and Frederick R. Young, which resulted in annual savings of ten thousand three hundred ninety-seven dollars ($10,397), for adapting mechanical seals to replace standard parts on chill water pump shafts, which required frequent maintenance; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to W. R. Fisk, Department of Motor Vehicles, for a suggestion that results in annual savings of twenty-five thousand one hundred ninety-one dollars ($25,191), by recommending that the department accept a valid medical certificate from drivers license applicants upon renewals instead of requiring a medical examination report prescribed by the department; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Marjorie Kvarnstrom, Department of Motor Vehicles,

for a suggestion that results in increased revenue of fifteen thousand three hundred sixty-five dollars ($15,365), by recommending an increase in the charge for transcripts of departmental hearings; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Jean Matsuura, Department of Motor Vehicles, for a suggestion that results in annual savings of eleven thousand nine hundred fifty-one dollars ($11,951), by suggesting that several forms employed in the process of suspending and reinstating driving privileges under the Compulsory Financial Responsibility Law be combined and filed for ready accessibility when the reinstatement process is initiated; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Edith M. Carr, Department of Motor Vehicles, for a suggestion that results in annual savings of twelve thousand six hundred ninety-two dollars ($12,692), for recommending the use of a simplified filing and data-processing update procedure to remail unclaimed registration mail when a new address becomes known; and

WHEREAS, An award of one thousand dollars ($1,000), divided equally, has already been made to Dennis B. Shields and Francis L. McWalters, Department of Transportation, for a suggestion that results in annual savings of twelve thousand nine hundred fifteen dollars ($12,915), by suggesting discontinuance of the purchase of title reports, escrow services and title insurance policies on properties with an estimated value of less than $500; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Bob W. Krause, Department of Transportation, for a suggestion that results in annual savings of seventeen thousand two hundred forty-eight dollars ($17,248), by suggesting the use of a commercial, ready-mixed asphalt for traffic detector and loop replacement sealer instead of epoxy; and

WHEREAS, An award of eight hundred forty dollars ($840), divided equally, has already been made to Paul R. White and Tobe D. Stone, Department of Transportation, and a supervisor's award of one hundred sixty dollars ($160) has already been made to their supervisor, Leo Quinn, for a suggestion that results in annual savings of ten thousand five hundred three dollars ($10,503), for developing a device to eliminate hand labor in removing sand and other deposits from under guardrails; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Garith Helm, California State College, Stanislaus, for a suggestion that results in annual savings of eleven thousand five hundred fifty-five dollars ($11,555), for designing, fabricating, and installing a microprocessor-controlled port and terminal selector on their time-sharing computer which permits a substantial increase in the number of ports and terminals available to students; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Ray G. Irving, Department of Water Resources, for a suggestion that results in annual savings of twenty-seven thousand

nine hundred eighty-five dollars ($27,985), by modifying surplus measuring devices and adapting them to provide a less expensive and safer method of obtaining details of underwater river and reservoir topography; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to E. W. DeWeert, Department of Youth Authority, for a suggestion that results in annual savings of thirteen thousand four hundred twenty-four dollars ($13,424), by recommending that the reports required when a parolee is arrested and charged with a new offense only advise the board that the offense falls within the detention criteria established by board policy and address the subject of the need to detain or not to detain; and

WHEREAS, The suggestions of these employees have resulted in annually recurring savings and increased revenue amounting to four hundred sixty-nine thousand six hundred fifty-five dollars ($469,655); 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:

William G. Eberley, two thousand one hundred ninety-eight dollars ($2,198).

Shirley D. Lewallen, seventy-two dollars ($72).

Virginia M. Chapman, seventy-two dollars ($72).

Bonnie Wood, seventy-two dollars ($72).

Arthur I. Winston, six hundred fifty dollars ($650).

Norman L. Shoemaker, five thousand nine hundred fifteen dollars ($5,915).

W. A. Merkle, two thousand seventy-five dollars ($2,075).

Donald P. Gorman, four hundred ten dollars ($410).

Jerry Kellar, four hundred ten dollars ($410).

Vivian C. DeCorreau, three hundred forty-two dollars ($342).

Catherine Burke, three hundred forty-two dollars ($342).

Drew A. Martin, two hundred seventy dollars ($270).

F. Lee Bunyard, seven thousand five hundred seventy-six dollars ($7,576).

Beverly Jean Sinclair, one thousand sixty dollars ($1,060).

Gabriel G. Godina, three hundred twelve dollars ($312).

W. R. Fisk, one thousand five hundred twenty dollars ($1,520).

Marjorie Kvarnstrom, five hundred thirty-five dollars ($535).

Jean Matsuura, one hundred ninety-five dollars ($195).

Edith M. Carr, two hundred seventy dollars ($270).

Dennis B. Shields, one hundred forty-five dollars ($145).

Francis L. McWalters, one hundred forty-five dollars ($145).

Bob W. Krause, seven hundred twenty-five dollars ($725).

Paul R. White, one hundred five dollars ($105)

Tobe D. Stone, one hundred five dollars ($105).
Leo Quinn, one hundred fifty dollars ($150).
Garith Helm, one hundred fifty-five dollars ($155).
Ray G. Irving, one thousand eight hundred dollars ($1,800).
E. W. DeWeert, three hundred forty dollars ($340); 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, the State Controller, the Department of General Services and to the Department of Finance; and be it further

Resolved, That the Legislature recommends that the Department of General Services, with the assistance of the Department of Finance, adopt practices to reduce state costs for postage and handling by consolidating mailings of state documents to the same addressee, wherever possible, and report its adopted practices in this regard to the Legislature by January 1, 1980.

