Volume 5

STATUTES OF CALIFORNIA

AND DIGESTS OF MEASURES

1982

Constitution of 1879 as Amended

Measures Submitted to Vote of Electors,
Primary Election, June 8, 1982
and General Election, November 2, 1982

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

1981–82 Regular Session
1981–82 First Extraordinary Session

Compiled by
BION M. GREGORY
Legislative Counsel

CHAPTER 1520

An act to amend Section 7737 of the Business and Professions Code, and to amend Sections 11158 and 12152 of the Welfare and Institutions Code, relating to preneed funeral arrangements, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 7737 of the Business and Professions Code is amended to read:

7737. All securities purchased by the trustor for deposit in trust and all money received from the trustor for deposit in trust shall be placed in trust with a trustee within 30 days of their receipt by the funeral director pursuant to a trust agreement executed by the funeral director, the trustor and trustee which shall provide that the trustee shall hold the money or securities in trust for the purposes for which deposited and that the trustee, upon the signature of a majority of such trustees, shall deliver the corpus of the trust to the funeral director upon the filing of a certified copy of the death certificate or other satisfactory evidence of the death of the beneficiary, together with satisfactory evidence that the funeral director has furnished the merchandise and services, provided, however, that (1) in the case of a trust agreement between any of the trustees set forth in Section 7736 and a recipient of public assistance, under the provisions of subdivision (a) of Section 11158 or paragraph (1) of subdivision (e) of Section 12152 of the Welfare and Institutions Code, and provided the value limitations of those sections are not exceeded, such trust agreement may further provide that it is irrevocable, and (2) in all other cases such trust agreement shall further provide that at any time before the funeral director has furnished the merchandise and services provided for in such contract the trustor or the legally appointed representative may in writing demand and receive the return of the corpus of the trust, together with any income accrued in the trust, less the revocation fee provided for in Section 7735; provided, however, that if and when the trustor becomes otherwise eligible, or in order to become eligible, for public social services, as provided in Division 9 (commencing with Section 10000) of the Welfare and Institutions Code, he or she may agree, at his or her option, that the trust shall be irrevocable in order to avail himself or herself of the provisions of Section 11158 or Section 12152 of the Welfare and Institutions Code. The delivery of the corpus of the trust and the accumulated income to the funeral director performing the services, trustor or beneficiary pursuant to

the terms of this article and the trust agreement herein referred to, shall relieve the trustee of any further liabilities with regard to such funds or income therefrom.

SEC. 2. Section 7737 of the Business and Professions Code is amended to read:

7737. (a) Anything of value delivered by, and all money received from the trustor, shall be placed in trust with a trustee within 15 days of receipt by the funeral director pursuant to a trust agreement executed by the funeral director, the trustor, and the trustee. The trust agreement shall provide that the trustee shall hold the corpus in trust for the purpose for which deposited and that the trustee, upon the signature thereof or, if a group of three or more trustees, upon the signature of a majority of the trustees, shall deliver the corpus of the trust to the funeral director upon the filing of a copy of the death certificate or other satisfactory evidence of the death of the beneficiary, together with satisfactory evidence that the funeral director has furnished the merchandise and services.

(b) In the case of a trust agreement between any of the trustees set forth in Section 7736 and a recipient of public assistance, under the provisions of subdivision (a) of Section 11158 or paragraph (1) of subdivision (e) of Section 12152 of the Welfare and Institutions Code, and provided the value limitations of those sections are not exceeded, the trust agreement may further provide that it is irrevocable. In all other cases the trust agreement shall further provide that at any time before the funeral director has furnished the merchandise and services provided for in the contract, the trustor or the legally appointed representative of the trustor may, in writing, demand and receive, within 15 days of receipt of the demand, the return of the corpus of the trust, together with any income accrued in the trust, except that if and when the trustor becomes otherwise eligible, or in order to become eligible, for public social services as provided in Division 9 (commencing with Section 10000) of the Welfare and Institutions Code, the trustor may agree, at his or her option, that the trust shall be irrevocable in order to avail himself or herself of the provisions of Section 11158 or Section 12152 of the Welfare and Institutions Code.

(c) The delivery of the corpus of the trust and the accumulated income to the funeral director performing the services, to the trustor, or to the beneficiary pursuant to the terms of this article and the trust agreement shall relieve the trustee of any further liabilities with regard to such funds or income therefrom.

(d) If, at any time or for any reason, a funeral director is unable to perform the funeral services, then, in that event, the trustees shall pay all of the corpus of the trust and accumulated income to the

beneficiary, the trustor, or the legal representative of either the beneficiary or trustor and, upon doing so, shall be relieved of any further liability with regard to the funds or the income therefrom.

SEC. 3. Section 11158 of the Welfare and Institutions Code is amended to read:

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

For the purposes of evaluating the personal property of a recipient, the value of the following items, in the aggregate, shall be whatever amount paid in exceeds one thousand eight hundred dollars ($1,800) or the dollar limit imposed by federal law, whichever is lower:

(a) Money or securities placed in an irrevocable trust for funeral, cremation, or interment expenses with any of the trustees mentioned in Section 7736 of the Business and Professions Code or Section 8775 of the Health and Safety Code.

(b) Money or securities placed in an irrevocable trust created by a deposit in an insured savings institution made by one person of his or her own money in his or her own name as trustee for a funeral director to provide payment for funeral services rendered by the funeral director upon the depositor's death.

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

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

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

SEC. 4. Section 12152 of the Welfare and Institutions Code is amended to read:

12152. In determining eligibility of any individual for the state supplementary payment administered by the federal government, in addition to any other income or resources disregarded by the secretary, the following additional amounts of income or resources of the individual shall be disregarded:

(a) Funds for readers, or educational scholarships, or both, which are not available to meet basic needs and which have been awarded

by a high school, college, or university or a vocational or technical training institution to any recipient of aid to the aged, blind or disabled under this chapter due to his or her blindness while he or she is regularly attending any public school in this state, the University of California, or any other institution of higher learning in this state, shall not be deemed property, income, or resource of the recipient for any purpose and no deduction therefor shall be made from the recipient's amount of aid.

(b) The value and the occupancy value of the home owned by the aged, blind or disabled individual or in combination with any other person if it serves to provide him or her with a home. In the event that this subdivision is in conflict with federal regulations pertaining to the value of such home, federal law shall supersede this subdivision with the respect to the value of such home. Persons who would otherwise be eligible under this chapter except for the value of their home, shall nevertheless be entitled to grants under this chapter at the same level as are established for persons whose home is within the federal home value limits. Payments for such persons shall, if federal law permits, be administered by the secretary. If federal law does not so permit, such grants shall be paid by the counties, and the costs, including administrative costs, shall be deducted from the individual county's contribution required under Section 12400.

(c) Additional payments made from any source to a vendor in order to meet the needs of recipients as determined by the county welfare department.

(d) Any other exclusions provided for in Chapter 4 (commencing with Section 12500) and Chapter 6.5 (commencing with Section 13900).

(e) The value of the following items in the aggregate except that any amount paid in excess of one thousand eight hundred dollars ($1,800) or the dollar limit imposed by federal law, whichever is lower, shall not be disregarded:

(1) Money or securities placed in an irrevocable trust for funeral, cremation, or interment expenses with any of the trustees mentioned in Section 7736 of the Business and Professions Code or Section 8775 of the Health and Safety Code.

(2) Money or securities placed in an irrevocable trust created by a deposit in an insured savings institution made by one person of his or her own money in his or her own name as trustee for a funeral director to provide payment for funeral services rendered the funeral director upon the depositor's death.

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

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

(f) Interment plots as defined in Section 7022 of the Health and

Safety Code.

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

SEC. 6. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

SEC. 7. It is the intent of the Legislature, if this bill and Assembly Bill 3575 are both chaptered and become effective on or before January 1, 1983, both bills affect Section 7737 of the Business and Professions Code, and this bill is chaptered after Assembly Bill 3575, that Section 7737 of the Business and Professions Code, as amended by Section 1 of this act, shall remain operative until the effective date of Assembly Bill 3575, and that on the effective date of Assembly Bill 3575 Section 7737 of the Business and Professions 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 7737 of the Business and Professions Code proposed by Assembly Bill 3575. Therefore, if this bill and Assembly Bill 3575 are both chaptered and become effective on or before January 1, 1983, and Assembly Bill 3575 is chaptered before this bill and affects Section 7737 of the Business and Professions Code, Section 2 of this act shall become operative on the effective date of Assembly Bill 3575.

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

In order to ensure that public assistance recipients do not lose their benefits if they elect to enter into a preneed funeral arrangement, it is necessary that this act go into immediate effect.

CHAPTER 1521

An act to amend Sections 584.1, 585.1, 591.3, and 2574 of, and to add Section 2575 to, the Probate Code, relating to estates.

[Approved by Governor September 28, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 584.1 of the Probate Code is amended to read:

584.1. Pending the settlement of an estate, an executor or administrator may, in his or her discretion, without prior court authorization, invest and reinvest in direct obligations of the United States maturing not later than one year from the date of making the investment or reinvestment. The executor or administrator also may, in his or her discretion, without prior court authorization, invest in mutual funds which are comprised of (1) those obligations, or (2) repurchase agreements with respect to any obligation, regardless of maturity, in which the fund is authorized to invest.

SEC. 2. Section 585.1 of the Probate Code is amended to read:

585.1. Pending the settlement of an estate, any money in the hands of the executor or administrator may be invested by the executor or administrator, without prior court authorization, for the benefit of the estate in units of a common trust fund described in Section 1564 of the Financial Code. Such common trust fund shall have as its objective investment primarily in short term fixed income obligations and shall be permitted to value investments at cost pursuant to regulations of the appropriate regulatory authority.

SEC. 3. Section 591.3 of the Probate Code is amended to read:

591.3. Prior to the consummation of any of the actions described in this section without court supervision, the executor or administrator to whom authority has been granted to act without court supervision shall advise the persons affected by the proposed action of his intention to take such action. The advice, known and referred to in this article as "advice of proposed action," shall be given to the devisees and legatees whose interest in the estate is affected by the proposed action; to the heirs of the decedent in intestate estates; to the State of California if any portion of the estate is to escheat to it; and to persons who have filed a request for special notice pursuant to Section 1202.

The actions requiring such advice are all of the following:

(a) Selling or exchanging personal property, except for securities sold upon an established stock or bond exchange and other assets referred to in Sections 770 and 771.5 when sold for cash.

(b) Leasing real property for a term in excess of one year.

(c) Entering into any contract, other than a lease of real property, not to be performed within two years.

(d) Continuing for a period of more than six months from the date of appointment of the executor or administrator of an unincorporated business or venture in which the decedent was engaged or which was wholly or partly owned by the decedent at the time of his or her death, or the sale or incorporation of such business.

(e) The first payment, the first payment for a period commencing 12 months after the death of the decedent, and any increase in the payments of, a family allowance.

(f) Investing funds of the estate, except depositing funds in banks and investing in insured savings and loan association accounts, in units of a common trust fund described in Section 585.1, in direct obligations of the United States maturing not later than one year from the date of investment or reinvestment, and in mutual funds which are comprised of (1) those obligations, or (2) repurchase agreements with respect to any obligation, regardless of maturity, in which the fund is authorized to invest.

(g) Completing a contract entered into by the decedent to convey real or personal property.

(h) Borrowing money or executing a mortgage or deed of trust or giving other security.

(i) Determining third-party claims to real and personal property if the decedent died in possession of, or holding title to, such property, or determining decedent's claim to real or personal property title to or possession of which is held by another.

SEC. 4. Section 2574 of the Probate Code is amended to read:

2574. (a) Subject to subdivision (b), the guardian or conservator, without authorization of the court, may invest funds of the estate pursuant to this section in:

(1) Direct obligations of the United States, or of this state, having a maturity at the time of acquisition of not more than five years and mutual funds which are comprised of (A) those obligations, or (B) repurchase agreements with respect to any obligation, regardless of maturity, in which the fund is authorized to invest.

(2) United States Treasury bonds redeemable at par value on the death of the holder for payment of federal estate taxes, regardless of maturity date.

(3) Stocks, bonds, and other securities listed on an established stock or bond exchange in the United States which are purchased on such exchange.

(b) In making and retaining investments made under this section, the guardian or conservator shall conform to Section 2261 of the Civil Code and shall take into consideration the circumstances of the estate, indicated cash needs, and, if reasonably ascertainable, the date of the prospective termination of the guardianship or conservatorship.

(c) Nothing in this section limits the authority of the guardian or conservator to seek court authorization for any investment, or to make other investments with court authorization, as provided in this division.

SEC. 5. Section 2575 is added to the Probate Code, to read:

2575. The guardian or conservator may, without prior court authorization, invest money belonging to the estate for the benefit of the estate in units of a common trust fund described in Section 1564 of the Financial Code. Such common trust fund shall have as its objective investment primarily in short term fixed income obligations and shall be permitted to value investments at cost pursuant to regulations of the appropriate regulatory authority.

CHAPTER 1522

An act to amend Section 1141.11 of the Code of Civil Procedure, relating to civil actions.

[Approved by Governor September 28, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 1141.11 of the Code of Civil Procedure is amended to read:

1141.11. (a) In each superior court with 10 or more judges, all at-issue civil actions pending on or filed after the operative date of this chapter shall be submitted to arbitration, by the presiding judge or the judge designated, under this chapter if the amount in controversy in the opinion of the court will not exceed fifteen thousand dollars ($15,000) for each plaintiff, which decision shall not be appealable.

(b) In each superior court with less than 10 judges, the court may provide by local rule, when it determines that it is in the best interests of justice, that all at-issue civil actions pending on or filed after the operative date of this chapter, shall be submitted to arbitration by the presiding judge or the judge designated under this chapter if the amount in controversy in the opinion of the court will not exceed fifteen thousand dollars ($15,000) for each plaintiff, which decision shall not be appealable. In the Superior Court of Sonoma County all at-issue civil actions pending between October 1, 1979, and October 1, 1983, shall be submitted to arbitration by the presiding judge or the judge designated under this chapter if the amount in controversy in the opinion of the court will not exceed fifteen thousand dollars ($15,000) for each plaintiff, which decision shall not be appealable.

(c) In each municipal court district, the municipal court district may provide by local rule, when it is determined to be in the best interests of justice, that all at-issue civil actions pending on or filed after the operative date of this chapter in such judicial district, shall be submitted to arbitration by the presiding judge or the judge designated under this chapter. The provisions of this section shall not apply to any action maintained pursuant to Section 1781 of the Civil Code or Section 116.2 or 1161 of this code.

(d) The provisions of this chapter shall not apply to those actions filed in a superior or municipal court which has been selected pursuant to Section 1823.1 and is participating in a pilot project pursuant to Title 1 (commencing with Section 1823) of Part 3.5; provided, however, that any superior or municipal court may provide by local rule that the provisions of this chapter shall apply to actions pending on or filed after July 1, 1979. Any action filed in such court after the conclusion of the pilot project shall be subject to

the provisions of this chapter.

(e) In the Counties of Santa Barbara and Ventura, actions in which the amount in controversy does not exceed twenty-five thousand dollars ($25,000) shall be submitted to arbitration.

SEC. 2. Section 1141.11 of the Code of Civil Procedure is amended to read:

1141.11. (a) In each superior court with 10 or more judges, all at-issue civil actions pending on or filed after the operative date of this chapter shall be submitted to arbitration, by the presiding judge or the judge designated, under this chapter if the amount in controversy in the opinion of the court will not exceed fifteen thousand dollars ($15,000) for each plaintiff, which decision shall not be appealable.

(b) In each superior court with less than 10 judges, the court may provide by local rule, when it determines that it is in the best interests of justice, that all at-issue civil actions pending on or filed after the operative date of this chapter, shall be submitted to arbitration by the presiding judge or the judge designated under this chapter if the amount in controversy in the opinion of the court will not exceed fifteen thousand dollars ($15,000) for each plaintiff, which decision shall not be appealable. In the Superior Court of Sonoma County all at-issue civil actions pending between October 1, 1979, and October 1, 1983, shall be submitted to arbitration by the presiding judge or the judge designated under this chapter if the amount in controversy in the opinion of the court will not exceed fifteen thousand dollars ($15,000) for each plaintiff, which decision shall not be appealable.

(c) In each municipal court district, the municipal court district may provide by local rule, when it is determined to be in the best interests of justice, that all at-issue civil actions pending on or filed after the operative date of this chapter in such judicial district, shall be submitted to arbitration by the presiding judge or the judge designated under this chapter. The provisions of this section shall not apply to any action maintained pursuant to Section 1781 of the Civil Code or Section 116.2 or 1161 of this code.

(d) The provisions of this chapter shall not apply to those actions filed in a superior or municipal court which has been selected pursuant to Section 1823.1 and is participating in a pilot project pursuant to Title 1 (commencing with Section 1823) of Part 3.5; provided, however, that any superior or municipal court may provide by local rule that the provisions of this chapter shall apply to actions pending on or filed after July 1, 1979. Any action filed in such court after the conclusion of the pilot project shall be subject to the provisions of this chapter.

(e) In the Counties of Los Angeles, San Bernardino, Santa Barbara, and Ventura, actions in which the amount in controversy does not exceed twenty-five thousand dollars ($25,000) shall be submitted to arbitration.

SEC. 3. No appropriation is made and no reimbursement is

required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the Legislature finds and declares that there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs.

SEC. 4. It is the intent of the Legislature, if this bill and Senate Bill 2088 are both chaptered and become effective on or before January 1, 1983, both bills amend Section 1141.11 of the Code of Civil Procedure, and this bill is chaptered after Senate Bill 2088, that Section 1141.11 of the Code of Civil Procedure, as amended by Section 1 of Senate Bill 2088, 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 this bill. Therefore, if this bill and Senate Bill 2088 are both chaptered and become effective on or before January 1, 1983, and Senate Bill 2088 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 1523

An act to amend Sections 15770, 15810, 15817, 15831, 15832, 15836, and 15847 of, to add Chapter 2.7 (commencing with Section 15814.10) to Part 10b of Division 3 of Title 2 of, to add Sections 15832.5, 15837.5, 15838.5, and 15845.5 to, and to repeal Section 15833 of, the Government Code, relating to state government, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 15770 of the Government Code is amended to read:

15770. There is in the state government the State Public Works Board. The board consists of the Director of Finance, the Director of Transportation, and the Director of General Services. For the purpose of hearing and deciding upon matters related to the issuance of revenue bonds pursuant to the State Building Construction Act of 1955 (Part 10b (commencing with Section 15800)), or any other law authorizing the issuance of revenue bonds, the Treasurer and the Controller shall be members of the board. Three Members of the Senate, appointed by the Senate Committee on Rules, and three Members of the Assembly, appointed by the Speaker, shall meet with and participate in the work of the board to the extent that such participation is not incompatible with their positions as Members of

the Legislature. The appointed Members of the Legislature constitute a legislative interim committee on the subject of this part with all the powers and duties imposed upon such committees by the Joint Rules of the Legislature.

The amendments made to this section at the 1981–82 Regular Session of the Legislature shall become operative on January 1, 1983.

SEC. 2. Section 15810 of the Government Code is amended to read:

15810. In the act authorizing the acquisition and construction of public buildings pursuant to this part, the Legislature shall provide whether certificates or revenue bonds shall be issued to finance such acquisition and construction, or whether the board may elect to use either method of financing.

SEC. 3. Chapter 2.7 (commencing with Section 15814.10) is added to Part 10b of Division 3 of Title 2 of the Government Code, to read:

CHAPTER 2.7. ENERGY CONSERVATION IN PUBLIC BUILDINGS

15814.10. To help implement the policy set forth in Section 25008 of the Public Resources Code, the board may develop energy conservation and cogeneration and alternative energy supply sources at state facilities in accordance with this chapter.