RESOLUTION CHAPTER 86

Assembly Joint Resolution No. 52—Relative to funding for the National Training Center at Fort Irwin, California.

[Filed with Secretary of State September 11, 1979]

WHEREAS, Fort Irwin, California, has been selected by the Department of Defense as the National Training Center for the Armed Forces of the United States; and

WHEREAS, The purpose of the National Training Center is to provide simulated combat situations in the training of the Armed Forces, thereby enhancing their effectiveness and survivability in any future combat situation; and

WHEREAS, The California National Guard has been operating Fort Irwin for seven years and training its members at that location for over 25 years; and

WHEREAS, The California Legislature has enacted, and the Governor has signed, Senate Bill 952 into law as Chapter 402 of the Statutes of 1979, authorizing the Commanding General of the California National Guard to contract with the United States for the purposes of training of federal military personnel; and

WHEREAS, The Military Subcommittee of the United States House Armed Services Appropriations Committee has deleted from the national defense appropriations bill the funding for a National Training Center for the 1980–81 fiscal year; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California supports the National Training Center at Fort Irwin, California and respectfully memorializes the United States House Armed Services

Appropriations Committee to restore the funding for the 1980–81 fiscal year for the National Training Center at Fort Irwin; 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 each member of the House Armed Services Committee.

RESOLUTION CHAPTER 87

Assembly Concurrent Resolution No. 46—Relative to the application of tax laws and the conduct of business through the independent contractor relationship.

[Filed with Secretary of State September 12, 1979.]

WHEREAS, Many hundreds of thousands of real estate licensees in California, constituting a vast majority of such licensees, maintain their relationships with one another as independent contractors, rather than employers and employees; and

WHEREAS, It appears that the utilization of this form of relationship is inherently suitable to many who are engaged in the real estate business, as evidenced by its widespread application; in addition, the characteristics of service as real estate salespersons are marked by individuality in methods of performance, irregularity in hours of service to meet the needs of the public, compensation established solely through commissions related to sales, the incurrence or limitation of expenses in relationship to sales activity established and assumed by salespersons, and other pertinent characteristics which make the independent contractor relationship suitable for such licensees; and

WHEREAS, The determination of whether an independent contractor or employer-employee relationship exists is made not solely by the agreement and intent of the parties, but by application of the principles of law to the relationship between the parties (as determined in Brown v. Industrial Accident Commission, 44 Cal. App. 2d 6); and

WHEREAS, For tax purposes, the determination of the relationship is significant and is frequently the subject of audit by the Employment Development Department (as the agent for the Franchise Tax Board) or the Internal Revenue Service; and

WHEREAS, It is recognized that for tax purposes, either the independent contractor or employer-employee relationship may exist, dependent upon circumstances as enunciated in Dimitt, et al. v. Finnegan (179 F. 2d 882, review denied, 340 U.S. 823) and in 59

Ops. Cal. Atty. Gen. 369; and

WHEREAS, It is desirable for purposes of tax planning, for equity in the application of the tax laws, and for purposes of uniform administration of those laws, that taxpayers in this state who are real estate licensees have available to them guidelines published by the state, similar to those published by the Internal Revenue Service in Mimeograph 6566, which will set forth the criteria to be applied in determining whether an independent contractor relationship exists; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Franchise Tax Board, after consultation with the Employment Development Department and taxpayer groups involved, promulgate, through regulations to be adopted pursuant to the Administrative Procedure Act, guidelines to be used in determining the distinguishing characteristics in the real estate industry between the status of independent contractor and employer-employee, as applied to practices in that industry; and be it further

Resolved, That such guidelines incorporate (1) California statutory law on taxation, (2) common law applicable in California, (3) applicable California court decisions, (4) applicable United States court decisions, (5) Internal Revenue Service regulations, and (6) practices in the industry in California; and be it further

Resolved, That the Franchise Tax Board report to the Speaker of the Assembly and Senate Rules Committee on the action taken in response to this resolution by March 1, 1980; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Employment Development Department and the Franchise Tax Board.

RESOLUTION CHAPTER 88

Assembly Concurrent Resolution No. 59—Relative to California wines.

[Filed with Secretary of State September 12, 1979]

WHEREAS, The California wine industry is an important element in California agriculture and the California economy; and

WHEREAS, Over 329,000 acres are planted in wine grapes; and

WHEREAS, California's $2,000,000,000 wine industry ranks third in the State of California agricultural businesses behind only cotton and dairy industries; and

WHEREAS, The California wine industry employs over 11,000 Californians, not including vineyard workers, and

WHEREAS, The California wine industry contributes over $61,000,000 to the State of California through the payment of various

business taxes; and

WHEREAS, California wines enjoy an increasing reputation for quality and value among wine-knowledgeable consumers around the world; and

WHEREAS, The California winegrower seeks only reciprocity of treatment, desiring to work and create in an environment where California wines compete with the best in the world to gain their fair share of consumer support; and

WHEREAS, In 1960, California wineries produced 79 percent of all wine sold in the United States, but in the first six months of 1978, California's share of the American market has been reduced to 70.5 percent, which diminution, if continued or accelerated, will have an extremely serious adverse impact on the California wine industry; and

WHEREAS, California opens its markets for all commodities on a free and openly accessible basis; and

WHEREAS, Given the erosion of the California share of the American wine market to foreign wine interests, it is important for California wines to have access to markets in sister states without being subject to repressive trade barriers; and

WHEREAS, Trade barriers imposed on California wines by sister states have a negative impact on the California economy, such trade barriers to California wines being in direct contrast to the position of commodities in other states coming into California; therefore be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the members endorse the efforts of the wine industry to have access to American markets without being subject to restrictive trade barriers including regressive excise taxes; and be it further

Resolved, That any restrictive trade barrier imposed by a sister state upon the California wine industry be considered detrimental to the interests of the State of California.