The intent of the Legislature in enacting this chapter is to provide a mix of financing options for the development of cost saving state energy projects. It is further the intent of the Legislature that, prior to using revenue bonds, the board consider other financing options available and the effect of the bond issuance on the bond market.

15814.11. For purposes of this part and Part 10.5 (commencing with Section 15750), the following terms have the following meanings:

(a) "Public building" means a public building as defined in Section 15802, and includes the cogeneration and alternative energy equipment and conservation measures which the board is authorized by this chapter to acquire and construct.

(b) "Energy service contract" means a contract entered into by the board or any other state agency with any person, including, but not limited to, an individual, company, corporation, partnership, state agency, or other entity or group of entities, pursuant to which the person will provide electrical or thermal energy or conservation measures.

(c) "Cogeneration equipment" means equipment for cogeneration, as defined in Section 218.5 of the Public Utilities Code.

(d) "Alternative energy equipment" means equipment for the production or conversion of energy from alternative sources, such as solar, biomass, wind, geothermal, hydroelectricity under 30 megawatts, or any other source of energy, the efficient use of which will reduce the use of fossil or nuclear fuels.

(e) "Conservation measures" means equipment, maintenance,

load management techniques and equipment, or other measures to reduce energy use or make for a more efficient use of energy.

(f) "State agency" means any state agency, board, department or commission, including, but not limited to, the entities specified in Section 15814.12.

15814.12. (a) Without obtaining the authorization required by Section 15808, the board may acquire, and to engage in the construction of, cogeneration equipment, alternative energy equipment, or conservation measures, and any combination thereof, and to enter into energy service contracts, at any structure, building, facility, site or work used, owned or hereafter acquired by the state agency, including, but not limited to, the facilities of the California State University and Colleges, the Department of General Services, state prisons, hospitals and other agencies and the community colleges, but only at the request or with the consent of such state agency.

(b) No cogeneration equipment or alternative energy equipment shall be acquired or constructed, and no energy service contract shall be entered into, by the board unless it determines that the anticipated cost to the state agency purchasing thermal or electrical energy provided by the equipment or under an energy service contract will be less than the anticipated marginal cost to the state agency of thermal or electrical energy that would have been consumed by the state agency in the absence of those purchases. Equipment, conservation measures, or energy service contracts shall be anticipated to provide cost savings to the state in each year during the term of any revenue bonds, notes, or energy service contracts issued or entered into pursuant to this part or Part 10.5 (commencing with Section 15750), except as otherwise authorized by the Legislature.

(c) Alternatively, the board may execute agreements to finance the construction of cogeneration equipment, alternative energy equipment, or conservation measures, and any combination thereof, by the state agency, including the University of California, to be owned by the state agency, in exchange for repayment of the financing and all costs and expenses related thereto from revenues resulting from sales of electricity or thermal energy from the facilities and measures or from funding which otherwise would have been used for purchase of electricity and thermal energy required by the state agency but which is derived from the facilities and measures.

15814.13. The board may contract to sell or exchange electricity produced by cogeneration equipment and alternative energy equipment acquired by the board to or with any investor-owned utility or municipal utility or state agency, at such rates and upon such terms as are approved by the board. Any such contract may provide for a commitment of firm electrical capacity. The board may also contract to sell or exchange thermal energy produced by cogeneration or alternative energy equipment acquired by the

board to or with any investor-owned utility or municipal utility, state agency, or any other person, at such rates and upon such terms as are approved by the board. This electrical and thermal energy may be sold to or exchanged with nonstate purchasers only if the board determines that these sales or exchanges will increase the economic benefit to the state. The board may contract to provide conservation services through the use of conservation measures to any state agency at such rates and upon such terms as are approved by the board.

15814.14. (a) Any state agency may enter into a contract with the board for the purchase or exchange of thermal or electrical energy, or to acquire conservation services through the use of conservation measures, for a term not exceeding 35 years, at such rates and upon such terms as are approved by the agency and the board.

(b) The Department of General Services, with the consent of the state agency having jurisdiction over the property, or any other state agency with the approval of the Department of General Services, may lease as lessor for terms of up to 35 years any structure, building, facility, work, or land, owned or acquired by the agency, to any person, including the board, to permit the board to enter into an energy service contract with such person, or to permit the board to undertake other projects authorized under this chapter, at such rates and upon such terms as may be approved by the state agency and the board. The board shall not enter into leases and energy service contracts authorized under this chapter sooner than 30 days after notification in writing of the necessity therefor to the chairperson of the committee in each house which considers appropriations and the chairperson of the Joint Legislative Budget Committee, or sooner than such lesser time as the chairperson of the committee, or his or her designee, may in each instance determine.

15814.15. The board may issue revenue bonds pursuant to Chapter 5 (commencing with Section 15830) to finance the cost of cogeneration equipment, alternative energy equipment, and conservation measures constituting the public buildings authorized by this chapter. The total amount of revenue bonds authorized to be issued pursuant to this section in each of the 10 fiscal years beginning with fiscal year 1982–83 is fifty million dollars ($50,000,000). Any portion of the authorization not used in any fiscal year may be used in any future fiscal year or years within this 10-year period. Such public buildings shall be the only public buildings authorized under this chapter at the 1982–83 Regular Session of the Legislature.

15814.16. Any amount necessary to pay monthly for electrical or thermal energy or conservation measures for any state agency under an energy service contract, or to pay for conservation measures or electrical or thermal energy received by any state agency from cogeneration or alternative energy equipment authorized to be constructed or acquired under this part or Part 10.5 (commencing with Section 15750), is hereby appropriated each fiscal year payable

from the fund in the State Treasury from which an agency derives its appropriation for support, and shall become available only if the Department of Finance certifies to the Controller that the amount required monthly to pay these charges has not been included in the Budget Act for that fiscal year for the support of the agency for these services. Also, in order for the appropriation to be available, the board shall certify that the payments for the year in question are anticipated to be less than would result from the purchase of electrical or thermal energy avoided by purchases under this part or Part 10.5 (commencing with Section 15750). The appropriation herein made shall become inoperative as to any public building which is transferred to the jurisdiction of the Department of General Services or another state agency pursuant to Section 15814.17 or 15816.

15814.17. Notwithstanding Section 15816, the public buildings acquired or constructed by the board pursuant to subdivisions (a) and (b) of Section 15814.12 shall remain under the jurisdiction of, and shall be operated and maintained by, the board until the board determines that the revenues, rentals, and receipts therefrom are no longer required to enable the board to properly perform the duties authorized by subdivisions (a) and (b) of Section 15814.12. Thereafter, each such public building may be placed under the jurisdiction of the Department of General Services pursuant to Section 15816 or, if the facility served is under the jurisdiction of another state agency, under that agency.

15814.18. The board shall employ the Energy Assessments Program of the Department of General Services to assist the board in performing its duties, including the making of recommendations as to projects to be undertaken by the board and preparing the annual report described in Section 15814.19. The board shall employ such other persons as are necessary to enable it properly to perform the duties imposed upon it by this chapter when services cannot be provided by the Department of General Services.

15814.19. The board shall publish and transmit to the Legislature an annual report, within four months after the end of each fiscal year, describing the activities of the board during that year.

SEC. 4. Section 15817 of the Government Code is amended to read:

15817. The Department of General Services or any other state agency, with the approval of the Department of General Services, may lease, as lessee, and the board may lease, as lessor, any public building constructed by the board for a term not exceeding 35 years from the date of occupancy at such rentals as are determined by the board. Rentals under a lease shall commence upon the date of occupancy, irrespective of whether the public building has been finally accepted by the Department of General Services.

SEC. 5. Section 15831 of the Government Code is amended to read:

15831. All bonds issued under this part shall bear the facsimile

signature of the Governor and the facsimile countersignature of the Controller and the Treasurer, and the bonds shall be signed, countersigned, and endorsed by the officers who shall be in office on the date of issuance thereof, and each of the bonds shall bear an impress of the Great Seal of the State of California. Interest coupons attached to each bond shall bear the facsimile signature of the Treasurer who shall be in office on the date of the bond to which the coupons pertain. The bonds or coupons so signed, countersigned, endorsed, and sealed, when sold, are valid although the sale thereof be made at a date or dates upon which the officers having signed, countersigned, and endorsed the bonds or coupons, or any or either of the officers, shall have ceased to be the incumbents of the offices held by them at the time of signing, countersigning, or endorsing the bonds or coupons. Each bond issued under this part, if subject to call or redemption prior to maturity, shall contain a recital to that effect.

The rate of interest to be borne by the bonds need not be uniform for all bonds of the same issue or series or division and may be determined and fixed by the board by resolution adopted at or after the sale of the bonds. The highest bid received on the sale of the bonds shall be determined by deducting the total amount of the premium bid (if any) from the total amount of interest which the state would be required to pay from the date of the bonds or the last preceding interest payment date, whichever is latest, to the respective maturity dates of the bonds then offered for sale at the coupon rate or rates specified in the bid, and the award shall be made on the basis of the lowest net interest cost to the state. The Treasurer, when authorized by resolution of the board, may sell bonds at less than their par or face value.

SEC. 6. Section 15832 of the Government Code is amended to read:

15832. Upon receipt of a resolution of the board authorizing the issuance of bonds, the Treasurer shall provide for their preparation in accordance with the resolution. The bonds authorized to be issued shall be sold by the Treasurer, at public sale or at private sale, as directed by the board. In the case of public sale, (1) the bonds shall be sold by the Treasurer, at such time as may be fixed by him or her, and upon such notice as he or she may deem advisable, upon sealed bids, to the bidder whose bid will result in the lowest net interest cost on account of such bonds, and (2) if no bids are received, or if the Treasurer determines that the bids are not satisfactory, the Treasurer may reject all bids received, if any, and either readvertise or sell the bonds at private sale.

Temporary or interim bonds, certificates, or receipts of any denomination whatever and with or without coupons attached thereto, to be signed by the Treasurer, may be issued and delivered until the definitive bonds are executed and available for delivery. Signature of the Treasurer may be by signature stamp.

SEC. 7. Section 15832.5 is added to the Government Code, to read:

15832.5. The board is authorized from time to time to issue its negotiable notes or may in anticipation of the sale of bonds issue its negotiable bond anticipation notes and may renew the same from time to time. The board may issue notes partly to renew notes or to discharge other obligations then outstanding and partly for any other purpose. Any notes may be authorized, sold, executed and delivered in the same manner as bonds. Any resolution or resolutions authorizing notes of the board or any issue thereof may contain any provisions which the board is authorized to include in any resolution or resolutions authorizing bonds of the board, and the board may include in any notes any terms, covenants or conditions which it is authorized to include in any bonds. All such notes shall be paid from any revenues of the board or other moneys available therefore and not otherwise pledged, or from the proceeds of the sale of the bonds of the board in anticipation of which they were issued, subject only to any contractual rights of the holders of any of its notes or other obligations then outstanding.

SEC. 8. Section 15833 of the Government Code is repealed.

SEC. 9. Section 15836 of the Government Code is amended to read:

15836. Bonds issued pursuant to this part are a legal investment for any state special or trust fund notwithstanding any provision of law limiting the investments which may be made by such special or trust fund. The bonds of the board shall be legal investments in which all public officers and public bodies of the state, its political subdivisions, all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, banking institutions, including savings and loan associations, building and loan associations, trust companies, savings banks and savings associations, investment companies and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries, and all other persons authorized to invest in bonds or in other obligations of the state, may properly and legally invest funds, including capital, in their control or belonging to them. The bonds may be used by any such private financial institution, person, or association as security for public deposits. The bonds are also hereby made securities which may properly and legally be deposited with and received by all public officers and bodies of the state or any agency or political subdivision of the state and all municipalities and public corporations for any purpose for which the deposit of bonds or other obligations of the state is authorized by law, including deposits to secure public funds.

SEC. 10. Section 15837.5 is added to the Government Code, to read:

15837.5. The board is authorized and empowered to employ financial consultants, advisers, and accountants as may be necessary in its judgment in connection with the issuance and sale of any bonds or other obligations of the board. Payment for these services may be

made out of the proceeds of the sale of the bonds or other obligations.

SEC. 11. Section 15838.5 is added to the Government Code, to read:

15838.5. (a) The Treasurer may be appointed to act as trustee for the board and the holders of its bonds. Any resolution authorizing any bonds or issue thereof shall prescribe the duties of the Treasurer with respect to the issuance, authentication, sale, and delivery of the bonds, the payment of principal and interest thereon, and the redemption of the bonds.

(b) The board may provide by resolution for the deposit of all revenue pledged for the security of such bonds in one or more separate accounts in the Public Buildings Construction Fund under the control of the Treasurer as trustee. The money in the accounts shall be disbursed only as provided in the resolution.

(c) The board may authorize the Treasurer to act as trustee on behalf of the holders of its bonds, or any stated percentage thereof, for the purpose of exercising and prosecuting on behalf of the holders of the bonds the rights and remedies as may be available to the holders.

SEC. 12. Section 15845.5 is added to the Government Code, to read:

15845.5. Payments to the board pursuant to Chapter 2.7 (commencing with Section 15814.10) shall be deposited in a separate revenue account in the Public Buildings Construction Fund for disposition as may be provided by the board pursuant to Section 15845. All moneys in the revenue account in excess of the amounts required by law or by any resolution authorizing the issuance of revenue bonds to be maintained therein may be expended for the acquisition or construction of cogeneration and alternative energy equipment and conservation measures constituting the public buildings authorized by Chapter 2.7 (commencing with Section 15814.10) or may be transferred on order of the board to any state agency involved with the board in a conservation, cogeneration or alternate energy project, in augmentation of any appropriation available to the state agency, until the board determines that the moneys are no longer required to enable the board to properly perform the duties authorized by Chapter 2.7 (commencing with Section 15814.10), whereupon those moneys shall be transferred to the appropriate state fund.

In making an augmentation under this section, the board shall give special consideration to the benefits resulting from the project in which the agency is involved.

SEC. 13. Section 15847 of the Government Code is amended to read:

15847. Subject to the obligations of the board to its certificate holders or bondholders, the Treasurer is authorized to invest and reinvest moneys in any of the accounts in the Public Buildings Construction Fund, in such eligible securities specified in Section 16430 as the board shall designate. The board may direct the

Treasurer to deposit moneys in interest-bearing accounts in state or national banks or in state or federal savings and loan associations having principal offices in this state. All such deposits in banks and savings and loan associations shall be secured at all times, in the same manner as state moneys are by law required to be secured. The board may alternatively require the transfer of moneys in the accounts to the Surplus Money Investment Fund for investment pursuant to Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2. All securities or other investments made under the provisions of this part shall be held by the Treasurer as custodian thereof.

All interest received or other earnings derived from such investments shall be collected by the Treasurer, and shall be deposited in the State Treasury to the credit of the account in the fund from which such interest or other earnings were derived.

Expenses incurred by the Treasurer in taking and making delivery of bonds or other securities purchased as investments from such money in the fund may be paid from the fund.

SEC. 14. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

State government is one of the largest single consumers of energy in California. In order that the state may reduce the spiraling burden on the state of increased energy costs at the earliest date possible by using alternative methods of financing economic energy sources, it is necessary for this act to go into immediate effect.

CHAPTER 1524

An act to amend Section 25102 of the Corporations Code, relating to securities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. It is the intent of the Legislature to declare and clarify existing law with respect to the statutory exemption from the qualification requirements of Section 25110 of the Corporations Code for issues, securities and transactions involving noncontributory pension, profit-sharing, stock bonus and employee stock ownership plans which meet the requirements for qualification under Section 401 of the Internal Revenue Code. It is hereby declared that the exemption provided by subdivision (n) of Section 25100 of the Corporations Code was intended to exempt from the qualification

requirements of Section 25110 of the Corporations Code the type of security and transactions involving such plans as described in subdivision (m) of Section 25102 of the Corporations Code, as amended by this act.

SEC. 2. It is the policy of this state to broaden the ownership of capital. An employee stock ownership plan is a technique of corporate finance designed to build beneficial equity ownership of shares in the employer corporation for its employees. The Legislature hereby finds and declares that employee stock ownership plans make an important contribution toward the broadening of capital ownership, increase the income and financial security of citizens of this state, assure citizens greater control of their economic futures, improve productivity and labor-management relations, contribute to the national effort to combat inflation, strengthen the free enterprise system, and put the state in the forefront of contemporary economic trends. It is thus the policy of California to encourage the use of employee stock ownership plans as means of broadening the ownership of capital.

SEC. 3. Section 25102 of the Corporations Code is amended to read:

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

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

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

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

(d) Any transaction or agreement between the issuer and an underwriter or among underwriters if the sale of the securities is

qualified, or exempt from qualification, at the time of distribution thereof in this state, if any.

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

(f) Any offer or sale of any security in a transaction (other than an offer or sale to a pension or profit-sharing trust of the issuer) which meets each of the following criteria:

(1) Sales of the security are not made to more than 35 persons, including persons not in this state.

(2) All purchasers either have a preexisting personal or business relationship with the offeror or any of its partners, officers, directors or controlling persons, or by reason of their business or financial experience or the business or financial experience of their professional advisors who are unaffiliated with and who are not compensated by the issuer or any affiliate or selling agent of the issuer, directly or indirectly, could be reasonably assumed to have the capacity to protect their own interests in connection with the transaction.

(3) Each purchaser represents that the purchaser is purchasing for the purchaser's own account (or a trust account if the purchaser is a trustee) and not with a view to or for sale in connection with any distribution of the security.

(4) The offer and sale of the security is not accomplished by the publication of any advertisement. The number of purchasers referred to above is exclusive of any described in subdivision (i), any officer, director or affiliate of the issuer and any other purchaser who the commissioner designates by rule. For purposes of this section, a husband and wife (together with any custodian or trustee acting for the account of their minor children) are counted as one person and a partnership, corporation or other organization which was not specifically formed for the purpose of purchasing the security offered in reliance upon this exemption, is counted as one person. The commissioner may by rule require the issuer to file a notice of transactions under this subdivision; provided, however, that the failure to file the notice or the failure to file the notice within the time specified by the rule of the commissioner shall not affect the availability of this exemption. An issuer who fails to file the notice as provided by rule of the commissioner shall, within 15 business days after demand by the commissioner, file the notice and pay to the commissioner a fee equal to the fee payable had the transaction been qualified under Section 25110.

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

(h) Any offer or sale of voting common stock by a corporation incorporated in any state if, immediately after the proposed sale and

issuance, there will be only one class of stock of such corporation outstanding which is owned beneficially by no more than 10 persons, provided all of the following requirements have been met:

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

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

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

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

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

behalf a consent has been filed in connection with a previous qualification or exemption from qualification under this law (or application for a permit under any prior law if the application or notice under this law states that such consent is still effective) need not file another. Service may be made by leaving a copy of the process in the office of the commissioner but it is not effective unless (1) the plaintiff, who may be the commissioner in a suit, action or proceeding instituted by him, forthwith sends notice of the service and a copy of the process by registered or certified mail to the defendant or respondent at its last address on file with the commissioner, and (2) the plaintiff's affidavit of compliance with this section is filed in the case on or before the return day of the process, if any, or within such further time as the court allows.

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

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

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

to or for sale in connection with any distribution of the security.

(k) Any offer or sale of any security under, or pursuant to, a plan of reorganization under Chapter 11 of the federal bankruptcy law which has been confirmed or is subject to confirmation by the decree or order of a court of competent jurisdiction.

(*l*) Any offer or sale of an option, warrant, put, call, or straddle, and any guarantee of any of these securities, by a person who is not the issuer of the security subject to such right, if the transaction, had it involved an offer or sale of the security subject to such right by such person, would not have violated Section 25110 or 25130.

(m) Any offer or sale of a stock to a pension, profit-sharing, stock bonus or employee stock ownership plan provided that (1) the plan meets the requirements for qualification under Section 401 of the Internal Revenue Code, and (2) the employees are not required or permitted individually to make any contributions to the plan. The exemption provided by this subdivision shall not be affected by whether the stock is contributed to the plan, purchased from the issuer with contributions by the issuer or an affiliate of the issuer, or purchased from the issuer with funds borrowed from the issuer, an affiliate of the issuer or any other lender.

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

In order to resolve conflicting interpretations of law which affect current transactions involving the welfare of the people of this state, it is necessary that this act take effect immediately.

CHAPTER 1525

An act to amend Sections 17501, 17524, and 17530 of, to add Section 17204.3 to, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 29, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 17204.3 is added to the Revenue and Taxation Code, to read:

17204.3. In addition to the deduction limitation specified in subparagraph (C) of paragraph (4) of subdivision (a) of Section 17204, as that section reads, as amended by Chapter 502 of the Statutes of 1982, the deduction for state and local taxes on the sale of gasoline, diesel fuel, and other motor fuels for purposes of paragraph (4) of subdivision (a) of Section 17204 shall be subject to the limitations specified in this section.

(a) For taxpayers who are described in subparagraph (C) of paragraph (4) of subdivision (a) of Section 17204, as that section reads as amended by Chapter 502 of the Statutes of 1982, and are subject to the deduction limitation specified therein, the deduction shall be as follows:

(1) For taxable years beginning on or after January 1, 1982, and before January 1, 1983, the deduction for the first eighty-four dollars ($84) paid or accrued per year per return filed shall be 59 percent of the amounts otherwise authorized to be deducted.

(2) For taxable years beginning on or after January 1, 1983, and before January 1, 1984, the deduction for the first one hundred eight dollars ($108) paid or accrued per year per return filed shall be 25 percent of the amounts otherwise authorized to be deducted.

(3) For taxable years beginning on or after January 1, 1984, and ending on or before December 31, 1987, the deduction shall not be allowed for the first one hundred eight dollars ($108) paid or accrued per year per return filed.

(4) For taxable years beginning on or after January 1, 1988, the deduction shall not be allowed.

(b) For all other taxpayers not described in subdivision (a), the deduction shall be as follows:

(1) For taxable years beginning on or after January 1, 1982, and before January 1, 1983, the deduction shall be 59 percent of the amounts otherwise authorized to be deducted.

(2) For taxable years beginning on or after January 1, 1983, and before January 1, 1984, the deduction shall be 25 percent of the amounts otherwise authorized to be deducted.

(3) For taxable years beginning on or after January 1, 1984, the deduction shall not be allowed.

(c) The Franchise Tax Board shall establish, to the extent possible, a schedule of deductions which is substantially the same as the California State Gasoline Tax Guide as published in the 1980 Form 540 Individual Income Tax Instructions, subject to the limitations in this section and in subparagraph (C) of paragraph (4) of subdivision (a) of Section 17204.

SEC. 2. Section 17501 of the Revenue and Taxation Code, as amended by Chapter 327 of the Statutes of 1982, 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 97-34 (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 96-605.

(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 97-34 (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 Public Law 96-613 (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 96-613, 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 97-34, 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 96-364 (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 97-34 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 94-455), 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 survivor 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 94-455) 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 96-596 (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 96-364. 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 97-34.

(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—

(1) The annual compensation of each employee taken into account under the plan does not exceed the first two hundred thousand dollars ($200,000) of compensation, and

(2) In the case of—

(A) A defined contribution plan with respect to which compensation in excess of one hundred thousand dollars ($100,000) is taken into account, contributions on behalf of each employee (other than an employee within the meaning of subdivision (a) of Section 17502.2) to the plan or plans are at a rate (expressed as a percentage of compensation) not less than 7.5 percent, or

(B) A defined benefit plan with respect to which compensation in excess of one hundred thousand dollars ($100,000) is taken into account, the annual benefit accrual for each employee (other than an employee within the meaning of subdivision (a) of Section 17502.2) is a percentage of compensation which is not less than one-half of the applicable percentage provided by Section 17502.9.

(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 96-364). 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 96-364 (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 97-34, 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 97-34.

(v) A trust forming part of a defined contribution plan (other than a profit-sharing plan) which meets the requirements of subsection (e) of Section 409A of the Internal Revenue Code of 1954, as amended by Public Law 97-34, 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) A stock bonus plan which otherwise meets the requirements of this section shall not be considered to fail to meet the requirements of this section because it provides a cash distribution option to participants if that option meets the requirements of Section 409A(h)(2) of the Internal Revenue Code of 1954 as amended by Public Law 96-613.

(x) 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 Public Law 96-364 (relating to minimum vesting standards) applies without regard to subsection (e)(2) of such section.

(y) The amendments made to this section by the act adding this subdivision shall apply to taxable years beginning after December 31, 1981.

SEC. 3. Section 17524 of the Revenue and Taxation Code is amended to read:

17524. (a) (1) In the case of a plan included in Section 17514, 17515, or 17516, which provides contributions or benefits for employees some or all of whom are employees within the meaning of Section 17502.2 (a), the amounts deductible under Sections 17513 to 17520.6, inclusive, in any taxable year with respect to contributions on behalf of any employee within the meaning of Section 17502.2(a) shall, subject to the provisions of subdivision (b), not exceed two thousand five hundred dollars ($2,500), or 10 percent of the earned income derived by such employee from the trade or business with respect to which the plan is established, whichever is the lesser.

(2) In the case of such a plan where contributions are also made pursuant to and in conformance with the special limitations for self-employed individuals under Section 404 (e) of the Internal Revenue Code of 1954, as amended by the Employee Retirement Income Security Act of 1974 (P.L. 93-406) and the Economic Recovery Tax Act of 1981 (P.L. 93-34)—

(i) The amounts deductible are subject to the limitations provided in subdivisions (a), (b), and (c) of this section, and

(ii) The net income attributable to the nondeductible portion shall not be includable in the gross income of the owner-employee for the taxable year or for succeeding taxable years until distributed pursuant to the provision of the plan or by operation of the law.

(b) (1) In any taxable year in which amounts are deductible with respect to contributions under two or more plans on behalf of an individual who is an employee within the meaning of Section 17502.2(a) with respect to such plans, the aggregate amount deductible for such taxable year under all such plans with respect to contributions on behalf of such employee shall not exceed two thousand five hundred dollars ($2,500), or 10 percent of the earned income derived by such employee from the trades or businesses with

respect to which the plans are established, whichever is the lesser.

(2) In any case in which the amounts deductible under Sections 17513 to 17520.6, inclusive (with the application of the limitations of this section), with respect to contributions made on behalf of an employee within the meaning of Section 17502.2(a), under two or more plans are, by reason of subdivision (b)(1), less than the amounts deductible under such section determined without regard to such subdivision, the amount deductible under Sections 17513 to 17520.6, inclusive, with respect to such contributions under each such plan shall be determined in accordance with regulations prescribed by the Franchise Tax Board.

(c) For purposes of this section, contributions which are allocable (determined under regulations prescribed by the Franchise Tax Board) to the purchase of life, accident, health, or other insurance shall not be taken into account.

SEC. 4. Section 17530 of the Revenue and Taxation Code, as amended by Chapter 327 of the Statutes of 1982, 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 on behalf of any individual in excess of two thousand dollars ($2,000).

(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 two thousand dollars ($2,000), 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 two thousand dollars ($2,000).

(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 the amount of contributions not allowed as a deduction under Section 17240 or 17241 on account of the purchase of the account or annuity.

(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 two thousand two hundred fifty dollars ($2,250), 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 fifteen thousand dollars ($15,000).

(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.

(7) The payment or distribution of any contribution made in a taxable year which exceeds the amount allowable as a deduction under subdivision (a) Section 17240 or subdivision (a) 17241 shall be attributable to the earliest excess contribution made.

(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 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 97-34, 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.

(C) Notwithstanding the limitations provided in Sections 17240 and 17241 with respect to the amount of deductible contributions and individuals eligible for the deduction, any income attributable to contributions made to a plan in existence in taxable years beginning on or after January 1, 1982, in conformance with Sections 219, 220, 408, and 409 of the Internal Revenue Code of 1954, as amended by P.L. 97-34, shall not be includable in the gross income of the individual for whose benefit the plan was established until distributed pursuant to the provisions of the plan or by operation of law. The Franchise Tax Board shall prescribe regulations with respect to the determination of the amount of the income included in the amount distributed or deemed distributed by operation of law which is includable in the individual's gross income in the taxable year in which the distribution is received or deemed distributed 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 95-596 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 year. Such owner shall include in gross income for such taxable 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 " fifteen thousand dollars ($15,000)" or, if applicable, any higher amount referred to in subparagraph (A) of paragraph (5) of subdivision (d) for "two thousand dollars ($2,000)" 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 96-605.

(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 96-605, 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—

(i) Contributions thereto bear a uniform relationship to the total compensation not in excess of the first two hundred thousand dollars ($200,000) of each employee maintaining a simplified employee pension, and

(ii) If compensation in excess on one hundred thousand dollars ($100,000) is taken into account under a simplified employee pension for an employee, contributions to a simplified employee pension on behalf of each employee for whom a contribution is required are at a rate (expressed as a percentage of compensation) not less than 7.5 percent.

(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 3111 of the Internal Revenue Code of 1954, as amended by Public Law 95-216 (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 97-34, 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.

(m) (1) The acquisition by an individual retirement account or by an individually directed account under a plan described in Section 17501 (a) of any collectible shall be treated (for purposes of this section and Section 17503) as distribution from that account in an amount equal to the cost to that account of that collectible.

(2) For purposes of this subdivision, the term "collectible" means—

(A) Any work of art,

(B) Any rug or antique,

(C) Any metal or gem,

(D) Any stamp or coin,

(E) Any alcoholic beverage, or

(F) Any other tangible personal property specified by the Franchise Tax Board for purposes of this subdivision.

(3) This subdivision shall apply to property acquired after December 31, 1981, in taxable years ending after that date.

(n) The amendments made to this section by the act adding this subdivision shall apply to taxable years beginning after December 31, 1981.

SEC. 5. The Legislative Analyst shall prepare a report to be submitted to the Legislature by February 1, 1985, on the fiscal effects of this act.

SEC. 6. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, the provisions of this act shall apply in the computation of taxable income for taxable years commencing after December 31, 1981.

CHAPTER 1526

An act to amend Section 15325 of, to add Chapter 1.5 (commencing with Section 15364.1) to Part 6.7 of Division 3 of Title 2 of, and to repeal Sections 15335 and 15335.1 of, the Government Code, relating to international trade.

[Approved by Governor September 29, 1982 Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 15325 of the Government Code is amended to read:

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

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

(b) The Office of Local Economic Development.

(c) The Office of Business and Industrial Development.

(d) The Office of Tourism.

SEC. 2. Section 15335 of the Government Code is repealed.

SEC. 3. Section 15335.1 of the Government Code is repealed.

SEC. 4. Chapter 1.5 (commencing with Section 15364.1) is added to Part 6.7 of Division 3 of Title 2 of the Government Code, to read:

CHAPTER 1.5. CALIFORNIA STATE WORLD TRADE COMMISSION

15364.1. (a) The Legislature finds and declares that the expansion of international trade and international tourism is vital to the overall growth of California's economy. The Legislature further

finds and declares that current state efforts to develop relations with foreign countries are insufficient for effective coordination and mobilization of the resources necessary to promote cultural development, economic growth, international trade, reverse investment, and international tourism.

(b) In order to encourage international trade, tourism, and development, there is created in the Governor's office a California State World Trade Commission, which shall be a corporation subject to the Nonprofit Public Benefit Corporation Law (Part 2 (commencing with Section 5110) of Division 2 of Title 2 of the Corporations Code). It shall be governed by leading representatives of California government and private industry, and shall provide research in international trade that can be utilized by the commission in developing and implementing effective and aggressive marketing strategies. "Commission" as used in this chapter means the California State World Trade Commission. "International trade" as used in this chapter consists of the export and import of agricultural, mineral and manufacturing products, business services, and banking.

(c) In addition, there is created an advisory council to the commission, comprised of commission-appointed private industry leaders and specified representatives of the executive and legislative branches of state government, whose responsibility is to assist and advise the commission.

15364.2. (a) The commission shall consist of 15 members of which 10 of those members are as follows:

(1) The Governor or designee.

(2) The Lieutenant Governor or designee.

(3) The Secretary of State or designee.

(4) Three additional appointees of the Governor.

(5) Two appointees of the Speaker of the Assembly.

(6) Two appointees of the Senate President pro Tempore.

(b) The members of the commission referred to in subdivision (a) shall be appointed within 60 days of the effective date of this chapter.

The five remaining members shall be selected by the advisory council within 180 days of the effective date of this chapter.

(c) The initial appointments to the commission by the Governor and by the advisory council shall be for a term of two years. Initial appointments to the commission by the Speaker of the Assembly and the Senate President pro Tempore shall be for a term of three years. Thereafter, all appointments shall be for a term of two years. A term shall expire on December 31.

(d) If a vacancy occurs, a replacement shall be named by the initial appointing authority to fill the unexpired term. All members of the commission shall serve at the pleasure of their respective appointing powers.

Commissioners shall be paid on a per diem basis equal to that received by state employees.

(e) All appointees to the commission shall be professionally active

international businesspersons drawn from the recommendations of California's international business community, and shall reflect the state's diverse geographic, economic, and cultural makeup.

(f) The commission shall be chaired by the Secretary of State. If the Secretary of State chooses not to serve as chair, the commission shall elect a chairperson by a majority vote. In no event shall Section 7.6 be construed to allow a designee of the Secretary of State to serve as chair except by majority vote of the commission.

(g) Upon the appointment of the first seven members, the commission may commence formal action pursuant to this chapter.

15364.3. The commission shall do all of the following:

(a) Hire a chief executive officer who has experience in international trade and domestic business, knowledge of government and research techniques, and other qualifications as the commission deems necessary.

(b) Develop and adopt bylaws consistent with the provisions of this chapter.

(c) Establish the salaries of the chief executive officer and other staff.

15364.4. The chief executive officer shall do all of the following:

(a) Carry out the management directives of the commission.

(b) Manage and disburse all funds and maintain records.

(c) Direct all staff, which includes, but is not limited to, the responsibility to hire and dismiss employees.

15364.5. The commission shall serve as the official representative of the State of California to foreign governments and representatives. Within this statutory authority, the commission is specifically authorized to perform the following functions:

(a) Conduct research and analysis of foreign commerce, the nature of doing business in foreign marketplaces, methods of stimulating reverse investment, international tourism, and governmental incentives and disincentives for world trade opportunities in California.

(b) Establish one or more offices in California and in foreign countries, if appropriate and economically feasible, and serve as a clearinghouse for inquiries from foreign businesses and governments and provide them with introductions to California businesses and agriculture.

(c) Coordinate with other governmental agencies, California businesses, agriculture, and individuals on marketing programs, on information about California's economy and the opportunities and advantages of doing business in the state, and publish reports and other materials to assist in marketing business opportunities.

(d) Secure funding of the commission's programs and activities from federal, state, local, and private sources in addition to fees charged for services and published materials.

(e) Represent or assist in representing the interests of California-based companies in foreign market transactions through trade delegations, missions, marts, seminars, and additionally

appropriate promotional tools.

(f) Recruit foreign capital investment and encourage foreign business development within California.

(g) Encourage travel from foreign countries.

(h) Propose legislation which would encourage the state to compete in the world marketplace.

15364.6. (a) In order to assist the commission in representing the diverse nature of California's culture and economy, and its business, tourism, and agricultural communities, an advisory council is hereby created to provide independent advice and counsel.

(b) The membership of the advisory council shall be no less than 20 members, nor more than 40 members. The advisory council shall be appointed within 120 days of the effective date of this chapter.

(c) The membership of the advisory council shall consist of the following:

(1) The Director of the Department of Economic and Business Development.

(2) The Director of the Department of Food and Agriculture.

(3) Two Assembly appointees of the Speaker of the Assembly.

(4) Two Senate appointees of the Senate President pro Tempore.

(d) The remainder of the advisory council appointments shall be made by the commission and shall represent the following areas of interest:

(1) Agriculture.

(2) Banking and financial services.

(3) International consulting, construction, engineering and trade.

(4) Tourism.

(5) Manufacturing and retailing.

(6) Foreign trade zones and trade associations.

(7) Entertainment.

(8) Housing and real estate.

(9) Education.

(10) Labor.

(11) Transportation and ports.

(12) Small businesses.

(13) Other entities as deemed appropriate.

(e) At the direction of the commission, the advisory council shall do the following:

(1) Form committees to assist the commission in areas which may include, but are not limited to, international trade, reverse investment, and international tourism.

(2) Aid and assist the commission in securing funds to enhance and maintain the activities of the commission.

(3) Aid and assist the commission in greeting foreign representatives.

(4) Participate in foreign missions.

15364.7. Effective January 1, 1983, the commission may request the Department of Economic and Business Development to provide support services to help establish the California State World Trade

Commission.

15364.8. (a) There is hereby established the California State World Trade Commission Fund in the State Treasury, moneys for which shall be appropriated in the annual State Budget Act. The fund shall consist also of private sector money as may be made available; federal funds, when available; state funds; and fees for services rendered, if levied.

The Controller shall disburse such money as is available in the fund, upon the request of the commission.

(b) The commission shall submit an annual budget, for inclusion in the Governor's Budget, showing funding from all sources.

(c) The commission shall have access to information and reports developed and maintained by state offices and departments pursuant to the State Records Management Act (Chapter 5 (commencing with Section 14740) of Part 5.5).

CHAPTER 1527

An act to add Chapter 1.5 (commencing with Section 12095) to Part 2 of Division 3 of Title 2 of the Government Code, relating to state government.

[Approved by Governor September 29, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Chapter 1.5 (commencing with Section 12095) is added to Part 2 of Division 3 of Title 2 of the Government Code, to read:

CHAPTER 1.5. THE CALIFORNIA COMMISSION ON INDUSTRIAL INNOVATION

Article 1. Statement of Purpose and Definitions

12095. The Legislature finds and declares the following:

(a) Innovation in California industry is basic to the preservation and growth of a strong state economy and high employment.

(b) Industries characterized by a sustained capacity for innovation require the following:

(1) Well-educated and well-trained employees at every level.

(2) The ability to retrain all elements of the workforce as need requires.

(3) Motivational protocols and procedures to maintain high productivity.

(4) Continued access to the latest and best information from basic and applied research.

(5) A well-planned and maintained system of transportation, water and energy supply, and waste disposal.

(6) Access to capital markets.

(c) Although the existing California Commission on Industrial Innovation appointed pursuant Executive Order No. B-91-81 has made a good start to identify, monitor, assess, evaluate and recommend upon the related policies necessary to maintain California's lead in industrial innovation, a more permanent commission located in the Office of the Governor is necessary to fully achieve these ends.

12095.01. In order to encourage industrial innovation, and to develop policies which maintain California's leadership in the national economy and retain its international competitive position, the Legislature intends by the enactment of this chapter to create the California Commission on Industrial Innovation within the Office of the Governor, the Legislature further intends that the commission be governed by leading representatives of California government, academia, labor and innovative industries, and that the commission provide research which can be used by it in developing and recommending effective and aggressive strategies for expanding the state's economy and employment rate.

12095.02. Unless the contrary is stated or clearly appears from the context, the definitions set forth in this section shall govern the interpretation of this chapter:

(a) "Commission" means the California Commission for Industrial Innovation.

(b) "Council" means the advisory council of the commission established by Section 12095.20.

(c) "Industrial innovation" refers to technology-based companies such as those making or developing electronic components, computers and peripherals, instruments, communications equipment, robotics, biotechnology, photovoltaics, and aerospace equipment in which both of the following conditions apply:

(1) At least 5 percent of sales are devoted to research and development.