RESOLUTION CHAPTER 89

Assembly Concurrent Resolution No. 74—Relative to marathon runs.

[Filed with Secretary of State September 12, 1979]

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; and

WHEREAS, The first Sunday in May and the second Sunday in October mark the occasions of the running of the Avenue of the Giants Marathon and the Humboldt Redwoods Marathon in Humboldt County; and

WHEREAS, The sponsor is Six Rivers Running Club, Inc., which since 1970 has sponsored races in the north coast area for general health, recreation, and sport purposes; and

WHEREAS, The Avenue of the Giants Marathon is one of the top fifteen races in the nation and it is planned that the Humboldt Redwoods Marathon will be of the same quality and greatness for the benefit of spectators and participants alike; and

WHEREAS, The impact of both marathon races during the nontourist season is great since many runners who come for the race discover the beauty of the majestic redwoods and return to the area at a later time, so that the financial benefits to the area residents and to Humboldt County would be substantial; 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 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 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 department is further requested to authorize the closure on Sunday May 4, 1980, from 9:00 a.m. until 2:00 p.m. of Bull Creek Flats Road for seven miles west of Dyerville Bridge and of the Avenue of the Giants south of Dyerville Bridge for six miles to permit the use of these roads as the course for the Avenue of the Giants Marathon; and be it further

Resolved, That the department is further requested to authorize the closure on Sunday October 14, 1979, from 9:00 a.m. until 2:00 p.m. of the Avenue of the Giants south of Dyerville Bridge for 13.1 miles to permit its use as the course for the Humboldt Redwoods Marathon; and be it further

Resolved, That 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.

RESOLUTION CHAPTER 90

Assembly Joint Resolution No. 28—Relative to fire hazards of tobacco products.

[Filed with Secretary of State September 12, 1979.]

WHEREAS, The California Fire Incident Reporting System reports that during the year 1976, approximately 50 percent of dwelling fires originated in kitchen, sleeping, hallway, and living areas; and

WHEREAS, The State Fire Marshal reports that discarded smoking materials are still one of the major causes of dwelling fires and that 65 percent of reported fire deaths occurred in residences; and

WHEREAS, The 1976 California Fire Incident Reporting System reports that 26.1 percent of hospital fires in the state are caused from cigarettes, and 30 percent of fires in those hospitals are caused by abandoned or discarded material such as cigarettes; and

WHEREAS, The United States Fire Administration reports that 7,500 persons annually die from fire and smoke; and

WHEREAS, The estimated number of fire deaths due to "dropped cigarettes" total 1,800 annually, an average of five deaths per day; and

WHEREAS, The National Fire Protection Association reports the estimated annual amount of dollar loss in the United States due to fires caused by dropped cigarettes totals 1½ to 2 billion dollars; and

WHEREAS, Experiments have shown that a freshly lit cigarette will burn continuously for an average of 24 minutes when placed on a flat surface; and

WHEREAS, With rare exceptions, it has been shown that a discarded cigarette must burn for approximately five minutes or more before a fire will start; and

WHEREAS, Tobacco companies produce fast burning cigarettes by various methods, the most common by adding citrate and phosphate salts to cigarette paper as a burn promoter, by using porous cigarette paper which aids in the burning process, and by adding sodium and potassium nitrate in tobacco to promote burning; and

WHEREAS, There are over 20 patents that detail methods for making cigarettes self-extinguish; and

WHEREAS, Tobacco companies can modify cigarettes in various ways to produce a self-extinguishing product; and

WHEREAS, It is becoming increasingly apparent that in addition to public awareness campaigns and educational programs conducted by governmental agencies, the cigarette industry should produce firesafe cigarettes; and

WHEREAS, Tobacco and tobacco products are specifically excluded from the provisions of the Consumer Product Safety Act

(15 U.S.C. 2051) and the Federal Hazardous Substance Act (15 U.S.C. 1261); and

WHEREAS, Continued disregard of the contribution that the careless use of tobacco and tobacco products, particularly cigarettes, makes to the increasing number of dwelling and hospital fires is inexcusable; 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 undertake appropriate legislative action banning the production of any cigarette that does not self-extinguish in five minutes or less and, thereby, establishing safety standards for cigarettes produced and sold in the United States in an effort to bring about a decline in dwelling, hospital, and other cigarette caused fires throughout the United States; 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 each member of the Consumer Product Safety Commission, to the Federal Food and Drug Administration, to the Bureau of Alcohol, Tobacco, and Firearms Enforcement of the United States Treasury Department, and to the Secretary of Health, Education and Welfare.

RESOLUTION CHAPTER 91

Senate Concurrent Resolution No. 22—Relative to a study of rate-setting procedures for community care facilities.

[Filed with Secretary of State September 13, 1979.]

WHEREAS, The Legislature of the State of California has affirmed on numerous occasions that it is the policy of this state to ensure the development of sufficient numbers and types of community care facilities as are commensurate with local need, as alternatives to inappropriate institutionalization, in order to better serve the mentally disordered, the physically and developmentally disabled, dependent and neglected children, wards of the juvenile court, aging persons, and others with special needs; and

WHEREAS, This legislative intent is most clearly set forth, in part, in Sections 4501, 5115, 5450, and 5600 of the Welfare and Institutions Code, and Section 1566 of the Health and Safety Code; and

WHEREAS, This legislative intent has been frustrated because there exists in California a fragmented system of rate-setting procedures for community care facilities which assigns placement responsibilities for similar categories of individuals who have special

needs to a myriad of separate state and local public agencies; and

WHEREAS, A system of disparate rates creates unfair advantages for certain placement agencies, leading to conditions of overconcentration and oversaturation of community care facilities in certain communities, and resulting in a significant number of persons with special needs being placed, contrary to the intent of the Legislature, in facilities located outside of their home community; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Senate Health and Welfare Committee conduct a study of the rate-setting procedures for community care facilities established by various state and local public agencies, and make recommendations to provide greater equity and parity in the rate-setting process, regardless of the responsible state or local placement agency, but recognizing the differences in the cost of living in the various regions of the state, and to ensure uniform standards for monitoring the quality of services in community care facilities ; and be it further

Resolved, That such study shall be conducted by contractors who shall be expert consultants mutually selected by the Senate Health and Welfare Committee and the Assembly Health Committee; and be it further

Resolved, That the contractors consult with the organizations representing providers, consumers, and others interested in community care facilities, including, but not limited to, the State Departments of Mental Health, Developmental Services, Health Services, and Social Services, and the Department of the Youth Authority; the Office of Aging; the State Council on Developmental Disabilities; the Association of Regional Center Agencies; the Organization of Mental Health Advisory Boards; the Organization of Area Boards on Developmental Disabilities; the Advisory Committee on Community Care Facilities of the State Department of Social Services; the League of California Cities; the County Welfare Directors Association; the California Probation, Parole, and Correctional Association; the California Association of Children's Residential Centers; and the California Association for the Retarded; and be it further

Resolved, That the contractors submit a preliminary report within six months following the date of the contract and submit a final report of the study conducted pursuant to this resolution, including findings and recommendations, within one year following the date of the contract to the Senate Health and Welfare Committee and the Assembly Health Committee; and be it further

Resolved, That the sum of one hundred thirty-five thousand dollars ($135,000) is hereby allocated from the Joint Legislative Contingent Fund for the purpose of contracting for the study required by this measure; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Senate Health and Welfare Committee and the

Assembly Health Committee and to each of the agencies and organizations listed above.

RESOLUTION CHAPTER 92

Senate Concurrent Resolution No. 28—Relative to wetlands.

[Filed with Secretary of State September 13, 1979]

WHEREAS, Over 90 percent of the historical natural wetlands in California have been lost by conversion to other land uses; and

WHEREAS, Those wetlands remaining provide critically important habitat for a wide variety of wildlife and thereby provide an important benefit to the people of the state; and

WHEREAS, The state and federal wildlife agencies have determined that loss of wetland habitat and, particularly, waterfowl wintering habitat, have had a severe adverse effect on the number of waterfowl on the Pacific Flyway; and

WHEREAS, If this trend were to continue, the future of the Pacific Flyway waterfowl population would be threatened; and

WHEREAS, It is the intent of the legislature to preserve, protect, restore, and inhance California's wetlands and the multiple resources which depend upon them for the benefit of the people of the state; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Department of Fish and Game prepare a plan which will identify means by which existing wetlands can be protected from conversion to other land uses and be managed in such a manner as to optimize their value as waterfowl habitat, former wetlands can be restored to wetland status and new wetlands created, and additional recreational benefits can be provided on existing, restored, or newly-developed wetlands; and be it further

Resolved, That the plan shall include, but not be limited to, the following subjects:

(1) A program for maintaining existing wetlands habitat,

(2) A program for optimizing wildlife value of existing wetlands habitat,

(3) The identification of sufficient additional potential wetland habitat sites to increase the amount of wetlands in California by 50 percent and a program for the public and private acquisition of such lands,

(4) Potential sources of water to assure an adequate water supply for existing and newly-created wetlands,

(5) An expanded recreation program for existing and newly-created wetlands,

(6) Potential sources of funding to implement its plan, and

(7) Such other measures as the Department of Fish and Game

deems to be necessary and appropriate to implement the plan by the year 2000; and be it further

Resolved, That the Department of Fish and Game submit such plan to the Legislature not later than January 1, 1983; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Director of Fish and Game.

RESOLUTION CHAPTER 93

Senate Constitutional Amendment No. 21—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 6 of Article XVI thereof, relating to public funds.