(2) At least 15 percent of sales are devoted to depreciable investment.

Article 2. Organization

12095.10. There is hereby created within the Office of Governor the California Commission on Industrial Innovation. The commission shall be composed of 25 members, five from the public sector, four from academia, six from labor, and 10 from firms characterized by industrial innovation, as follows:

(a) The Governor.

(b) Two officers from the executive branch of state government, appointed by the Governor.

(c) A Senator appointed by the Senate Rules Committee.

(d) An Assembly Member appointed by the Speaker of the Assembly.

(e) Two administrators or faculty members from the University of California, the California State University, the California community colleges, or the State Department of Education, appointed by the Governor.

(f) An administrator or faculty member from any California educational or training institution, appointed by the Senate Rules Committee.

(g) An administrator or faculty member from any California educational or training institution, appointed by the Speaker of the Assembly.

(h) Four officials from organized labor, appointed by the Governor.

(i) An official from organized labor, appointed by the Senate Rules Committee.

(j) An official from organized labor, appointed by the Speaker of the Assembly.

(k) Six officers from firms characterized by industrial innovation, appointed by the Governor.

(*l*) Two officers from firms characterized by industrial innovation, appointed by the Senate Rules Committee.

(m) Two officers from firms characterized by industrial innovation, appointed by the Speaker of the Assembly.

12095.11. In making appointments the Governor, Senate Rules Committee, and Speaker of the Assembly shall be guided by the diversity of regions, needs, and interests which characterize California's industrially innovative firms and those persons and institutions whose economic well-being may depend upon their success.

12095.12. The members of the commission shall be appointed within 60 days of the effective date of this chapter. Any vacancy in the commission shall not affect its powers but shall be filled in the same manner in which the original appointment was made. The term of office of each member of the commission shall be two years except that all of the following shall apply:

(a) Members of the group appointed by Executive Order No. B-91-81 may be reappointed pursuant to the terms of this chapter.

(b) Members serve at the pleasure of their appointing authority.

(c) In the event the appointing authority leaves office, members continue to serve unless replaced by the new incumbent.

(d) Any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed.

12095.13. The Governor shall be the chairman of the commission. The commission shall elect a cochairman to serve as chairman in the Governor's absence.

12095.14. The commission shall meet not fewer than four times each year at the call of the chairman. A majority of the members of the commission shall constitute a quorum, but a lesser number may

conduct hearings. Any recommendation may be passed only by a majority of the members present.

Article 3. Advisory Council

12095.20. The chairman or cochairman may appoint an advisory council to the commission. The advisory council shall consist of the designees of each commissioner and other persons which the chairman or cochairman may deem necessary.

12095.21. The council shall examine specific topics at the commission's direction, including the promotion of technological innovation through enhanced capital formation, education and training, and human productivity.

Article 4. Functions of the Commission

12095.40. The commission shall develop policies which maintain California's leadership in the national economy. This leadership position is necessary to preserve jobs for Californians, to create new jobs, and to guarantee the continued growth of the state's economy. With these goals in mind, the California Commission on Industrial Innovation shall do the following:

(a) Convene representatives of business, labor, academia, and government to assess the problems inhibiting, and latent opportunities for, industrial innovation throughout the state.

(b) Advise in the establishment of programs in scientific and technical education and job training which will prepare Californians for employment in industrially innovative firms and for life in an increasingly technological society. This advice shall particularly address policies to aid in the transition of workers into mature innovative industries.

(c) Assess and evaluate programs which improve productivity while maintaining regard for worker involvement and satisfaction.

(d) Identify means by which industry and universities can cooperate on research and development projects and in the establishment or expansion of cooperative research and development institutes.

(e) Identify means of financing innovative industry including, but not limited to, public and private pension funds and industrial development bonds.

(f) Identify and solicit financial support for the activities of the commission, such as foundation grants and individual donations.

(g) Identify management techniques necessary to successful industrial innovation.

(h) Examine and evaluate the effectiveness of any state programs assisting or hindering industrial innovation.

(i) Identify shortcomings in the transportation, sewer, water, energy, and waste disposal systems which inhibit existing or future industrially innovative firms.

(j) Hold hearings on the findings of the commission.

(k) Advise the Governor and the Legislature on its deliberations, with particular attention to changes in law or administrative practice which the commission believes may be necessary to realize the purposes for which the commission was created.

Article 5. Administrative and Fiscal Provisions

12095.50. The commission shall do all of the following:

(a) Hire an executive director who has background and experience in the purposes of this chapter.

(b) Develop and adopt rules consistent with the provisions of this chapter.

(c) Fix salaries for the chief executive officer and such other staff as are deemed appropriate.

12095.51. The executive director shall do all of the following:

(a) Carry out the management directives of the commission.

(b) Manage and disburse all funds and maintain records.

(c) Direct all staff which includes, but is not limited to, responsibility to hire and dismiss employees.

(d) Solicit and accept voluntary and uncompensated services from loaned executives, professional personnel, consultants, and experts.

(e) Accept in the name of the commission, and employ or dispose of, grants, gifts, or bequests to carry out the functions of the commission.

(f) Enter into contracts and make other arrangements and modifications as necessary.

(g) Conduct studies, hearings, research activities, demonstration projects, and similar activities which the commission requests.

(h) Pursuant to provisions of the State Records Management Act (Chapter 5 (commencing with Section 14740) of Part 5.5), use the services, personnel, facilities, and information of any department, agency, and instrumentality of the executive branch of state government and the services, personnel, facilities and information of federal and local agencies, colleges, universities and private research institutions, with consent of these agencies, with or without reimbursement therefor.

12095.52. The Industrial Innovation Fund is hereby established as a special fund in the State Treasury. The fund shall consist of private sector money which may be made available, federal funds, when available, other state funds, and fees for services rendered, if levied.

The Controller shall disburse such money available in the fund, upon the request of the commission.

12095.53. The commission shall submit to the Department of Finance an annual budget, for inclusion in the Governor's Budget, showing funding from all sources.

Article 6. Reports

12095.60. The commission shall make at least annually a report of its findings and recommendations to the Governor and the Legislature. The commission may make interim reports or recommendations to the Governor, the Legislature, or the heads of other state departments and agencies, which it may deem desirable. The commission shall include in any report made under this section any minority or dissenting views submitted by any member of the commission.

CHAPTER 1528

An act to add Article 8 (commencing with Section 52480) to Chapter 9 of Part 28 of the Education Code, relating to technology education, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Article 8 (commencing with Section 52480) is added to Chapter 9 of Part 28 of the Education Code, to read:

Article 8. Institute for Computer Technology

52480. The Legislature finds and declares that education and training in the area of computer technology is of major importance to the State of California. For that reason, the Legislature has enacted this article to provide special funding for the Institute for Computer Technology.

52481. The Institute for Computer Technology is a joint powers entity established by the Sunnyvale Elementary School District, the Fremont Union High School District, and the Los Gatos Joint Union High School District.

52482. The Institute for Computer Technology is authorized to conduct a program of education and training in computer technology for pupils in kindergarten or in grades 1 to 12, inclusive, or for adults.

52483. The Institute for Computer Technology may be operated as a regional occupational center or program and, if so operated, shall be subject to the provisions of Article 1 (commencing with Section 52300), except Sections 52301, 52302, 52304, 52314, 52318, 52321, 52327, 52328, and 52329.

52484. For the 1983–84 fiscal year and each fiscal year thereafter, the Superintendent of Public Instruction shall, from funds

transferred to Section A of the State School Fund for the purposes of regional occupational centers and programs, apportion to the Institute for Computer Technology an amount computed as follows:

(1) Determine the average of the revenue limits per average daily attendance of the school districts which established the Institute for Computer Technology. This amount shall be the revenue limit per unit of average daily attendance for the Institute for Computer Technology.

(2) Multiply the amount determined in paragraph (1) by the average daily attendance of the Institute for Computer Technology, as reported on forms prescribed by the Superintendent of Public Instruction, provided that in no event shall the average daily attendance reported in any fiscal year exceed 500.

SEC. 1.5. For the 1982–83 fiscal year, the Institute for Computer Technology, as specified in Section 52481 of the Education Code, shall receive an amount not to exceed one hundred thousand dollars ($100,000), from the funds allocated in accordance with category (d) of Provision 1 of Item 6100-191-001 of the Budget Act of 1982, to be calculated as follows:

(1) Determine the average of the 1982–83 revenue limits per unit of average daily attendance of the school districts which established the Institute for Computer Technology.

(2) Multiply the amount determined in paragraph (1) by the average daily attendance of the Institute for Computer Technology, reported on forms prescribed by the Superintendent of Public Instruction.

SEC. 2. The Legislature recognizes that the development of knowledge in medicine, chemistry, nutrition, physics, technology, and other fields based on mathematics and science contributes significantly to the well-being of our complex society by improving the lives of the citizenry. New developments in these fields occur at a rapid rate, and colleges, universities, vocational education programs, and elementary and secondary schools need to keep abreast of these new developments in order to foster greater understanding of mathematics, science, and technology through education.

Knowledge and technology in these areas are growing at a faster pace than the ability of California educational institutions to supply the skilled labor force demanded by business and industry as a result of these advances. Complex problems must be overcome if education in the sciences is to advance students to an appropriate level of competence. These problems affect all California students, but are particularly pronounced for those who are female, members of minority groups, or who come from low-income backgrounds. The problems which must be addressed include, but are not limited to:

(a) Inadequate mastery by students of the basic skills, including reading, used in mathematics and science-based fields which are taught in secondary schools, resulting in poor comprehension of postsecondary courses and avoidance of academic fields based on

mathematics and science.

(b) Lack of instruction in mathematics, reading, and science at the elementary school level to enable all students to develop skills and attitudes which will encourage them to successfully pursue mathematics and science-based fields in later grades.

(c) Failure of instructional concepts, teaching methods, and curricula to keep pace with the rapid growth of knowledge and technological development in mathematics and science.

While some colleges and universities are improving courses in the teaching of mathematics and science-based fields, these improvements will not sufficiently address the problem, since a relatively small number of new teachers will be hired in the future. Therefore, the Legislature recognizes the need to help existing teachers gain skills necessary to increase students' understanding of scientific concepts. The Legislature further recognizes that the problem of deficiency in basic skills, including reading, used in mathematics and science is shared by all levels and segments of California education, and that this can best be addressed through cooperatively planned and funded efforts.

It is the intention of the Legislature that appropriate models for a cooperative, intersegmental approach to solving the problem of skill deficiencies in reading, mathematics, and science be developed. The models shall, among other things, provide in-service training to classroom teachers, and more clearly define minimum standards of competence in reading, mathematics, science and technological literacy. Whenever possible, existing resources shall be pooled to support this comprehensive program. The program may be patterned after such projects as the California Writing Project (Chapter 162, Statutes 1980), the EQUALS Project, the Mathematics, Engineering, and Science Achievement Project conducted by the Regents of the University of California at the Berkeley campus, and the California Public Broadcasting Commission's Educational Telecommunications Project.

SEC. 3. With funds appropriated therefor, the State Department of Education shall establish the Council on Technology Education. The Council on Technology Education shall distribute reading, mathematics, science, and technology projects selected and funded pursuant to subdivision (b) of Section 5 of this act to various locations throughout the state so that elementary, secondary, and postsecondary school personnel located in rural, urban, and suburban areas may receive training in the basic skills used in mathematics and science-based fields.

SEC. 4. (a) The council shall be established to review submitted reading, mathematics, science, and technology project proposals, and to provide funding for selected proposals, pursuant to subdivision (b) of Section 5 of this act.

(b) The council shall be composed of the following members:

(1) Four representatives of elementary and secondary education, one representative to be appointed by each of the following: the

Governor, the President pro Tempore of the Senate, the Speaker of the Assembly, and the Superintendent of Public Instruction.

(2) Three representatives of postsecondary education, at least two of whom shall represent teacher training institutions of higher education. One representative shall be appointed by each of the following: the Governor, the President pro Tempore of the Senate, and the Speaker of the Assembly.

(3) Four representatives of business and labor, one representative to be appointed by each of the following: the Governor, the President pro Tempore of the Senate, the Speaker of the Assembly, and the Superintendent of Public Instruction.

(4) Two members of the general public who are not professional educators, to be appointed by the Superintendent of Public Instruction.

(5) One representative with experience in the use of computers for instructional purposes, appointed by the Superintendent of Public Instruction.

(6) One representative of the California Writing Project, appointed by the California Writing Project Advisory Committee.

(7) One representative of the California Math Project, appointed by the California Math Project Advisory Committee.

(8) One representative of the Education Technology Commission, appointed by the Education Technology Commission.

(c) It is the intention of the Legislature that the members of the council be chosen for their demonstrated interest in education, particularly in the fields of reading, mathematics, science, and technology.

SEC. 5. (a) Projects submitted to the council for review shall be designed to accomplish the following objectives, and any others which the council may require:

(1) Clarify the appropriate minimum standards of competence in reading, mathematics, and science-based fields for students at each school level.

(2) Systematically improve the proficiency of project participants, teachers trained by project participants, and, ultimately, students attending public elementary, secondary and postsecondary schools, in basic skills used in mathematics and science.

(3) Integrate the project with any staff development programs established pursuant to Chapter 3.1 (commencing with Section 44670) of Part 25 of the Education Code and provided by regional resource centers located in the same geographic area as participating school districts, community college districts, and universities.

(4) Provide financial and personnel support for the project through participating school districts, colleges, and universities.

(5) Select project participants so that an elementary school teacher will interact with teachers from the secondary school in the district where that elementary school teacher's pupils will enroll upon completion of the elementary school program.

(6) Involve various levels and segments of education in a cooperative approach.

(7) Use project participants to subsequently train others in the school district, college, or university.

(8) Provide continuing training in basic skills to project participants.

(b) Proposals which meet the criteria established in subdivision (a) shall be accepted by the council for review and recommendation. The council shall report on its recommendations to the Legislature, the Governor, and the State Board of Education. The State Board of Education shall decide which of the recommended projects shall receive funding, based upon a review of the council's recommendations. Funding; if provided by the Legislature, shall support those projects which, as a group, encompass a comprehensive approach to solving the problems identified in Section 2 of this act.

SEC. 6. The council and the State Board of Education shall give the Legislature, the Governor, and other interested parties a reasonable opportunity to review and comment upon any project proposal which is recommended by the council to the state board for funding.

SEC. 7. The Legislative Analyst shall provide the following information to the Legislature:

(a) By January 1, 1986, a summary of the funded projects and their evaluations, and an assessment of the success of each project in progressing towards the achievement of the council's goals.

(b) By January 1, 1987, an evaluation of the council's effectiveness and recommendations for legislative action regarding the council.

SEC. 8. Sections 2 to 7, inclusive, of this act shall be operative only for such periods as the Legislature has appropriated funds therefor, and only until June 30, 1988.

SEC. 9. The level of program implementation pursuant to Sections 2 to 7, inclusive, of this act in any fiscal year shall be determined by the amount of funds specifically appropriated for the purposes of the council in that fiscal year through the annual Budget Act.

SEC. 10. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to permit the Council on Technology Education to begin its review of projects as soon as possible in the 1982–83 school year so as to ensure the funding of necessary and cost-effective programs, and in order to permit the uninterrupted operation of the Institute for Computer Technology, it is necessary that this act take effect immediately.

CHAPTER 1529

An act to amend Sections 1364, 1365, and 2960 of the Penal Code, and to amend Section 4456.5 of the Welfare and Institutions Code, relating to mentally disordered offenders.

[Approved by Governor September 29, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 1364 of the Penal Code is amended to read:

1364. The Department of Mental Health shall develop a voluntary experimental treatment program that can be evaluated, limited to no more than 50 beds, for persons convicted of sex offenses against a person under the age of 14 years or of a sex offense accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury to the victim. The screening of inmates for the program shall be performed jointly by the Department of Mental Health and the Department of Corrections, based upon program criteria, procedures, and guidelines developed by the Department of Mental Health in consultation with the Department of Corrections.

The treatment shall only be done during the last two years of incarceration, and only persons who voluntarily consent shall be included in the program. The Department of Corrections shall inform such convicted persons of the state hospital program established pursuant to this section.

The Director of Corrections shall, if he or she receives a recommendation for such treatment, and with the consent of the convicted person, transfer, unless he or she is a security risk, the person to an appropriate state hospital designated by the Director of Mental Health for treatment. No such transfer may occur without the approval of the medical director of the state hospital. In no event shall the person be placed on outpatient status pursuant to such treatment. In no event shall the person be released prior to his or her determinate sentence date, nor shall treatment pursuant to this section exceed the term of imprisonment imposed. The medical director of the state hospital shall make a recommendation prior to the person's release date whether the person should receive outpatient treatment as a condition of parole. If outpatient treatment is provided in a county Short-Doyle Program, then treatment shall be funded as provided in Section 5710.1 of the Welfare and Institutions Code.

If the person refuses to cooperate in his or her treatment while in the state hospital, or is found unamenable to treatment, or if the person requests a return to the Department of Corrections, the medical director of the state hospital shall cause the person to be returned to the Department of Corrections.

Physical transfer of the inmate from the Department of Corrections to the state hospital and return shall be the responsibility of the Department of Corrections. Upon request of the medical director of the state hospital for return of the person to prison, the Director of Corrections shall immediately send for, take, and receive the person back into prison.

All days of confinement in a state hospital for testing and treatment shall be credited to the person's term of imprisonment and the provisions of Section 2931 shall apply.

SEC. 2. Section 1365 of the Penal Code is amended to read:

1365. The program described in Section 1364 shall be established according to a valid experimental design in order that the most effective, newest, and promising methods of treatment of sex offenders may be rigorously tested. The Department of Mental Health shall submit an evaluation report to the Legislature by July 1, 1985. Subsequent evaluation reports shall include treatment outcome measures and shall be submitted every two years thereafter until the termination of the program. The program established pursuant to Section 1364 shall terminate January 1, 1991.

SEC. 3. Section 2960 of the Penal Code is amended to read:

2960. Before releasing any inmate or terminating supervision of any parolee who is a danger to self or others, or gravely disabled as a result of mental disorder, the Director of Corrections may, upon probable cause, place, or cause to be placed, the person in a state hospital pursuant to the Lanterman-Petris-Short Act, Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code.

The cost of inpatient treatment under this article shall be a state expense while the person is under the jurisdiction of the Department of Corrections.

Any person placed outside of a facility of the Department of Corrections for the purposes of inpatient treatment under the article shall not be deemed to be released from imprisonment or from the custody of the Department of Corrections prior to the expiration of the maximum term of imprisonment of the person.

SEC. 4. Section 4456.5 of the Welfare and Institutions Code is amended to read:

4456.5. (a) The security of patients committed pursuant to Section 1026 of, and Chapter 6 (commencing with Section 1367) of Title 10 of Part 2 of, the Penal Code, and former Sections 6316 and 6321 of the Welfare and Institutions Code, at Patton State Hospital shall be the responsibility of the Director of the Department of Corrections.

(b) The Department of Corrections and the State Department of Mental Health shall jointly develop a plan to transfer all patients committed to Patton State Hospital pursuant to the provisions in subdivision (a) from Patton State Hospital no later than January 1, 1986, and shall transmit this plan to the Senate Committee on Judiciary and to the Assembly Committee on Criminal Justice, and

to the Senate Health and Welfare Committee and Assembly Health Committee by June 30, 1983. The plan shall address whether the transferred patients shall be moved to other state hospitals or to correctional facilities, or both, for commitment and treatment.

(c) This section shall remain in effect only until all patients committed pursuant to the provisions enumerated in subdivision (a), have been removed from Patton State Hospital and shall have no force or effect on or after that date.

SEC. 5. Notwithstanding any other provision of law, no state prison or state correctional facility of any kind shall be established on or adjacent to the sites now occupied by Patton State Hospital and Camarillo State Hospital, nor shall state prisoners be housed on or adjacent to these sites.