[Filed with Secretary of State September 14, 1979]

Resolved by the Senate, the Assembly concurring, That the Legislature of the State of California at its 1979–80 Regular Session commencing on the fourth day of December, 1978, 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 6 of Article XVI thereof, to read:

SEC. 6. The Legislature shall have no power to give or to lend, or to authorize the giving or lending, of the credit of the State, or of any county, city and county, city, township or other political corporation or subdivision of the State now existing, or that may be hereafter established, in aid of or to any person, association, or corporation, whether municipal or otherwise, or to pledge the credit thereof, in any manner whatever, for the payment of the liabilities of any individual, association, municipal or other corporation whatever; nor shall it have power to make any gift or authorize the making of any gift, of any public money or thing of value to any individual, municipal or other corporation whatever; provided, that nothing in this section shall prevent the Legislature granting aid pursuant to Section 3 of Article XVI; and it shall not have power to authorize the State, or any political subdivision thereof, to subscribe for stock, or to become a stockholder in any corporation whatever; provided, further, that irrigation districts for the purpose of acquiring the control of any entire international water system necessary for its use and purposes, a part of which is situated in the United States, and a part thereof in a foreign country, may in the manner authorized by law, acquire the stock of any foreign corporation which is the owner of, or which holds the title to the part of such system situated in a foreign country; provided, further, that irrigation districts for the purpose of acquiring water and water

rights and other property necessary for their uses and purposes, may acquire and hold the stock of corporations, domestic or foreign, owning waters, water rights, canals, waterworks, franchises or concessions subject to the same obligations and liabilities as are imposed by law upon all other stockholders in such corporation; and

Provided, further, that this section shall not prohibit any county, city and county, city, township, or other political corporation or subdivision of the State from joining with other such agencies in providing for the payment of workers' compensation, unemployment compensation, tort liability, or public liability losses incurred by such agencies, by entry into an insurance pooling arrangement under a joint exercise of powers agreement, or by membership in such publicly-owned nonprofit corporation or other public agency as may be authorized by the Legislature; and

Provided, further, that nothing contained in this Constitution shall prohibit the use of State money or credit, in aiding veterans who served in the military or naval service of the United States during the time of war, in the acquisition of, or payments for, (1) farms or homes, or in projects of land settlement or in the development of such farms or homes or land settlement projects for the benefit of such veterans, or (2) any business, land or any interest therein, buildings, supplies, equipment, machinery, or tools, to be used by the veteran in pursuing a gainful occupation; and

Provided, further, that nothing contained in this Constitution shall prohibit the State, or any county, city and county, city, township, or other political corporation or subdivision of the State from providing aid or assistance to persons, if found to be in the public interest, for the purpose of clearing debris, natural materials, and wreckage from privately owned lands and waters deposited thereon or therein during a period of a major disaster or emergency, in either case declared by the President. In such case, the public entity shall be indemnified by the recipient from the award of any claim against the public entity arising from the rendering of such aid or assistance. Such aid or assistance must be eligible for federal reimbursement for the cost thereof.

And provided, still further, that notwithstanding the restrictions contained in this Constitution, the treasurer of any city, county, or city and county shall have power and the duty to make such temporary transfers from the funds in custody as may be necessary to provide funds for meeting the obligations incurred for maintenance purposes by any city, county, city and county, district, or other political subdivision whose funds are in custody and are paid out solely through the treasurer's office. Such temporary transfer of funds to any political subdivision shall be made only upon resolution adopted by the governing body of the city, county, or city and county directing the treasurer of such city, county, or city and county to make such temporary transfer. Such temporary transfer of funds to any political subdivision shall not exceed 85 percent of the taxes accruing to such political subdivision, shall not be made prior to the

first day of the fiscal year nor after the last Monday in April of the current fiscal year, and shall be replaced from the taxes accruing to such political subdivision before any other obligation of such political subdivision is met from such taxes.

RESOLUTION CHAPTER 94

Senate Concurrent Resolution No. 44—Relative to alcohol abuse.

[Filed with Secretary of State September 14, 1979]

WHEREAS, The Legislature has declared in Section 11775 of the Health and Safety Code that alcoholism is the most serious drug problem in California; and

WHEREAS, The annual economic costs of alcohol abuse and alcoholism amount to $4,200,000,000 dollars in California; and

WHEREAS, The Legislature has found that drinking drivers cause substantial fatalities, permanent disability, and property damage on California highways; and

WHEREAS, The Legislature has encouraged the development of alcoholism treatment programs for individuals convicted of a second or subsequent incident of drunk driving with the provision that participants be allowed to retain their driving privileges if they participate in an approved alcohol abuse treatment program for a period of one year; and

WHEREAS, The Department of Motor Vehicles and the Department of Alcohol and Drug Abuse report submitted to the Legislature in 1978 does not establish the effectiveness of the drinking driver treatment program as an alternative to license suspension or revocation; and

WHEREAS, In the same report, the Department of Motor Vehicles and the Department of Alcohol and Drug Abuse emphasize the need for the use of control groups in determining whether treatment programs for drinking drivers are effective; and

WHEREAS, The report submitted to the Legislature in 1975 by the California Department of Motor Vehicles and the Office of Alcohol Program Management pursuant to Senate Concurrent Resolution No. 44 of 1972 calls for the use of control groups in subsequent evaluation efforts; and

WHEREAS, Sacramento County has been awarded a $2,200,000 dollar demonstration contract by the United States Department of Transportation to conduct an evaluation of drinking driver treatment programs by utilizing control groups; and

WHEREAS, The results of this effort will be of importance to the Legislature in determining the effectiveness of treatment programs designed to reduce the threat of drinking drivers to the public's peace, health, and safety; and