SEC. 6. It is the intent of the Legislature that Atascadero State Hospital is the preferred location for housing patients committed pursuant to Section 1026 of, Chapter 6 (commencing with Section 1367) of Title 10 of Part 2 of, and Article 3 (commencing with Section 2684) of Chapter 4 of Title 1 of Part 3 of, the Penal Code, and pursuant to former Sections 6316 and 6321 of the Welfare and Institutions Code.

SEC. 7. Notwithstanding any other provision of law, no state hospital under the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services shall be converted into a state prison without specific prior approval of the Legislature.

SEC. 8. Notwithstanding any other provision of law, there shall be no increase in the number of state prisoners, mentally disordered sex offenders formerly committed pursuant to the Welfare and Institutions Code, or Penal Code commitments, except as provided in Section 1370.1 of the Penal Code, at any state hospital under the jurisdiction of the State Department of Developmental Services without the express prior approval of the Legislature.

SEC. 9. In regard to Section 4 of this act, due to the unique circumstances concerning the lack of adequate security at Patton State Hospital, the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the Constitution.

CHAPTER 1530

An act to amend and repeal Section 6369 of the Revenue and Taxation Code, to repeal Section 3 of Chapter 229 of the Statutes of 1978, and to repeal Section 4 of Chapter 1245 of the Statutes of 1977, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 29, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 6369 of the Revenue and Taxation Code, as amended by Chapter 229 of the Statutes of 1978, is amended to read:

6369. (a) There are exempted from the taxes imposed by this part the gross receipts from the sale, and the storage, use, or other consumption, in this state of medicines:

(1) Prescribed for the treatment of a human being by a person authorized to prescribe the medicines, and dispensed on prescription filled by a registered pharmacist in accordance with law, or

(2) Furnished by a licensed physician and surgeon, dentist, or podiatrist to his own patient for treatment of the patient, or

(3) Furnished by a health facility for treatment of any person pursuant to the order of a licensed physician and surgeon, dentist, or podiatrist, or

(4) Sold to a licensed physician and surgeon, podiatrist, dentist, or health facility for the treatment of a human being.

(5) Sold to this state or any political subdivision or municipal corporation thereof, for use in the treatment of a human being; or furnished for the treatment of a human being by a medical facility or clinic maintained by this state or any political subdivision or municipal corporation thereof.

(b) "Medicines" as used in this section mean and include any substance or preparation intended for use by external or internal application to the human body in the diagnosis, cure, mitigation, treatment or prevention of disease and which is commonly recognized as a substance or preparation intended for such use; provided that "medicines" do not include (1) any auditory, prosthetic, ophthalmic or ocular device or appliance, (2) articles which are in the nature of splints, bandages, pads, compresses, supports, dressings, instruments, apparatus, contrivances, appliances, devices, or other mechanical, electronic, optical or physical equipment or article or the component parts and accessories thereof, (3) any alcoholic beverage the manufacture, sale, purchase, possession or transportation of which is licensed and regulated by the Alcoholic Beverage Control Act (Division 9, commencing with Section 23000, of the Business and Professions Code).

(c) Notwithstanding subdivision (b), "medicines" as used in this section shall mean and include: (1) sutures, whether or not permanently implanted; (2) bone screws, bone pins, pacemakers, drug infusion devices, support equipment necessary for the safe and effective use of the articles listed in this subdivision, and other articles, other than dentures, permanently implanted in the human body to assist the functioning of any natural organ, artery, vein, or limb and which remain or dissolve in the body; (3) orthotic devices,

other than orthodontic devices, designed to be worn on the person of the user as a brace, support or correction for the body structure, and replacement parts for such devices; provided, that orthopedic shoes and supportive devices for the foot are not exempt unless they are an integral part of a leg brace or artificial leg; (4) prosthetic devices, and replacement parts for such devices, designed to be worn on or in the person of the user to replace or assist the functioning of a natural part of the human body, other than auditory, ophthalmic and ocular devices or appliances, and other than dentures, removable or fixed bridges, crowns, caps, inlays, artificial teeth and other dental prosthetic materials and devices; and (5) artificial limbs and eyes, or their replacement parts, for human beings.

(d) "Health facility" as used in this section has the meaning ascribed to it in Section 1250 of the Health and Safety Code.

(e) Insulin and insulin syringes furnished by a registered pharmacist to a person for treatment of diabetes as directed by a physician shall be deemed to be dispensed on prescription within the meaning of this section.

(f) Orthotic and prosthetic devices, and replacement parts for such devices, furnished pursuant to the written order of a physician, shall be deemed to be dispensed on prescription within the meaning of paragraph (a) (1) of this section, whether or not the devices are furnished by a registered pharmacist.

(g) Mammary prostheses, and any appliances and related supplies necessary as the result of any surgical procedure by which an artificial opening is created in the human body for the elimination of natural waste, shall be deemed to be dispensed on prescription within the meaning of this section.

SEC. 2. Section 6369 of the Revenue and Taxation Code, as amended by Section 2 of Chapter 1245 of the Statutes of 1977, is repealed.

SEC. 3. Section 3 of Chapter 229 of the Statutes of 1978 is repealed.

SEC. 4. Section 4 of Chapter 1245 of the Statutues of 1977 is repealed.

SEC. 5. Notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any sales and use tax revenues lost by it under this act.

SEC. 6. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, 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.

CHAPTER 1531

An act to amend Sections 5322 and 5323 of, and to add Section 5026 to, the Food and Agricultural Code, and to amend Section 8558 of the Government Code, relating to pest control.

[Approved by Governor September 29, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 5026 is added to the Food and Agricultural Code, to read:

5026. (a) The director may overrule a local agency's ordinance or regulation where that ordinance or regulation would prevent or inhibit an eradication effort. The director may act under this section only when the Governor has declared a state of emergency relating to the eradication effort and the effect of the local ordinance or regulation will be to threaten agriculture on a statewide basis, to materially interfere with the ability of the director or the commissioner to eradicate a pest, or where the pest is of such a nature that it could rapidly spread to other areas beyond the boundaries of the local agency.

(b) "Local agency" means any public agency, other than a state agency, board, or commission and includes, but is not limited to, cities (chartered or otherwise), counties, and special districts.

SEC. 2. Section 5322 of the Food and Agricultural Code is amended to read:

5322. The director may establish, maintain, and enforce quarantine, eradication, and such other regulations as are in his or her opinion necessary to circumscribe and exterminate or prevent the spread of any pest which is described in Section 5321.

SEC. 3. Section 5323 of the Food and Agricultural Code is amended to read:

5323. This division and the regulations which are established pursuant to this division are of a statewide interest and concern and are intended to occupy the field. No local jurisdiction shall adopt ordinances, laws, or regulations which prevent, hinder, or delay the effect or application of this division or regulations established pursuant to this division. Regulations established pursuant to this division are not valid unless they are clearly consistent with a strict interpretation of this division and are necessary to effectuate the purpose of this division. The adoption of the regulations does not create any presumption of their necessity or validity.

SEC. 4. Section 8558 of the Government Code is amended to read:

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

(a) "State of war emergency" means the condition which exists

immediately, with or without a proclamation thereof by the Governor, whenever this state or nation is attacked by an enemy of the United States, or upon receipt by the state of a warning from the federal government indicating that such an enemy attack is probable or imminent.

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

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

CHAPTER 1532

An act to amend Sections 6704, 6735, 6763, and 6799 of, and to add Sections 6730.1 and 6736.1 to, the Business and Professions Code, relating to professional engineers, and making an appropriation therefor.

[Approved by Governor September 29, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 6704 of the Business and Professions Code is amended to read:

6704. In order to safeguard life, health, property, and public

welfare, only persons registered under the provisions of this chapter shall be entitled to take and use the titles "consulting engineer," "professional engineer," or "registered engineer," or any combination of those titles, and according to registration with the board the titles "civil engineer," "structural engineer," "soil engineer," "chemical engineer," "electrical engineer," "industrial engineer," "mechanical engineer," "metallurgical engineer," "petroleum engineer," "engineer-in-training" or the titles in such other branches as the board may establish. The provisions of this act pertaining to registration of professional engineers in the branches of chemical, electrical, industrial, mechanical, metallurgical, soil, and petroleum engineering do not apply to employees in the communication industry; nor to the employees of contractors while engaged in work on communication equipment; however, those employees may not use the title unless registered. The provisions of this section shall not prevent the use of the title "consulting engineer" by a person who has qualified for and maintained exemption for using that title under the provisions of Section 6732.1, or by a person licensed as a photogrammetric surveyor under the provisions of Chapter 15 (commencing with Section 8700) of Division 3 regardless of whether or not he or she has received commissions from clients and fees for services rendered.

SEC. 2. Section 6730.1 is added to the Business and Professions Code, to read:

6730.1. On or before June 30, 1983, the State Board of Registration for Professional Engineers shall review all existing engineering title disciplines and submit a report to the Legislature on its findings. The board shall make recommendations to the Legislature regarding practice regulation changes and the termination, modification, or conversion to practice registration of any existing title disciplines.

SEC. 3. Section 6735 of the Business and Professions Code is amended to read:

6735. All civil engineering plans, specifications, reports or documents shall be prepared by a registered civil engineer or by a subordinate employee under his or her direction, and shall be signed by him or her to indicate his or her responsibility for them. In addition to his or her signature, he or she shall show his or her registration number or the stamp of his or her seal. The registered civil engineer shall use together with his or her signature or seal, the title "civil engineer" or, if he or she has the authority, the title "structural engineer" or, if he or she has the authority, the title "soil engineer."

SEC. 4. Section 6736.1 is added to the Business and Professions Code, to read:

6736.1. On or after January 1, 1983, no person shall use the title, "soil engineer," unless he or she is a registered civil engineer in this state and he or she has been found qualified as a soil engineer according to the rules and regulations established therefor by the board. Any person who is a practicing soil and foundation engineer

on January 1, 1983, shall be entitled to continue to hold himself or herself out as a soil and foundation engineer or to use the title of soil and foundation engineer on and after January 1, 1983.

SEC. 5. Section 6763 of the Business and Professions Code is amended to read:

6763. Application for authority to use the title "structural engineer," or the title "soil engineer" on and after January 1, 1983, shall be made to the board on forms prescribed by it and shall be accompanied by the application fee fixed by this chapter.

An applicant for authority to use the title "structural engineer," or the title "soil engineer" on and after January 1, 1983, who has passed the examination prescribed by the board shall have a certificate of authority issued to him or her.

For purposes of this chapter, an authority level is an identification of competence and specialization in a specific facet of a singular branch of engineering and necessitates education and experience in addition to that required for qualification in the branch of engineering to which it has been appended.

SEC. 6. Section 6799 of the Business and Professions Code is amended to read:

6799. The amount of the fees prescribed by this chapter shall be fixed by the board in accordance with the following schedule:

(a) The fee for filing each application for registration as a professional engineer at not more than sixty dollars ($60), for authority to use the title "structural engineer" or "soil engineer" at not more than seventy-five dollars ($75), and for each application for certification as an engineer-in-training at not more than forty dollars ($40).

(b) The duplicate certificate fee at not more than six dollars ($6).

(c) The temporary registration fee for a professional engineer at not more than twenty dollars ($20).

(d) The renewal fee for a professional engineer shall be fixed by the board at not more than forty dollars ($40) for each branch of professional engineering in which registration is held; and the renewal fee for authority to use the title "structural engineer" or "soil engineer" at not more than forty dollars ($40).

(e) The delinquency fee is an amount equal to 50 percent of the renewal fee in effect on the date of its reinstatement, but not more than twenty-five dollars ($25).

Applicants wishing to be examined in more than one branch of engineering shall be required to pay the additional fee for each examination after the first.

SEC. 7. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or

eliminates a crime or infraction.

CHAPTER 1533

An act to amend Sections 21029 and 31730 of the Government Code, and to amend Section 20 of Chapter 1333 of the Statutes of 1968, relating to public retirement systems.

[Approved by Governor September 29, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 21029 of the Government Code is amended to read:

21029. If the determination pursuant to Section 21028 is that the recipient is not so incapacitated for duty in the position held when retired for disability or in a position in the same classification or in the position with regard to which he or she has applied for reinstatement and his or her employer offers to reinstate that employee, his or her disability retirement allowance shall be canceled forthwith, and he or she shall become a member of the retirement system.

If the recipient was an employee of the state or of the university and is so determined to be not incapacitated for duty in the position held when retired for disability or in a position in the same class, he or she shall be reinstated, at his or her option, to such a position. However, in that case, acceptance of any other position shall immediately terminate any right to reinstatement. A recipient who is found to continue incapacitated for duty in his or her former position and class, but not incapacitated for duty in another position for which he or she has applied for reinstatement and who accepts employment in the other position, shall upon subsequent discontinuance of incapacity for service in his or her former position or a position in the same class, as determined by the board under Section 21028, be reinstated at his or her option to that position.

If the recipient was an employee of a contracting agency other than a local safety member, the board shall notify it that his or her disability has terminated and that he or she is eligible for reinstatement to duty. The fact that he or she was retired for disability does not prejudice any right to reinstatement to duty which he or she may claim.

SEC. 2. Section 31730 of the Government Code is amended to read:

31730. If the board determines that the beneficiary is not incapacitated, and his or her employer offers to reinstate that beneficiary, his or her retirement allowance shall be canceled forthwith, and he or she shall be reinstated in the county service

pursuant to the regulations of the county or district for reemployment of personnel.

SEC. 3. Section 20 of Chapter 1333 of the Statutes of 1968 is amended to read:

Sec. 20. All persons actually employed in the service of the San Francisco Port Authority at the time this act takes effect and who at said date shall be entitled to the benefits of the civil service provisions of the State of California insofar as the same may be applicable to the employees of the San Francisco Port Authority, shall be continued in their respective positions and shall continue to hold their positions pursuant to the civil service provisions of the Charter of the City and County of San Francisco and they shall be entitled to all of the rights, benefits, and privileges which such persons might have or might have had, had such persons been originally appointed to their respective positions under certification from the civil service commission of the City and County of San Francisco, and in the matter of seniority in service of such employees entitled to the benefits of said civil service provisions as herein provided, the seniority of each employee shall be reckoned from his first permanent appointment to employment under the State of California, and as to their respective positions such employees shall have preference over all other employees of the City and County of San Francisco. The employment rights of such state employees shall be fully protected at the time of the transfer authorized by this act. Salary, employment conditions, and benefits shall be no less than those received by employees of the San Francisco Port Authority at the time of transfer. These rights and benefits include, but are not limited to: probationary or permanent civil service status, and any career executive appointments; retention of employees' positions on existing subdivisional and departmental promotional and eligible lists, as long as they are in effect; no less than the same wage and salary range for comparable classes; overtime and shift premium pay whenever and wherever applicable; callback and standby pay whenever and wherever applicable; continued membership in the Public Employees' Retirement System provided by the City and County of San Francisco, or any other retirement program in effect with the San Francisco Port Authority; retention of vacation and sick leave balances which such employees now have when they become employees of the City and County of San Francisco; waiver of residence requirements; and retention of the option to continue any present health insurance and group life coverage. Upon assent to the transfer of lands as authorized by this act by the City and County of San Francisco, any employee desiring to transfer to another state agency or to be placed on a state layoff list may do so within six months of such assent and shall retain all state civil service rights and benefits.

For purposes of this section, "continued membership in the Public Employees' Retirement System" includes entitlement to any and all increases in retirement benefits in the corresponding membership

classification, authorized by state law on or after the transfer of lands as authorized by this act, for employees of the state by reason of their membership in the Public Employees' Retirement System.

Notwithstanding any other provisions of law, the Public Employees' Retirement System shall take all steps necessary to effectuate any amendments to its contract with the City and County of San Francisco that are, or may be, required to carry out the provisions of this section.

SEC. 4. The amendment to Section 20 of Chapter 1333 of the Statutes of 1968 made by Section 3 of this act is intended only to clarify existing provisions of law, and thereby to facilitate administration of those provisions.

SEC. 5. It is the intent of the Legislature in enacting this act to prohibit the receipt of service credit for any period during which a disability allowance is payable.

SEC. 6. With regard to Section 3 of this act, amending Section 20 of Chapter 1333 of the Statutes of 1968, no appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

CHAPTER 1534

An act to amend Sections 4004, 4005, 4006, 4152, 8604, and 12002 of the Fish and Game Code, relating to fish and game, and making an appropriation therefor.

[Approved by Governor September 29, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION. 1. Section 4004 of the Fish and Game Code is amended to read:

4004. It is unlawful to do any of the following:

(a) Use a trap with saw-toothed or spiked jaws.

(b) Use or sell leg-hold steel-jawed traps with a spread of 5½ inches or larger without offset jaws.

(c) Use steel-jawed traps with a spread larger than 4¾ inches for taking muskrat.

(d) Set or maintain traps which do not bear a number or other identifying mark registered to the department or, in the case of a federal, state, or county agency, bear the name of that agency. No registration fee shall be charged pursuant to this subdivision.

(e) Fail to visit and remove all animals from traps once daily. This subdivision does not apply to trapping done under Section 4152 or

4180.

(f) Use a steel leg-hold trap with a spread exceeding 7½ inches or killer-type trap of the conibear type that is larger than 10 inches by 10 inches.

(g) Set or maintain steel leg-hold traps within 30 feet of bait placed in such a manner or position that it may be seen by any soaring bird. As used in this subdivision, "bait" includes any bait composed of mammal, bird, or fish flesh, fur, hide, entrails, or feathers.

(h) Set or maintain steel leg-hold traps with a spread of 5½ inches or larger without a tension device.

SEC. 2. Section 4005 of the Fish and Game Code is amended to read:

4005. Every person, other than a fur dealer, who takes fur-bearing mammals or nongame mammals, designated by the commission, by means of a trap, or sells raw furs of those mammals shall procure a trapping license. The department shall develop standards that are necessary to insure the competence and proficiency of applicants for a trapping license. No person shall be issued a license until he or she has passed a test of his or her knowledge and skill in this field. Persons taking mammals in accordance with Section 4152 or 4180 are not required to procure a trapping license, but no raw furs so taken may be sold. A raw fur as referred to in this chapter means any fur, pelt, or skin which has not been tanned or cured; salt or sun cured pelts are considered raw fur.

SEC. 3. Section 4006 of the Fish and Game Code is amended to read:

4006. A trapping license shall be issued as follows:

(a) To any resident of this state over the age of 16 years upon payment of the following fee:

(1) After December 31, 1982, and before July 1, 1983, twenty-five dollars ($25).

(2) On and after July 1, 1983, and before July 1, 1984, thirty dollars ($30).

(3) On and after July 1, 1984, and before July 1, 1985, thirty-five dollars ($35).

(4) On and after July 1, 1985, and before July 1, 1986, forty dollars ($40).

(5) On and after July 1, 1986, and before July 1, 1987, forty-five dollars ($45).

(6) On and after July 1, 1987, fifty dollars ($50).

(b) To any resident of this state under the age of 16 years upon payment of fifteen dollars ($15).

(c) To any person not a resident of this state upon payment of two hundred dollars ($200).

A license shall not be issued to a nonresident if the state in which he or she resides does not provide for issuance of a nonresident trapping license.

SEC. 4. Section 4152 of the Fish and Game Code is amended to

read:

4152. Nongame mammals and black-tailed jackrabbits, muskrats, and red fox squirrels which are found to be injuring growing crops or other property may be taken at any time or in any manner by the owner or tenant of the premises or employees thereof, except that if leg-hold steel-jawed traps are used to take those mammals, the traps and the use thereof shall be in accordance with the provisions of subdivisions (a), (b), and (d) of Section 4004. They may also be taken by officers or employees of the California Department of Food and Agriculture or by federal or county officers or employees when acting in their official capacities pursuant to the provisions of the Food and Agricultural Code pertaining to pests, or pursuant to the provisions of Article 6 (commencing with Section 6021) of Chapter 9 of Part 1 of Division 4 of the Food and Agricultural Code. Persons taking mammals in accordance with this section are exempt from the requirements of Section 3007.