WHEREAS, The Department of Alcohol and Drug Abuse, and the Department of Motor Vehicles agree that a research study involving a no-treatment control group is an essential aspect of their joint effort to reduce the societal impact of drinking and driving; and

WHEREAS, The law currently makes no express provision for the conduct of evaluation programs utilizing control groups; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That it is the expressed intent of the Legislature that Sacramento County, for the purposes of completing its contract with the U.S. Department of Transportation for the period ending June 30, 1980, be permitted to employ a rigorous experimental design utilizing the random assignment of clients to treatment and no-treatment control groups for persons convicted of driving under the influence of alcohol whom the Sacramento Municipal Court determines are eligible to participate in this research project; and be it further

Resolved, That Sacramento County ensure that, with the exception of those persons referred to a control group, convicted drunk drivers who are offered an alternative to license suspension are referred to a program approved by the Department of Alcohol and Drug Abuse, and that such program continue to meet all applicable standards.

RESOLUTION CHAPTER 95

Senate Concurrent Resolution No. 47—Relative to the Constitution of 1849 and the Treaty of Guadalupe Hidalgo.

[Filed with Secretary of State September 14, 1979.]

WHEREAS, The State of California grew from the confluence of cultures which produced the Constitution adopted in Spanish and English at Monterey in 1849; and

WHEREAS, The bilingual Constitution of California of 1849 established a government resting upon the sovereignty agreed upon by coequal societies in the Treaty of Guadalupe Hidalgo in 1848; and

WHEREAS, The dignity and importance of the language and culture to which California owes so much, must remain a matter of pride to our citizens; and

WHEREAS, Few Californians have had the opportunity to see the Constitution of California and the Treaty of Guadalupe Hidalgo, both of which serve as the basis for the laws citizens of this state live by and the land upon which they reside; and

WHEREAS, The roots and aspirations of the citizens of California must be continually reviewed and renewed to maintain the peace and harmony of the state; and

WHEREAS, The copies of the original Constitution of California of 1849 and the Treaty of Guadalupe Hidalgo of 1848, published by the Telefact Foundation, have been adopted by the State Board of Education as supplementary textbook material for use in public schools; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Senate and Assembly Rules Committees are hereby requested to procure 1200 copies each of the original Constitution of 1849 and the Treaty of Guadualupe Hidalgo of 1848, copies of which are to be made available to the Members of the Legislature.

RESOLUTION CHAPTER 96

Assembly Concurrent Resolution No. 87—Relative to the selection of the Auditor General of California.

[Filed with Secretary of State September 14, 1979.]

Resolved by the Assembly of the State of California, the Senate thereof concurring, That pursuant to Section 10504 of the Government Code, Thomas W. Hayes is selected as Auditor General of California.

RESOLUTION CHAPTER 97

Assembly Joint Resolution No. 51—Relative to the California National Guard Members' Farm and Home Loan program.

[Filed with Secretary of State September 14, 1979.]

WHEREAS, There has for many years been legislation in effect in California to provide low interest farm and home loan benefits to California veterans financed by general obligation bonds of the State of California; and

WHEREAS, In 1978, the Legislature enacted, effective January 1, 1979, a program of low interest farm and home loan benefits for members of the California National Guard similar to the California veterans' program except that the financing is through state revenue, rather than general obligation, bonds; and

WHEREAS, It is the intent and purpose of the National Guard members' program to encourage recruitment and enlistment, thereby fulfilling an important public purpose not only for the state but for the nation as well; and

WHEREAS, The California veterans' program has for some time used legislative authorization to issue revenue bonds and, while none

have been issued to date, there have been plans to utilize this method of financing to supplement general obligation bonds presently outstanding; and

WHEREAS, Legislation presently pending before the House of Representatives would eliminate the tax exempt status of revenue bonds both for the California veterans' and National Guard members' programs, with the probable result that both programs will be rendered unworkable through the use of revenue bond financing; 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 to preserve these important farm and home loan benefit programs for California National Guardsmen and veterans by exempting from any legislation, state agencies and programs that operate under state law; 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 98

Assembly Concurrent Resolution No. 83—Relative to memorializing the Honorable Harvey Johnson.

[Filed with Secretary of State September 18, 1979.]

WHEREAS, It was with the most profound sorrow that the Members learned of the passing of former California State Assemblyman Harvey Johnson, who represented the citizens of the county of Los Angeles in the 58th Assembly District from 1962 until 1974; and

WHEREAS, Mr. Johnson attended public schools in Sabetha, Kansas, where he was born on December 13, 1904, and graduated from the University of Kansas; and

WHEREAS, In 1926, Harvey Johnson moved to California and, in the following years, studied law at Southwestern University and at the Los Angeles College of Law, where he received his L.L.B. Degree in 1937, and was admitted to the California State Bar in 1938; and

WHEREAS, During the World War II years, Harvey Johnson ably served as a member of the Army Corps of Engineers and as Chairman of the Utilities Placement Division for the Santa Fe Dam Project; and

WHEREAS, Harvey Johnson joined the law firm of Wolford,

Johnson, Pike and Covell in 1945; thereafter participated in various activities involving the legal profession as President of the Pomona Bar Association and as a member of the American, California, Los Angeles County, Pomona, and Citrus Bar Associations; and was admitted to practice before the United States Supreme Court in 1972; and