SEC. 5. Section 8604 of the Fish and Game Code is amended to read:

8604. It is unlawful willfully to disturb or injure any net or trap which is being legally used in the waters of this state.

This section does not apply to employees of the department while they are engaged in the performance of their official duties.

SEC. 6. Section 12002 of the Fish and Game Code is amended to read:

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

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

(1) Section 1059.
(2) Section 2052.
(3) Sections 3511, 4700, 5050, and 5515.
(4) Subdivision (d) of Section 4004.
(5) Sections 4600 to 4606, inclusive.
(6) Subdivision (a) or (b) of Section 5650.
(7) Section 8670.
(8) Section 10500.

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

(1) Section 3005.9.

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

(c) The maximum punishment for a violation of Section 4758 is a fine of five thousand dollars ($5,000) or imprisonment in the county jail for six months, or both.

SEC. 7. No appropriation is made and no reimbursement is

required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1535

An act to amend Sections 580a and 726 of the Code of Civil Procedure, to amend Sections 605, 606, 607, 608, 609, 609.5, 657, 2610, and 2614 of, and to add Chapter 23 (commencing with Section 1300) to Division 3 of, the Probate Code, to add Part 8 (commencing with Section 13301) to, and to repeal Part 8 (commencing with Section 13301) and Part 9 (commencing with Section 15101) of, Division 2 of, the Revenue and Taxation Code, relating to transfers of property.

[Approved by Governor September 29, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 580a of the Code of Civil Procedure is amended to read:

580a. Whenever a money judgment is sought for the balance due upon an obligation for the payment of which a deed of trust or mortgage with power of sale upon real property or any interest therein was given as security, following the exercise of the power of sale in such deed of trust or mortgage, the plaintiff shall set forth in his complaint the entire amount of the indebtedness which was secured by said deed of trust or mortgage at the time of sale, the amount for which such real property or interest therein was sold and the fair market value thereof at the date of sale and the date of such sale. Upon the application of either party made at least 10 days before the time of trial the court shall, and upon its own motion the court at any time may, appoint one of the probate tax referees provided for by law to appraise the property or the interest therein sold as of the time of sale. Such referee shall file his appraisal with the clerk and the same shall be admissible in evidence. Such referee shall take and subscribe an oath to be attached to the appraisal that he has truly, honestly and impartially appraised the property to the best of his knowledge and ability. Any referee so appointed may be called and examined as a witness by any party or by the court itself. The court must fix the compensation of such referee in an amount as determined by the court to be reasonable, but such fees shall not exceed similar fees for similar services in the community where such services are rendered, which may be taxed and allowed in like

manner as other costs. Before rendering any judgment the court shall find the fair market value of the real property, or interest therein sold, at the time of sale. The court may render judgment for not more than the amount by which the entire amount of the indebtedness due at the time of sale exceeded the fair market value of the real property or interest therein sold at the time of sale with interest thereon from the date of the sale; provided, however, that in no event shall the amount of said judgment, exclusive of interest after the date of sale, exceed the difference between the amount for which the property was sold and the entire amount of the indebtedness secured by said deed of trust or mortgage. Any such action must be brought within three months of the time of sale under such deed of trust or mortgage. No judgment shall be rendered in any such action until the real property or interest therein has first been sold pursuant to the terms of such deed of trust or mortgage, unless such real property or interest therein has become valueless.

SEC. 2. Section 726 of the Code of Civil Procedure is amended to read:

726. There can be but one form of action for the recovery of any debt, or the enforcement of any right secured by mortgage upon real property, which action must be in accordance with the provisions of this chapter. In such action the court may, by its judgment, direct the sale of the encumbered property (or so much thereof as may be necessary), and the application of the proceeds of the sale to the payment of the costs of court, and the expenses of the sale, and the amount due plaintiff, including, where the mortgage provides for the payment of attorney's fees, such sum for such fees as the court shall find reasonable, not exceeding the amount named in the mortgage.

The court may, by its judgment, or at any time after judgment, appoint a commissioner to sell the encumbered property. It must require of him an undertaking in an amount fixed by the court, with sufficient sureties, to be approved by the judge, to the effect that the commissioner will faithfully perform the duties of his office according to law. Before entering upon the discharge of his duties he must file such undertaking, so approved, together with his oath that he will faithfully perform the duties of his office.

The decree for the foreclosure of a mortgage or deed of trust secured by real property or any interest therein shall declare the amount of the indebtedness or right so secured and, unless judgment for any deficiency there may be between the sale price and the amount due with costs is waived by the judgment creditor or a deficiency judgment is prohibited by Section 580b, shall determine the personal liability of any defendant for the payment of the debt secured by such mortgage or deed of trust and shall name such defendants against whom a deficiency judgment may be ordered following the proceedings hereinafter prescribed. In the event of such waiver, or if the prohibition of Section 580b is applicable the decree shall so declare and there shall be no judgment for a deficiency. In the event that a deficiency is not waived or prohibited

and it is decreed that any defendant is personally liable for such debt, then upon application of the plaintiff filed at any time within three months of the date of the foreclosure sale and after a hearing thereon at which the court shall take evidence and at which hearing either party may present evidence as to the fair value of the property or the interest therein sold as of the date of sale, the court shall render a money judgment against such defendant or defendants for the amount by which the amount of the indebtedness with interest and costs of sale and of action exceeds the fair value of the property or interest therein sold as of the date of sale; provided, however, that in no event shall the amount of said judgment, exclusive of interest from the date of sale and of costs exceed the difference between the amount for which the property was sold and the entire amount of the indebtedness secured by said mortgage or deed of trust. Notice of such hearing must be served upon all defendants who have appeared in the action and against whom a deficiency judgment is sought, or upon their attorneys of record, at least 15 days before the date set for such hearing. Upon application of any party made at least 10 days before the date set for such hearing the court shall, and upon its own motion the court at any time may, appoint one of the probate referees provided for by law to appraise the property or the interest therein sold as of the time of sale. Such probate referee shall file his appraisal with the clerk and the same shall be admissible in evidence. Such probate referee shall take and subscribe an oath to be attached to the appraisal that he has truly, honestly and impartially appraised the property to the best of his knowledge and ability. Any probate referee so appointed may be called and examined as a witness by any party or by the court itself. The court must fix the compensation, in an amount as determined by the court to be reasonable, but such fees shall not exceed similar fees for similar services in the community where such services are rendered, which may be taxed and allowed in like manner as other costs.

No person holding a conveyance from or under the mortgagor of the property mortgaged, or having a lien thereon, which conveyance or lien does not appear of record in the proper office at the time of the commencement of the action need be made a party to such action, and the judgment therein rendered, and the proceedings therein had, are as conclusive against the party holding such unrecorded conveyance or lien as if he had been a party to the action.

If the court appoint a commissioner for the sale of the property, he must sell it in the manner provided by law for the sale of like property by the sheriff upon execution; and the provisions of Chapter 1 (commencing with Section 681), Title 9, Part 2, of this code are hereby made applicable to sale made by such commissioner, and the powers therein given and the duties therein imposed on sheriffs are extended to such commissioner.

In all cases heretofore, now or hereafter pending in the courts of this state, in the event of the death, absence from the state, other disability or disqualification of the commissioner appointed to sell

encumbered property under the foregoing provisions of this section, the court may, upon the happening of either the death, absence from the state, other disability or disqualification of the commissioner appoint an elisor to perform the duties of such commissioner which are then to be performed in such action. The elisor so appointed shall give the undertaking, and take the oath hereinbefore provided to be given and taken by a commissioner, before entering upon the discharge of his duties, and shall thereafter perform all duties left unperformed by the commissioner whom he is appointed to succeed, with like effect as if such duties had been performed by the commissioner.

If the land mortgaged consists of a single parcel, or two or more contiguous parcels, situated in two or more counties, the court may, in its judgment, direct the whole thereof to be sold in one of such counties by the sheriff, commissioner or elisor, as the case may be, and upon such proceedings, and with like effect, as if the whole of the property were situated in that county.

SEC. 3. Section 605 of the Probate Code is amended to read:

605. (a) The appraisement shall be made by the executor or administrator and a probate referee as follows:

(1) The executor or administrator shall appraise at fair market value moneys, currency, cash items, bank accounts and amounts on deposit with any financial institution, and the proceeds of life and accident insurance policies and retirement plans payable upon death in lump sum amounts, excepting therefrom such items whose fair market value is, in the opinion of the executor or administrator, an amount different from the ostensible value or specified amount.

As used in this subdivision, "financial institution" means a bank, trust company, federal savings and loan association, savings institution chartered and supervised as a savings and loan or similar institution under federal or state law, federal credit union or credit union chartered and supervised under state law.

(2) All assets other than those appraised by the executor or administrator pursuant to paragraph (1) shall be appraised by a probate referee appointed by the court or judge, except with respect to the following:

(A) Interspousal transfers, as provided in Section 650.

(B) Estates subject to summary probate proceedings pursuant to Section 630.

(C) Such cases in which the court waives, for good cause, the appointment of a probate referee

(3) If an executor or administrator seeks a waiver of the appointment of a probate referee pursuant to subparagraph (C) of paragraph (2), the executor or administrator, at the time of filing the inventory and appraisement pursuant to Section 600, shall file an appraisal of the fair market value of all assets of the estate and a statement which sets forth the good cause which justifies the waiver. The clerk shall set a hearing on the waiver not sooner than 15 days after the filing. A copy of the inventory and appraisement, the

statement, and notice of the date of the hearing shall be served on and in the same manner as on, all persons who are entitled to notice pursuant to Section 926.

(b) The executor or administrator shall furnish to the referee such information concerning the assets appraised by him or to be appraised by the referee as the referee shall require.

(c) The executor or administrator or his attorney shall not be entitled to receive compensation for extraordinary services by reason of appraising any asset pursuant to this section.

SEC. 4. Section 606 of the Probate Code is amended to read:

606. No clerk of the court or deputy clerk, or partner or employee of the judge, or person related to the judge or to his or her spouse within the third degree, or who is married to a relative of the judge within the third degree, shall be competent to act as probate referee.

SEC. 5. Section 607 of the Probate Code is amended to read:

607. If any part of the estate is in a county other than that in which letters issued, a probate referee thereof may in the same manner as above provided be appointed, either by the court or judge having jurisdiction of the estate or by the court or judge of such other county, on request of the court or judge having jurisdiction.

SEC. 6. Section 608 of the Probate Code is amended to read:

608. The appraisement shall be signed by the executor or administrator as to those assets appraised by him, and by the probate referee as to those assets appraised by him. The executor or administrator and the inheritance tax referee shall each subscribe his oath or statement under penalty of perjury that all items thereof which he has appraised have been truly, honestly, and impartially appraised to the best of his ability.

SEC. 7. Section 609 of the Probate Code is amended to read:

609. Each referee shall receive from each estate appraised by him as compensation for his services a commission of one-tenth of one percent of the total value of the assets appraised, but in no event less than a minimum fee of seventy-five dollars ($75) or more than ten thousand dollars ($10,000) for each estate appraised. In addition to the commission, each referee is entitled to receive actual and necessary expenses, to be allowed by the court; and he must file, with the inventory, a verified account of his disbursements. In no event shall a probate referee receive any compensation from the state for any services performed.

Excepting the minimum fee provided for in this section, the fee shall not apply to items appraised by the executor or administrator under the provisions of paragraph (1) of subdivision (a) of Section 605.

Upon application of the referee, the court may allow a fee in excess of the maximum of ten thousand dollars ($10,000) if the court determines that the reasonable value of the referee's services exceeds such amount.

SEC. 8. Section 609.5 of the Probate Code is amended to read:

609.5. Where a referee has been appointed and acted pursuant to

Section 607, both he and the referee of the county whose superior court has jurisdiction of the estate, appointed to act in the same estate by such court, shall receive such share of the total fee and expenses that any one referee is entitled to under Section 609 as the court shall allow. The total amount of the fee and expenses allowed both such referees shall not exceed the total amount of the fee and expenses allowable in the case of any one referee.

SEC. 9. Section 657 of the Probate Code is amended to read:

657. (a) Upon the filing of a petition pursuant to Section 650, the court shall, on petitioner's request, or in its discretion where the interests of justice require, immediately appoint one inheritance tax referee who shall appraise the property described in the petition in the same manner provided in Section 605 and file an inheritance tax report or certification that no tax is due with the clerk of the court. Upon the filing of the inheritance tax report, the court shall enter an order fixing the inheritance tax in the same manner and subject to all other provisions of law relating to the administration of the estate of a decedent which is not subject to the provisions of this article. The filing of an inheritance tax report and the entry of an order fixing the inheritance tax under this article shall not limit the filing of additional reports and the entry of additional orders fixing the inheritance tax as to any other property of the deceased spouse giving rise to additional inheritance tax liability.

(b) The petitioner shall furnish the referee with a copy of the petition and all other necessary information and documentation as may be required by law for the referee to prepare the inheritance tax report or issue the certification that no tax is due with reference to the property described in the petition. Within 60 days after the receipt of the petition and information and documentation by the referee, as may be evidenced by an affidavit which is filed in the proceedings by the petitioner and served by mail on the referee, the referee shall make the appraisal and file the inheritance tax report or the certification that no tax is due with the clerk of the court. If the referee does not comply with the provisions of this subdivision, the court may issue any orders which may be necessary to effect compliance.

SEC. 10. Section 657 of the Probate Code is amended to read:

657. Within three months after the filing of any petition pursuant to Section 650, or within such further time as the court or judge for reasonable cause may allow, the petitioner may file with the clerk of the court an inventory and appraisement in the form set forth in Section 600. The appraisement shall be made as set forth in Chapter 9 (commencing with Section 600). The petitioner may appraise the assets which an executor or administrator could appraise under Section 605. The court in its discretion, where the interests of justice require, may require the petitioner to file an inventory and appraisement and have the appraisement made, before the court makes an order pursuant to Section 655.

SEC. 11. Section 2610 of the Probate Code is amended to read:

2610. (a) Within 90 days after appointment, or within such further time as the court for reasonable cause upon ex parte petition of the guardian or conservator may allow, the guardian or conservator shall file with the clerk of the court an inventory and appraisement of the estate, made as of the date of the appointment of the guardian or conservator.

(b) The guardian or conservator shall take and subscribe to an oath that the inventory contains a true statement of all of the estate of the ward or conservatee of which the guardian or conservator has possession or knowledge. The oath shall be endorsed upon or annexed to the inventory.

(c) The property described in the inventory shall be appraised in the manner provided for the inventory and appraisement of estates of decedents. The guardian or conservator may appraise the assets which an executor or administrator could appraise under Section 605.

(d) If a conservatorship is initiated pursuant to the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code) and no sale of the estate will occur:

(1) The inventory and appraisement required by subdivision (a) shall be filed within 90 days after appointment of the conservator.

(2) The property described in the inventory may be appraised by the conservator and need not be appraised by a probate referee.

SEC. 12. Section 2614 of the Probate Code is amended to read:

2614. (a) Within 30 days after the inventory and appraisement is filed, the guardian or conservator or any creditor or other interested person may file written objections to any or all appraisals. The clerk shall set the objections for hearing not less than 15 days after their filing.

(b) At least 10 days before the hearing, the party filing the written objections shall mail a notice of the time and place of the hearing and a copy of the objections to all of the following (other than the person filing the objections):

(1) The guardian or conservator.

(2) The spouse and the relatives of the ward or conservatee within the second degree.

(3) The probate referee.

(c) The court shall determine the objections and may fix the true value of any asset to which objection has been filed. For the purpose of this subdivision, the court may cause an independent appraisal or appraisals to be made by at least one additional appraiser at the expense of the estate or, if the objecting party is not the guardian or conservator and the objection is rejected by the court, the court may assess the cost of any such additional appraisal or appraisals against the objecting party.

SEC. 13. Chapter 23 (commencing with Section 1300) is added to Division 3 of the Probate Code, to read:

CHAPTER 23. PROBATE REFEREES

1300. Probate referee means the probate referee of the county of the superior court having jurisdiction.

1301. Upon his designation and appointment the referee has:

(a) Jurisdiction to require the attendance before him of the executor, administrator, any person interested in the estate, or any other person whom he may have reason to believe possesses knowledge of the estate.

(b) All the powers of a referee of the superior court.

1302. The referee may issue subpoenas compelling the attendance of any person before him for the purpose of appraising any property included in the estate.

1303. The referee may examine and take the testimony under oath of any person appearing before him concerning the value of the property.

1304. Any person served with a subpoena issued by the referee requiring him to appear and testify before the referee in respect to any appraisement, or to produce any book or paper under his control or custody which is relevant to the appraisement, who refuses or neglects to do so, is guilty of a contempt of the court by whom the referee was designated and appointed.

1305. The Controller shall appoint from among persons passing a qualification examination administered by the State Personnel Board at least one person in each county to act as a probate referee for the county. Such appointments shall be on the basis of merit without regard to sex, race, religious creed, color, national origin, ancestry, marital status, or political affiliation. In the event there are less than three regularly qualified applicants to serve in a county, the Controller may designate a probate referee from another county or in the event there is no regularly qualified applicant, make an interim appointment, to serve until the vacancy has been filled by a regularly qualified applicant.

As soon as practical after the operative date of this chapter, the Controller shall appoint the then appointed inheritance tax referees to serve out their current terms as probate referees. Thereafter, the term of office of a probate referee shall be four years, expiring June 30. In increasing the probate referees in any county thereafter, the Controller shall stagger the terms of the new appointees so that one-quarter or as close to one-quarter as possible of the terms of the probate referees expire on June 30 of each succeeding year. For purposes of this section, any person who has passed the qualification examination for inheritance tax referee shall be deemed a qualified applicant. Once qualified, an applicant remains eligible for appointment for a period of five years from the date of his examination. Once appointed, a probate referee remains eligible for reappointment.

1306. (a) Qualification examinations for applicants for appointment as a probate referee shall be held at such times and at

such places within the state as the Controller determines.

(b) The Controller shall contract with the State Personnel Board to administer such examination. Each applicant shall pay a fee for taking the examination as is established by the State Personnel Board.

(c) The administration of such examinations shall include:

(1) Development of standards for passage of such examination.

(2) Preparation of examination questions.

(3) Giving such examinations.

(4) Scoring examinations.

(d) The State Personnel Board shall transmit to the Controller a list of candidates that have received a passing score in such examinations. Such list shall be a public record.

1307. The Controller may establish and amend standards of training, performance and ethics of probate referees. Such standards are public records.

1308. (a) A probate referee may be removed for noncompliance with any standard of training, performance or ethics established under Section 1307. Any removal under this subdivision shall not be subject to notice or a hearing, but shall be reviewable by writ or mandate to a court of competent jurisdiction.

(b) Notwithstanding the provisions of subdivision (a) or Section 1305, within any one year the Controller may also remove, at his pleasure, at least one probate referee, but not more than 10 percent of the probate referees in any one county. The Controller, notwithstanding the provisions of subdivision (a) during calendar year 1983, within any quarter of the year, may also remove, at his or her pleasure, at least one probate referee, but not more than 10 percent of the probate referees in any one county.

1309. The authority of any person to act in any capacity as a probate referee ceases immediately upon the expiration of that person's term of office, resignation, or other termination pursuant to law.

1310. Any probate referee who takes any fee or reward not allowed him by law from any person liable for the payment of the whole or any portion of any tax imposed by this part is guilty of a misdemeanor, and upon conviction is punishable by a fine of not less than two hundred fifty dollars ($250) nor more than five hundred dollars ($500), or by imprisonment in the county jail for 90 days, or by both. In addition, the court shall dismiss him from service as a referee.