WHEREAS, Mr. Johnson actively participated in civic and community affairs, unselfishly giving of his time, talent, energy, and dedication, as a member of the Potrero Heights School Board for six years and Chairman of that board for three years; as Chairman of the El Monte Board of Education; as Trustee of the El Monte Elementary School Board for 10 years; as a cubmaster, scout master, scouting coordinator liaison, and Commissioner and member of the Eagle Board of Review, for the Boy Scouts of America; as an Honorary Lifetime Member of the PTA; as a member and Trustee of the Masons; as a member and past President of the El Monte Rotary Club; and as a member of such organizations as the American Right of Way Association, the Founding Committee-Medicine Lodge Youth Camp, Table Toppers and Counsel, the Cerebral Palsy School, the Red Cross, the United Fund, the City of Hope, Duarte, the El Monte Historical Society, the El Monte-South El Monte Chamber of Commerce, and the Mid-Valley Drug Abuse Council; and

WHEREAS, Prior to his election to the Assembly in 1962, Harvey Johnson actively participated in politics as a delegate to the 25th Congressional Convention in 1958 and 1960 and as a member of such organizations as the 1958 Brown for Governor Campaign Committee, the 1960 Kennedy for President Campaign, the Finance Committee for Clair Engle for U.S. Senate and Richard Richards for State Senate, and the El Monte Democratic Club; and

WHEREAS, Harvey Johnson served with honor and distinction as an Assemblyman for the 58th Assembly District for a period of twelve years, from November of 1962 through November of 1974 when he retired; and

WHEREAS, During his term of office Harvey Johnson ably served as a member of the following committees: Agriculture, Commerce and Public Utilities, Government Organization, Judiciary, Water, California Council on Criminal Justice, and Joint Legislative Retirement; and

WHEREAS, During his term of office Harvey Johnson ably served as Chairman of the Inter-Governmental Relations Committee, Chairman of the Committee on Government Organization, and Vice Chairman of the Committee on Judiciary;

WHEREAS, Harvey Johnson is survived by his wife, Margaret; his three children, William Johnson, Richard Johnson, and Bettie Culleton; eight grandchildren; and four great grandchildren; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Members extend their deepest sympathies at the passing of a distinguished former Member of the

California State Assembly, the Honorable Harvey Johnson, and, by this resolution, memorialize his outstanding record of responsible citizenship and dedicated state service, and his devoted efforts on behalf of his family, friends, community, and state; and be it further

Resolved, That suitably prepared copies of this resolution be transmitted to Margaret Johnson, William Johnson, Richard Johnson, and Bettie Culleton.

RESOLUTION CHAPTER 99

Senate Concurrent Resolution No. 8—Relative to animal rights.

[Filed with Secretary of State September 18, 1979.]

WHEREAS, The State of California has in the past led the country in passing legislation which recognizes the principle of animal rights; and

WHEREAS, From childhood man should be taught to observe, understand, and respect animal life which idea is linked to respect for mankind; and

WHEREAS, To advance our civilization we must become aware of the rights of all animals; 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 should take effective measures to protect and defend the rights of animals by enacting humane and environmentally sound legislation.

RESOLUTION CHAPTER 100

Senate Concurrent Resolution No. 32—Relative to the Air Resources Board.

[Filed with Secretary of State September 18, 1979]

WHEREAS, The California electorate has mandated economy in government; and

WHEREAS, The budgets of the State Air Resources Board and local and regional air pollution control agencies have steadily increased; and

WHEREAS, Both the Environmental Protection Agency and the air quality management districts are addressing themselves to many of the same issues, problems, and projects as the state board; and

WHEREAS, There has been no definitive or objective study and analysis done of the possible duplication or triplication of effort and expense occurring within these three organizations; and

WHEREAS, There have been allegations of engineering

redundancies, surveillance duplications, varying standards, and overlapping and conflicting policies and programs regarding gasoline production, vapor recovery, automotive parts warranties, emission controls, and motor vehicle inspection; and

WHEREAS, There actually has been litigation between the air quality management districts and the state board; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislative Analyst is hereby requested to contract with an independent firm to conduct a study and to submit to the Legislature, not later than November 1, 1980, a report on a comparative analysis of the cost and benefits to California of the present three tier system of air quality management, identifying, describing, and analyzing the tasks, plans, programs, personnel, and costs of each of them to determine any and all areas of overlapping, duplication, and conflict. The study shall include consideration of the costs and benefits of improved pollution control technology, consumer protection, and more stringent enforcement of pollution control standards which result from the present system. In addition, the study shall utilize the results of ongoing studies by the Assembly Office of Research; and be it further

Resolved, That the report shall include recommendations on elimination of the overlaps, duplication, and conflict, along with recommended improvements in the management and enforcement of air pollution control programs in California; and be it further

Resolved, That each potential contractor be required to submit to the Legislative Analyst a list of all clients providing 5 percent or more of the firm's gross revenues for the immediately preceding calendar year; and be it further

Resolved, That the chosen contractor prepare and submit a progress report to the relevant policy committees of both houses for review and comment, not later than July 1, 1980; and be it further

Resolved, That the sum of one hundred fifty thousand dollars ($150,000) is hereby allocated from the Contingent Funds of the Assembly and Senate to the Legislative Analyst to carry out the purposes of this resolution; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the State Air Resources Board, to the Environmental Protection Agency, to the air quality management districts, and to the Legislative Analyst.

RESOLUTION CHAPTER 101

Senate Joint Resolution No. 25—Relative to Southern Pacific Transportation Company's San Francisco Peninsula commuter service.

[Filed with Secretary of State September 18, 1979.]

WHEREAS, The Southern Pacific Transportation Company petitioned the Interstate Commerce Commission on November 15, 1977, for permission to discontinue the operation of passenger rail commuter service between San Francisco and San Jose and intermediate points; and

WHEREAS, On July 6, 1979, an administrative law judge of the commission issued a preliminary affirmative ruling on this petition, and this ruling will become effective unless overturned by the commission or unless local public transit agencies within six months can negotiate a contract for service with Southern Pacific providing for reimbursement of its fully allocated operating deficit of $11.6 million; and

WHEREAS, The Counties of San Mateo and Santa Clara and the City and County of San Francisco have jointly allocated $1.05 million to stabilize Southern Pacific commuter fares through a discount ticket program, as authorized by Section 99151 of the Public Utilities Code; and

WHEREAS, Testimony by state and local air quality maintenance agencies before the commission during the course of the public hearings held with regard to the railroad's petition for discontinuance agreed that there will be significant detrimental impacts on the environment should the rail service be discontinued and its ridership forced to use motorized highway transportation; and

WHEREAS, The present gasoline shortage has resulted in a 40 percent increase in ridership on this commuter rail service during May and June 1979, and discontinuance of this vital transportation service would be inconsistent with federal energy conservation policies; and

WHEREAS, The California Department of Transportation and Southern Pacific Transportation Company have been negotiating since 1978 in an effort to arrive at an acceptable contract for service in order to keep this commuter service operating; and

WHEREAS, The Metropolitan Transportation Commission has by resolution opposed the discontinuance of this commuter service and has identified this service to be an important link in the regional transportation system in the San Francisco Bay area; and

WHEREAS, The Boards of Supervisors of the Counties of San Mateo and Santa Clara and the City and County of San Francisco have also opposed the discontinuance of this commuter rail service; and

WHEREAS, The Senate Transportation Committee of California is investigating different alternatives for improving rail passenger service between San Francisco and San Jose; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Southern Pacific Transportation Company is urged to withdraw its petition to the Interstate Commerce Commission for

discontinuance of passenger rail service between San Francisco and San Jose; and be it further

Resolved, That the Interstate Commerce Commission is respectfully memorialized to disapprove the decision of the commission's administrative law judge approving such discontinuance of service and to instead support state and regional efforts to negotiate an equitable contract with the Southern Pacific Transportation Company to continue these services; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Interstate Commerce Commission, to the Public Utilities Commission of California, and to the Southern Pacific Transportation Company.

RESOLUTION CHAPTER 102

Senate Joint Resolution No. 26—Relative to federal cooperative fire funding.

[Filed with Secretary of State September 18, 1979.]

WHEREAS, The proposed budget of the President of the United States sets forth a reduction in federal cooperative fire funding from thirty million dollars ($30,000,000) to zero; and

WHEREAS, State and federal cooperative fire protection is necessary to a program of adequate fire protection for western lands; and

WHEREAS, The President's zero funding proposal would result in an actual increased cost to the federal government for fire protection services now provided by other fire protection agencies, but unavailable due to loss of the cooperative fire protection program; and

WHEREAS, The House Committee on Appropriations has recognized the need for the Federal Cooperative Fire Protection Program and has recommended funding of the program, but at a level inconsistent with the needs of an adequate program; and

WHEREAS, The Senate Appropriations Subcommittee on Interior and Related Agencies is currently reviewing funding for the program; and

WHEREAS, The Federal Rangeland and Renewable Resources Program strongly supports the need for full funding of the Cooperative Fire Protection Program; and

WHEREAS, The fire control program of the State of California will be adversely impacted by the impending loss of federal fire

suppression support; and

WHEREAS, The House of Representatives has augmented the United States Forest Service appropriation by fifteen million dollars ($15,000,000) to replace this lost program; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Senate Appropriations Subcommittee on Interior and Related Agencies is hereby requested to recommend funding for the Federal Cooperative Fire Protection Program in an amount consistent with that recommended in the Rangeland and Renewable Resources Program but, in no event, in an amount less than fifteen million dollars ($15,000,000); and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Members of the Senate Appropriations Subcommittee on Interior and Related Agencies, and to the Governor and chief forestry administrators of the member states of the Western States Legislative Forestry Task Force.

RESOLUTION CHAPTER 103

Assembly Joint Resolution No. 29—Relative to the peripheral canal.

[Filed with Secretary of State September 24, 1979.]

WHEREAS, The peripheral canal has been studied by numerous governmental and private agencies for the past two decades; and

WHEREAS, Fish and wildlife habitat could be vastly improved by the utilization of the peripheral canal to correct many reverse flows; and

WHEREAS, All evidence has indicated that the peripheral canal is the best environmental solution while providing for an increased ability to fulfill contractual commitments of the State Water Resources Development System; and

WHEREAS, The Secretary of the Interior has let the exemption from the Multiple Objectives Planning (MOP) procedure for the peripheral canal lapse, which will add an additional four years of unnecessary study time; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California memorializes the Secretary of the Interior to renew the Multiple Objectives Planning (MOP) exemption for the peripheral canal and urges that all efforts be made to expedite any remaining necessary studies pertaining to the peripheral canal; 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.