1311. (a) A probate referee or any person who is an applicant for or seeking an appointment as a probate referee shall not, directly or indirectly, solicit, receive, or contribute, or be in any manner concerned in soliciting, receiving or contributing, any assessment, subscription, contribution, or political service for any campaign for the office of Controller of this state.

(b) A referee or any person who is an applicant for or seeking an appointment as a referee shall not, directly or indirectly, solicit,

receive, or contribute or be in any manner concerned in soliciting, receiving or contributing, any assessment, subscription, or contribution for any campaign for any partisan public office of this state, other than for the office of Controller, exceeding two hundred dollars ($200) to any party or candidate in any one year.

(c) Any violation of the provisions of this section is a misdemeanor.

1312. The Controller shall not appoint any person as a probate referee who has directly or indirectly solicited, received, or contributed, or was in any manner concerned in soliciting, receiving, or contributing, any assessment, subscription, contribution, or political service for any campaign for the office of Controller of this state or who has directly or indirectly solicited, received or contributed, or was in any manner concerned in soliciting, receiving or contributing any assessment, subscription or contribution for any campaign for any partisan public office of this state, other than the office of Controller, exceeding two hundred dollars ($200) to any party or candidate in any one year within the two-year period preceding the date of his appointment. The appointment of any such person as an inheritance tax referee shall be void; however, all acts performed by such person prior to his removal are valid. This section shall not apply to the above activities of a person prior to the operative date of this section.

1313. The staff of the appropriate policy committees of the Senate and Assembly shall review the study conducted by the California Law Revision Commission regarding the administration of estates of decedents and shall prepare a report to the Legislature regarding the study by June 30, 1984.

SEC. 14. Part 8 (commencing with Section 13301) of Division 2 of the Revenue and Taxation Code, as added by Chapter 658 of the Statutes of 1943, is repealed.

SEC. 15. Part 8 (commencing with Section 13301) is added to Division 2 of the Revenue and Taxation Code, to read:

PART 8. PROHIBITION OF GIFT AND DEATH TAXES

CHAPTER 1. IMPOSITION OF TAX

13301. Neither the state nor any political subdivision of the state shall impose any gift, inheritance, succession, legacy, income, or estate tax, or any other tax, on gifts or on the estate or inheritance of any person or on or by reason of any transfer occurring by reason of a death.

13302. Notwithstanding the provisions of Section 13301, whenever a federal estate tax is payable to the United States, there is hereby imposed a California estate tax equal to the portion, if any, of the maximum allowable amount of the credit for state death taxes, allowable under the applicable federal estate tax law, which is attributable to property located in the State of California. However,

in no event shall the estate tax hereby imposed result in a total death tax liability to the State of California and the United States in excess of the death tax liability to the United States which would result if this section were not in effect.

13303. In a case where a decedent leaves property having a situs in this state, and leaves other property having a situs in another state, or other states, the portion of the maximum state death tax credit allowable against the federal estate tax on the total estate by the federal estate tax law which is attributable to the property having a situs in California shall be determined in the following manner:

(a) For the purpose of apportioning the maximum state death tax credit, the gross value of the property shall be that value finally determined for federal estate tax purposes.

(b) The maximum state death tax credit allowable shall be multiplied by the percentage which the gross value of property having a situs in California bears to the gross value of the entire estate subject to federal estate tax.

(c) The product determined pursuant to subdivision (b) shall be the portion of the maximum state death tax credit allowable which is attributable to property having a situs in California.

CHAPTER 2. DEFINITIONS

13401. Except where the context otherwise requires, the definitions given in this chapter govern construction of this part.

13402. "Estate" or "property" means the real or personal property or interest therein of a decedent or transferor, and includes all of the following:

(a) All intangible personal property of a resident decedent within or without the state or subject to the jurisdiction thereof.

(b) All intangible personal property in California belonging to a deceased nonresident of the United States, including all stock of a corporation organized under the laws of California or which has its principal place of business or does the major part of its business in California or of a federal corporation or national bank which has its principal place of business or does the major part of its business in California, excluding, however, savings accounts in savings and loan associations operating under the authority of the Division of Savings and Loan or the Federal Home Loan Bank board and bank deposits, unless those deposits are held and used in connection with a business conducted or operated, in whole or in part, in California.

13403. "Personal representative" means the personal representative of the decedent or, if there is no personal representative appointed, qualified and acting within this state, any person who is in actual or constructive possession of any property included in the gross estate of the decedent.

13404. "Transfer" includes the passage of any property, or any interest therein or income therefrom, in possession or enjoyment, present or future, in trust or otherwise.

13405. "Decedent" or "transferor" means any person by or from whom a transfer is made, and includes any testator, intestate, grantor, bargainor, vendor, assignor, donor, joint tenant, or insured.

13406. "Transferee" means any person to whom a transfer is made, and includes any legatee, devisee, heir, next of kin, grantee, donee, vendee, assignee, successor, survivor, or beneficiary.

13407. "Resident" or "resident decedent" means a decedent who was domiciled in California at his or her death.

13408. "Nonresident" or "nonresident decedent" means a decedent who was domiciled outside of California at his or her death.

13409. "Gross estate" means "gross estate" as defined in Section 2031 of the United States Internal Revenue Code of 1954, as amended or renumbered.

13410. "Taxable estate" means the "taxable estate" as defined in Section 2051 of the United States Internal Revenue Code of 1954, as amended or renumbered.

13411. "Federal credit" means the maximum amount of the credit for state death taxes allowed by Section 2011 of the United States Internal Revenue Code of 1954, as amended or renumbered in respect to a decedent's taxable estate.

CHAPTER 3. RETURNS

Article 1. Estate Tax Return

13501. The personal representative of every estate subject to the tax imposed by this part who is required to file a federal estate tax return shall file with the Controller on or before the federal estate tax return is required to be filed both of the following:

(a) A return for the tax due under this part.

(b) A true copy of the federal estate tax return.

13502. If the personal representative has obtained an extension of time for filing the federal estate tax return, the filing required by Section 13501 shall be similarly extended until the end of the time period granted in the extension of time for the federal estate tax return. A true copy of the federal extension shall be filed with the Controller.

13503. If the personal representative files an amended federal estate tax return, he or she shall immediately file with the Controller an amended return with a true copy of the amended federal estate tax return. If the personal representative is required to pay an additional tax under this part pursuant to the amended return, he or she shall pay that additional tax, together with any interest as provided in Section 13550 at the same time the amended return is filed.

13504. Upon final determination of the federal estate tax due, the personal representative shall, within 60 days after that determination, give written notice of it to the Controller. If any additional tax is due under this part by reason of this determination,

the personal representative shall pay the same, together with interest as provided in Section 13550, at the same time he or she files the notice.

Article 2. Penalties

13510. If the return provided for in Section 13501 is not filed within the time period specified therein or the extension specified in Section 13502, then the personal representative shall pay, in addition to the interest provided in Section 13550, a penalty equal to 5 percent of the tax due pursuant to this part, as finally determined, for each month, or portion thereof, during which that failure to file continues, not exceeding 25 percent in the aggregate, unless it is shown that such failure is due to reasonable cause. If a similar penalty for failure to timely file the federal estate tax return is waived, that waiver shall be deemed to constitute reasonable cause for purposes of this section.

CHAPTER 4. DEFICIENCY DETERMINATION

13516. In a case not involving a false or fraudulent return or failure to file a return, if the Controller determines at any time after the tax is due, but not later than four years after the return is filed, that the tax disclosed in any return required to be filed by this part is less than the tax disclosed by his or her examination, a deficiency shall be determined. That determination may also be made within such time after the expiration of that four-year period as may be agreed upon in writing between the Controller and the personal representative.

For purposes of this section, a return filed before the last day prescribed by law for filing that return shall be considered as filed on that last day.

13517. In the case of a false or fraudulent return or failure to file a return, the Controller may determine the tax at any time.

13518. In any case in which a deficiency has been determined in an erroneous amount, the Controller may, within three years after the erroneous determination was made, set aside the determination or issue an amended determination in the correct amount.

13519. The Controller shall give notice of the deficiency determined, together with any penalty for failure to file a return, by personal service or by mail to the person filing the return at the address stated in the return, or, if no return is filed, to the person liable for the tax. Copies of the notice of deficiency may in like manner be given to such other persons as the Controller deems advisable.

13520. In any case in which it is claimed that a deficiency has been determined in an erroneous amount, any person who is liable for the tax may, within three years after the determination was made, bring an action against the state in the superior court having

jurisdiction to have the tax modified in whole or in part.

CHAPTER 5. PAYMENT OF TAX

Article 1. Generally

13530. The tax imposed by this part shall be paid by the personal representative to the extent of assets subject to his or her control. Liability for payment of the tax continues until the tax is paid.

13531. The tax imposed by this part is due and payable at the date of the decedent's death.

13532. The tax imposed by this part is delinquent at the expiration of nine months from the date on which it becomes due and payable, if not paid within that time.

13533. The tax imposed by this part shall be paid to the Controller by remittance to the Treasurer.

Article 2. Interest

13550. The tax imposed by this part does not bear interest if it is paid prior to the date on which it otherwise becomes delinquent. However, if that tax is paid after that date, that tax bears interest at the rate of 12 percent per annum from the date it became delinquent and until it is paid.

13551. Every payment on the tax imposed by this part is applied, first, to any interest due on the tax, secondly, to any penalty imposed by this part, and then, if there is any balance, to the tax itself.

Article 3. Delinquent Tax Bond

13555. If any personal representative fails to pay any tax imposed by this part for which he or she is liable prior to the delinquent date of the tax, he or she shall, on motion of the Controller, in his or her discretion, be required by the superior court having jurisdiction to execute a bond to the people of the State of California in a penalty of twice the amount of the tax with those sureties as the court may approve, conditioned for the payment of the tax, plus interest on the tax at the rate of 12 percent per annum commencing on the date that tax became delinquent, within a certain time to be fixed by the court and specified in the bond.

13556. The bond shall be filed in the office of the clerk of the court, and a certified copy shall be immediately transmitted to the Controller.

13557. If the bond is not filed within 20 days after the date of the filing of the order requiring it, the letters of the personal representative affected shall be revoked upon motion of the Controller.

CHAPTER 6. REFUNDS

13560. Whenever the Controller determines that the tax due under this part has been over paid, the person making payment shall be entitled to a refund of the amount erroneously paid on presentation of proof satisfactory to the Controller that he or she is entitled to a refund.

13561. An application for the refund shall be made to the Controller within one year after the date the federal estate tax has been finally determined.

13562. On proof satisfactory that the applicant is entitled to a refund, the Controller shall draw his or her warrant upon the Treasurer in favor of the person who paid the tax in the amount erroneously paid, and the Treasurer shall refund that amount.

13563. Interest shall be allowed and paid upon any overpayment of the tax due under this part, at a rate each calendar year equal to the Federal Reserve rate on each January 1, not to exceed 7 percent per annum. That interest shall be allowed from the date on which payment of the tax would have become delinquent, if not paid, or the date of actual payment, whichever is later in time, to the date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the Controller.

CHAPTER 7. COLLECTION OF TAX

Article 1. Suit for Tax

13601. The state may enforce its claim for any tax imposed by this part and enforce the lien of the tax by a civil action in any court of competent jurisdiction against any person liable for the tax or against any property subject to the lien.

Article 2. Lien of Tax

13610. (a) If any personal representative fails to pay any tax, interest, or penalty imposed under this part 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. Except as otherwise provided in subdivision (b), the lien is subject to Chapter 14 (commencing with Section 7150) of Division 7 of Title 1 of the Government Code.

(b) Notwithstanding subdivision (a) of Section 7172 of the Government Code, all of the following apply to a state tax lien created pursuant to subdivision (a):

(1) Continues in effect for 10 years from the time a deficiency determination is issued pursuant to this part unless the state tax lien is sooner released or otherwise discharged.

(2) Is extinguished 10 years from the time a deficiency

determination is issued, unless the state tax lien is recorded or filed as provided in Section 7171 of the Government Code.

Article 3. Warrant for Collection of Tax

13615. At any time within 10 years after any person is delinquent in the payment of any amount herein required to be paid, or within 10 years after the last recording or filing of a notice of state tax lien under Section 7171 of the Government Code, the Controller or his or her authorized representative may issue a warrant for the enforcement of any liens and for the collection of any amount required to be paid to the state under this part. The warrant shall be directed to any sheriff, marshal, or constable and shall have the same effect as a writ of execution. The warrant shall be levied and sale made pursuant to it in the same manner and with the same effect as a levy of and sale pursuant to a writ of execution.

13616. The Controller may pay or advance to the sheriff, marshal, or constable, the same fees, commissions, and expenses for his or her services as are provided by law for similar services pursuant to a writ of execution. The Controller, and not the court, shall approve the fees for publication in a newspaper.

13617. The fees, commissions, and expenses are obligations of the person required to pay any amount under this part and may be collected from him or her by virtue of the warrant or in any manner provided in this part for the collection of the tax.

Article 4. Writ of Execution

13620. At any time after a tax imposed by this part is delinquent, the Controller may have a writ of execution issued for the enforcement of any judgment rendered pursuant to this part in respect to the tax.

13621. The writ shall be executed against any property of the person liable for payment of the tax, or against any property subject to the lien of the tax.

13622. No fee shall be exacted from the Controller for the issuance of execution of the writ.

Article 5. Miscellaneous

13680. Proceedings for the collection of any tax imposed by this part may be commenced at any time after the tax is due and within 10 years from and after the time a delinquency determination is issued pursuant to the provisions of this part.

13681. In any proceeding for the enforcement of the estate tax a certificate by the Controller showing the amount due is prima facie evidence of the imposition of the tax, of the fact that it is due, and of compliance by the Controller with all the provisions of this part in relation to the computation and determination of the tax.

13682. No injunction, writ of mandate, or other legal or equitable process shall ever issue in any suit, action, or proceeding in any court against this state or any officer of this state to prevent or enjoin the collection of any tax imposed by this part.

13683. The Controller may bring suits in the courts of other states to collect estate taxes payable under this part. An official of another state which extends a like comity to this state may sue for the collection of similar taxes in the courts of this state. A certificate by the secretary of state of another state, under the great seal of that state, that an official thereof has authority to collect its estate or other transfer taxes is conclusive evidence of the authority of that official in any suit for the collection of those taxes in any court of this state.

13684. The remedies of the state for the enforcement of the tax imposed by this part are cumulative, and no action taken by the Controller or any other state official constitutes an election by the state or any of its officers to pursue any remedy to the exclusion of any other remedy for which provision is made by this part.

Article 6. Tax Compromise

13801. The Controller may compromise with the personal representative the tax, including interest and penalty thereon, payable on the estate of any decedent who it is claimed was not a resident of this state at the time of his or her death.

13810. When the Controller claims that a decedent was domiciled in this state at the time of his or her death and the taxing authorities of another state or states make a like claim on behalf of their state or states, the Controller may make a written agreement of compromise with the other taxing authorities and the executor or administrator that a certain sum shall be accepted in full satisfaction of any and all death taxes imposed by this state, including any interest to the date of filing the agreement. The agreement shall also fix the amount to be accepted by the other states in full satisfaction of death taxes. The executor or administrator is hereby authorized to make that agreement. Either the Controller or the executor or administrator shall file the agreement, or a duplicate, with the authority that would be empowered to determine death taxes for this state if there had been no agreement; and thereupon the tax shall be deemed conclusively fixed as therein provided. Unless the tax is paid within 90 days after filing the agreement, interest shall thereafter accrue upon the amount fixed in the agreement but the time between the decedent's death and the filing shall not be included in computing the interest.

13810.1. As used in this article, "state" means any state, territory, or possession of the United States, and the District of Columbia.

13810.2. This article shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

13810.3. This article may be cited as the "Uniform Act on

Interstate Compromise of Death Taxes."

13810.4. This article shall apply to estates of decedents dying before or after its enactment.

Article 7. Uniform Act on Interstate Arbitration of Death Taxes

13820. When the Controller claims that a decedent was domiciled in this state at the time of his or her death and the taxing authorities of another state or states make a like claim on behalf of their state or states, the Controller may make a written agreement with the other taxing authorities and with the executor or administrator to submit the controversy to the decision of a board consisting of one or any uneven number of arbitrators (hereafter referred to in this article as "board"). The executor or administrator is hereby authorized to make the agreement. The parties to the agreement shall select the arbitrator or arbitrators.

13820.1. The board shall hold hearings at such times and places as it may determine, upon reasonable notice to the parties to the agreement, all of whom shall be entitled to be heard, to present evidence and to examine and cross-examine witnesses.

13820.2. The board shall have power to administer oaths, take testimony, subpoena and require the attendance of witnesses and the production of books, papers and documents, and issue commissions to take testimony. Subpoenas may be signed by any member of the board. In case of failure to obey a subpoena, any judge of a court of record of this state, upon application by the board, may make an order requiring compliance with the subpoena, and the court may punish failure to obey the order as a contempt.

13820.3. The board shall, by majority vote, determine the domicile of the decedent at the time of his or her death. This determination shall be final for purposes of imposing and collecting death taxes but for no other purpose.

13820.4. Except as provided in Section 13820.2 in respect of the issuance of subpoenas, all questions arising in the course of the proceeding shall be determined by majority vote of the board.

13820.5. The Controller, the board, or the executor or administrator shall file the determination of the board as to domicile, the record of the board's proceedings, and the agreement, or a duplicate, made pursuant to Section 13820, with the authority having jurisdiction to determine the death taxes in the state determined to be the domicile and shall file copies of all such documents with the authorities that would have been empowered to determine the death taxes in each of the other states involved.

13820.6. In any case where it is determined by the board that the decedent died domiciled in this state, interest, if otherwise imposed by law, for nonpayment of death taxes between the date of the agreement and of filing of the determination of the board as to domicile, shall not exceed 10 percent per annum.

13820.7. Nothing contained herein shall prevent at any time a written compromise, if otherwise lawful, by all parties to the agreement made pursuant to Section 13820, fixing the amounts to be accepted by this and any other state involved in full satisfaction of death taxes.

13820.8. The compensation and expenses of the members of the board and its employees may be agreed upon among those members and the executor or administrator and if they cannot agree shall be fixed by the superior court of the state determined by the board to be the domicile of the decedent. The amounts so agreed upon or fixed shall be deemed an administration expense and shall be payable by the executor or administrator.

13820.9. This article shall apply only to cases in which each of the states involved has a law identical with or substantially similar to this act.

13820.10. As used in this article, the word "state" means any state, territory, or possession of the United States, and the District of Columbia.

13820.11. This article shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

13820.12. This article may be cited as the "Uniform Act on Interstate Arbitration of Death Taxes."

13820.13. This article shall apply to estates of decedents dying before or after its enactment.

Article 8. Determination of Domicile by Arbitration: Alternative Method

13830. For the purposes of this article:

(a) "Executor" means an executor of the will or administrator of the estate of the decedent, but does not include an ancillary administrator nor an administrator with the will annexed if an executor named in the will has been appointed and has qualified in another state.

(b) "Taxing official" means the Controller of the State of California and the designated authority of a reciprocal state.

(c) "Death tax" means any tax levied by a state on account of the transfer or shifting of economic benefits in property at death, or in contemplation thereof, or intended to take effect in possession or enjoyment at or after death, whether denominated an "inheritance tax," "transfer tax," "succession tax," "estate tax," "death duty," "death dues," or otherwise.

(d) "Interested person" means any person who may be entitled to receive, or who has received, any property or interest which may be required to be considered in computing the death tax of any state involved.

(e) "State" means any state, territory, or possession of the United States, or the District of Columbia. "This state" means the State of

California.

(f) "Board" means board of arbitration.

13830.1. In any case in which this state and one or more other states each claims that it was the domicile of a decedent at his or her death, at any time prior to the commencement of legal action for determination of domicile within this state or within 60 days thereafter, any executor, or the taxing official of any such state, may elect to invoke the provisions of this article. That executor or taxing official shall send a notice of that election by registered mail, receipt requested, to the taxing official of each such state and to each executor, ancillary administrator, and interested person. Within 40 days after the receipt of that notice of election, any executor may reject that election by sending a notice, by registered mail, receipt requested, to all persons originally required to be sent a notice of election. When an election has been rejected by an executor, no further proceedings shall be had under this article. If that election is not rejected within the 40-day period, the dispute as to death taxes shall be determined solely as provided in this article. No other proceedings to determine or assess those death taxes shall thereafter be prosecuted in any court of this state or otherwise.

13830.2. In any case in which an election is made and not rejected the Controller may enter into a written agreement with the other taxing officials involved and with the executors to accept a certain sum in full payment of any death taxes, together with interest and penalties, that may be due this state; provided, this agreement fixes the amount to be paid the other states involved in the dispute.

13830.3. If in any case it appears that an agreement cannot be reached, as provided in Section 13830.2, or if one year shall have elapsed from the date of the election without an agreement having been reached, the domicile of the decedent at the time of his or her death shall be determined solely for death tax purposes as provided for in this article.

13830.4. Where only this state and one other state are involved, the Controller and the taxing official of the other state shall each appoint a member of a board of arbitration, and these members shall appoint the third member of the board. If this state and more than one other state are involved, the taxing officials thereof shall agree upon the authorities charged with the duty of administering death tax laws in three states not involved in the dispute and each of these authorities shall appoint a member of the board of arbitration. The board shall select one of its members as chairman.

13830.5. The board shall hold hearings at such places as are deemed necessary, upon reasonable notice to the executors, ancillary administrators, all other interested persons, and to the taxing officials of the states involved, all of whom are entitled to be heard.

13830.6. The board may administer oaths, take testimony, subpoena witnesses and require their attendance, require the production of books, papers and documents, and issue commissions to take testimony. Subpoenas may be issued by any member of the

board. Failure to obey a subpoena may be punished by any court of record in the same manner as if the subpoena had been issued by that court.

13830.7. Whenever practicable the board shall apply the rules of evidence then prevailing in the federal courts under the federal rules of civil procedure.

13830.8. The board shall determine the domicile of the decedent at the time of his or her death. This determination is final and conclusive and binds this state, and all of its judicial and administrative officials on all questions concerning the domicile of the decedent for death tax purposes. If the board does not render a determination within one year from the time that it is fully constituted, all authority of the board shall cease and the bar to court proceedings set forth in Section 13830.1 shall no longer exist.

13830.9. The reasonable compensation and expenses of the members of the board and its employees shall be agreed upon among those members, the taxing officials involved, and the executors. If an agreement cannot be reached, compensation and expenses shall be determined by those taxing officials; and, if they cannot agree, by the appropriate probate court of the state determined to be the domicile. That amount shall be borne by the estate and shall be deemed an administration expense.

13830.10. The determination of the board and the record of its proceedings shall be filed with the authority having jurisdiction to assess the death tax in the state determined to be the domicile of the decedent and with the authorities which would have had jurisdiction to assess the death tax in each of the other states involved if the decedent had been found to be domiciled therein.

13830.11. Notwithstanding the commencement of a legal action for determination of domicile within this state or the commencement of an arbitration proceeding, as provided in Section 13830.3, the Controller may in any case enter into a written agreement with the other taxing officials involved and with the executors to accept a certain sum in full payment of any death tax, together with interest and penalties, that may be due this state; provided, this agreement fixes the amount to be paid the other states involved in the dispute, at any time before that proceeding is concluded. Upon the filing of this agreement with the authority which would have jurisdiction to assess the death tax of this state, if the decedent died domiciled in this state, an assessment shall be made as provided in that agreement, and this assessment finally and conclusively fixes the amount of death tax due this state. If the aggregate amount payable under that agreement or under an agreement made in accordance with the provisions of Section 13830.2 to the states involved is less than the minimum credit allowable to the estate against the United States estate tax imposed with respect thereto, the executor forthwith shall also pay to this state the same percentage of the difference between that aggregate amount and the amount of that credit as the amount payable to this

state under that agreement bears to that aggregate amount.

13830.12. When in any case the board of arbitration determines that a decedent dies domiciled in this state, the total amount of interest and penalties for nonpayment of the tax, between the date of the election and the final determination of the board, shall not exceed 12 percent of the amount of the taxes per annum.

13830.13. This article shall be applicable only to cases in which each of the states involved in the dispute has in effect therein a law substantially similar hereto. However, nothing contained in this section shall prohibit the application of this article or any part hereof where any of the other states involved in the dispute have in effect therein a law empowering the tax authority to voluntarily enter into a binding arbitration or compromise agreement and such an agreement is so entered into.

CHAPTER 8. COURT JURISDICTION AND PROCEDURE GENERALLY

Article 1. Court Jurisdiction

14000. The superior court which has jurisdiction in probate of the estate of any decedent shall hear and determine all questions relative to any tax imposed by this part, whether the property listed in the estate tax return, or any portion thereof, is in the estate or not.

14001. In a case where a deceased resident of this state leaves no estate subject to probate administration, the superior court in which the decedent resided at the date of death shall hear and determine all questions relative to any tax imposed by this part.

14002. In the case of a decedent who was not a resident of this state at the time of his or her death, the superior court of the county in which the decedent's real property is situated, or, if he or she had no real property in this state, the superior court of the county in which any of his or her personal property is situated, has jurisdiction to hear and determine all questions relative to any tax imposed by this part. If the decedent leaves property in more than one county, the superior court of any such county whose jurisdiction is first invoked has exclusive jurisdiction.

Article 2. Court Procedure Generally

14010. Except as otherwise provided in this part, the provisions of the Code of Civil Procedure relative to judgments, new trials, appeals, attachments, and execution of judgments, so far as applicable, govern all proceedings under this part.

14011. Nothing in this article precludes the state from any relief provided for in this part which may be inconsistent with the provisions of the Code of Civil Procedure.

14012. The provisions of the Code of Civil Procedure relative to the time of commencing civil actions do not apply to any action or proceeding under this part to levy, appraise, assess, determine, or

enforce the collection of any tax, interest, or penalty imposed by this part.

14013. No fee shall be charged the Controller for filing, recording, or certifying any petition, lis pendens, decree, or order for taking any oath or acknowledgement, in any proceedings under this part; nor shall any undertaking be required from the Controller or the state in any such proceeding.

CHAPTER 9. ADMINISTRATION

Article 1. Generally

14101. This part shall be administered by the Controller.

14102. The Controller may employ those assistants, including attorneys, as may from time to time be necessary for the proper administration of this part.

14103. The Controller may make and enforce rules and regulations relating to the administration and enforcement of this part, and may prescribe the extent, if any, to which any ruling or regulation shall be applied without retroactive effect.

14104. The Controller shall, without charge, distribute a copy of this part to any person who requests it.

Article 2. Special Employment

14151. Whenever he or she is cited as a party to any proceeding or action to determine any tax imposed by this part, or whenever he or she deems it necessary for the better enforcement of this part to secure evidence of the evasion of, or to commence or appear in any proceeding or action to determine, any such tax, the Controller may, with the consent and approval of the Attorney General:

(a) Specially employ any attorney or other person in or out of the state to act for or represent him or her on the state's behalf.

(b) Incur any reasonable and necessary expense for and incident to the employment.

Article 3. Hearings

14201. The Controller may conduct a hearing at any time or place for the purpose of determining whether a tax is due under this part.

14202. For purposes of the hearing referred to in Section 14201, the Controller has all of the following:

(a) Jurisdiction to require the attendance before him or her of any person who he or she may have reason to believe possesses knowledge of any facts that will aid the Controller in the determination of the tax.

(b) All the powers of a referee of the superior court.

14203. The Controller may issue subpoenas for any of the following purposes:

(a) Compelling the attendance of any person before him or her or the production of books and papers.

(b) Determining the amount of any tax due.

14204. On the filing by the Controller of a petition asking the court to do so, the superior court of the county in which a hearing is held may compel compliance with any subpoena issued by the Controller.

14205. The Controller may examine and take the testimony under oath of any person appearing before him or her concerning the determination of any tax due under this part.

14206. Any person compelled to attend a hearing before the Controller is entitled to fees for attendance in an amount to be determined by the Controller, and to his or her expenses of attendance. The fees and expenses are a part of the cost of administering this part.

Article 4. Information Confidential

14251. All information and records acquired by the Controller or any of his or her employees are confidential in nature, and except insofar as may be necessary for the enforcement of this part or as may be permitted by this article, shall not be disclosed by any of them.

Except insofar as may be necessary for the enforcement of this part or as may be permitted by this article, any former or incumbent Controller or employee of the Controller who discloses any information acquired by any inspection or examination made pursuant to this article is guilty of a felony, and upon conviction shall be imprisoned in the state prison.

14252. The Controller may allow any local, state, or federal official charged with the administration of any tax law to examine his or her estate tax records under those rules and regulations as he or she may prescribe.

CHAPTER 10. DISPOSITION OF PROCEEDS

14301. All taxes and other money collected under this part and received by the Treasurer shall be deposited in the State Treasury to the credit of the Estate Tax Fund, which fund is hereby created.

14302. The money in the Estate Tax Fund is hereby appropriated as follows:

(a) To pay the refunds authorized by this part and by Part 9.5 (commencing with Section 16700).

(b) The balance of the money in the fund shall, on order of the Controller, be transferred to the unappropriated surplus in the State General Fund.

SEC. 16. Part 9 (commencing with Section 15101) of Division 2 of the Revenue and Taxation Code is repealed.

SEC. 17. If the provisions of Sections 14, 15, or 16 of this act are declared invalid by an appellate court of this state as applied to

estates of persons dying before the effective date of this act, to transfers occurring by reason of a death occurring before that date, or to gifts made or completed before that date, it is the intent of the Legislature that the provisions of Sections 14, 15, and 16 of this act shall be applicable only to estates of persons dying on or after the effective date of this act, to transfers occurring by reason of a death occurring on or after that date, and to gifts made or completed on or after that date, and to that extent the provisions of those sections shall remain in full force and effect.

SEC. 18. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1536

An act to add Article 6 (commencing with Section 520) to Chapter 3 of Part 1 of Division 1 of, to repeal Sections 464 and 464.5 of, and to repeal Article 5 (commencing with Section 491) of Chapter 3 of Part 1 of Division 1 of, the Food and Agricultural Code, relating to agriculture.

[Approved by Governor September 29, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 464 of the Food and Agricultural Code is repealed.

SEC. 2. Section 464.5 of the Food and Agricultural Code is repealed.

SEC. 3. Article 5 (commencing with Section 491) of Chapter 3 of Part 1 of Division 1 of the Food and Agricultural Code, as added by Chapter 771 of the Statutes of 1981, is repealed.

SEC. 4. Article 6 (commencing with Section 520) is added to Chapter 3 of Part 1 of Division 1 of the Food and Agricultural Code, to read:

Article 6. Poultry and Livestock Diagnostic Laboratories

520. "University," as used in this article, means the University of California.

521. It is the intent of the Legislature that the department contract with the Regents of the University of California to operate

poultry and livestock disease laboratories pursuant to this article. The central laboratory should be located next to the facilities of the Veterinary Medical Teaching Hospital of the University of California at Davis, in order to take advantage of the expertise of the veterinary specialists.

522. When a central diagnostic laboratory constructed on the Davis campus of the university is ready for occupancy, the director shall contract as soon as possible with the Regents of the University of California for its School of Veterinary Medicine to establish and operate the California Poultry and Livestock Disease Diagnostic Laboratory System. The system shall be headed by a director appointed by the Dean of the School of Veterinary Medicine under applicable university hiring rules. The system shall test, examine, and make diagnoses of infectious, nutritional, toxic, metabolic, and other diseases of livestock and poultry.

523. The contract executed pursuant to this article shall provide that the university maintain sufficient numbers of laboratories to perform the functions contained in this article. The central diagnostic laboratory shall be established on the Davis campus of the university, and branch laboratories at San Bernardino, Fresno, Turlock, and Tulare shall be operated so long as these services are best performed at a branch laboratory, considering the cost and quality of services.

524. (a) A central diagnostic laboratory building to be constructed on the Davis campus of the university adjacent to the facilities of the Veterinary Medical Teaching Hospital, together with the equipment necessary for a modern veterinary diagnostic laboratory, is hereby specifically authorized. The department may include a request for physical facilities planning and working drawings funds in its 1983–84 budget request and for construction funds in the 1984–85 budget request. The funds may be transferred, as appropriate, to the university for planning, working drawings, and construction. Title to the facility shall vest in the Regents of the University of California, and the facility shall be dedicated for use as a veterinary diagnostic laboratory so long as it is needed for that purpose.

(b) Prior to completion of construction of a central diagnostic laboratory on the Davis campus of the university, the director may continue to provide interim laboratory services and to contract with the university for diagnostic services which can be rendered more effectively by the university. In order to assure the orderly transfer of the veterinary diagnostic program from the department to the university, a Transition Veterinary Diagnostic Laboratory Administrative Committee is established. The committee shall consist of the director or his or her designee, who will serve as chairman, the Dean of the School of Veterinary Medicine or his or her designee who will serve as assistant chairman, and two additional members, one appointed by the director and one by the dean. The committee shall advise the department and the university on the

operation of the laboratories during the period prior to the diagnostic laboratory system being fully transferred from the department to the university.

525. After the contract has been executed pursuant to Section 521, the diagnostic functions of the regional laboratories maintained at Petaluma and Sacramento shall be transferred to other laboratories in the system and those two laboratories shall be closed.

526. The contract shall provide that the university, in consultation with the department, shall establish a schedule of fees to help defray the cost of operation of the laboratories.

527. The contract shall provide for all of the following services which, when included in the department's budget, shall be provided without charge:

(a) Services performed in the course of a department-approved investigation of an animal health problem.

(b) Department-approved services provided to regulatory agencies.

528. The contract shall specify the accounting procedures to be used and any reports necessary to assure compliance with state and university requirements.

529. It is intended that the contractual arrangement between the university and the department be of long-term duration. The department's budget for the laboratories shall be reviewed annually.

A Veterinary Diagnostic Laboratory Board is hereby established, consisting of representatives of the livestock and poultry industries and practicing veterinarians who utilize the laboratory service. It shall be appointed by the director in consultation with the Dean of the School of Veterinary Medicine. The Chief of the Bureau of Animal Health of the department, the Assistant Area Veterinarian in Charge for California for the United States Department of Agriculture, and the director of the laboratory system created by this article shall be ex officio members. The board shall advise the university and the department on all aspects of the operation of the laboratories.

530. A member of the Veterinary Diagnostic Laboratory Board is entitled to be paid his or her actual expenses which are incurred while engaged in performing his or her duties that are authorized by this article.

531. The budget for the veterinary diagnostic laboratory system shall be established as a line item in the budget of the department. The operating budget requests shall be submitted annually, and requests for funding of construction of facilities and special items of laboratory equipment which cost over one hundred fifty thousand dollars ($150,000) shall be submitted when required. The director shall transfer funds appropriated for operation of the laboratories, for equipment, and for construction of facilities to the university to be managed according to university rules and regulations, and in accordance with the contract between the department and the university.

CHAPTER 1537

An act to add Section 17042.5 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 29, 1982 Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 17042.5 is added to the Revenue and Taxation Code, to read:

17042.5. (a) Notwithstanding Section 17042, an individual shall be considered a joint custody head of household if that individual:

(1) Is not married at the close of the taxable year, or files a separate return and does not have his or her spouse as a member of his or her household during the entire taxable year.

(2) Maintains as his or her home a household which constitutes for the taxable year the principal place of abode for a qualifying child, as defined in subdivision (b), for no less than 146 days of the taxable year but no more than 219 days of the taxable year, under a decree of dissolution or separate maintenance, or under a written agreement between the parents prior to the issuance of a decree of dissolution or separate maintenance where the proceedings have been initiated.

(3) Furnishes over one-half the cost of maintaining the household during the taxable year.

(b) For purposes of this section, a "qualifying child" shall mean a son, stepson, daughter, or stepdaughter of the taxpayer, or a descendant of a son or daughter of the taxpayer, but if that son, stepson, daughter, stepdaughter, or descendant is married at the close of the taxpayer's taxable year, only if the taxpayer is entitled to a credit for the taxable year for that person under Section 17054.

(c) The tax for an individual who is considered a joint custody head of household pursuant to this section shall be computed using:

(1) A rate which is the sum of the rate for a single individual and the rate for a head of household divided by two.

(2) A standard deduction, rounded to the nearest ten dollars ($10), which is the sum of the standard deduction allowable to a single individual and the standard deduction allowable to a head of household divided by two.

(3) A personal exemption credit, rounded to the nearest one dollar ($1), which is the sum of the personal exemption credit allowable to a single individual and the personal exemption allowable to a head of household divided by two.

(4) A renter's credit, rounded to the nearest one dollar ($1), which is the sum of the renter's credit allowable to a single individual and the renter's credit allowable to a head of household divided by two.

(5) All other credits shall be allowed on the basis of the taxpayer being a single person.

(d) The Franchise Tax Board shall construct a tax rate schedule, to accompany tax returns, for joint custody heads of household, based on the provisions of this section.

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 1538

An act relating to the amendment of a quitclaim deed of real property executed pursuant to Chapter 1488 of the Statutes of 1969, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Notwithstanding the condition required to be included by Chapter 1488 of the Statutes of 1969 in the quitclaim deed by the Director of General Services to the City of Galt, County of Sacramento, of approximately 48 acres of land situated within the city limits of the City of Galt, the director and the city shall amend the quitclaim deed authorized by Chapter 1488 of the Statutes of 1969 to provide that in the event of a breach of any of the following conditions, the real property shall revert to the 52nd District Agricultural Association:

(a) The City of Galt may operate municipal buildings substantially constructed prior to the effective date of this act, and may also conduct a city-operated flea market on the property, upon condition that the rents from these uses shall be utilized by the city solely for park and recreation purposes in the city.

(b) The City of Galt may sell, lease, or otherwise dispose of seven acres of the real property, upon condition that any net revenues derived from the sale, lease, or other disposition of this acreage shall be utilized solely for the development and maintenance of park and recreation facilities on the real property.

(c) The City of Galt shall operate the remaining acreage subject to the quitclaim deed for park and recreation purposes.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to more clearly specify the potential uses of this property by the City of Galt, it is necessary that this act take effect immediately.

CHAPTER 1539

An act to amend Section 11580.1 of the Insurance Code, relating to insurance.

[Approved by Governor September 29, 1982. Filed with Secretary of State September 30, 1982.]

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 leasing vehicles for those vehicles which are leased for a term in excess of six months, or 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. If the policy is issued to a named insured engaged in the business of leasing vehicles, which business includes the lease of vehicles for a term in excess of six months, and the lessor includes in the lease automobile liability insurance, the terms and limits of which are not otherwise specified in the lease, the named insured shall incorporate a provision in each vehicle lease contract advising the lessee of the provisions of this subdivision and the fact that this limitation is applicable except as otherwise provided for by statute or federal law.

(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 social service transportation. 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 the following:

(1) For the 1980–81 fiscal year, the maximum rate authorized by the State Board of Control, which shall also be known as the "base rate."

(2) For each fiscal year thereafter, the greater of either (A) the maximum rate authorized by the State Board of Control or (B) the base rate as adjusted by the California Consumer Price Index.

No policy of insurance issued under this section may be canceled by an insurer solely for the reason that the named insured is performing volunteer services for a nonprofit charitable organization or governmental agency consisting of providing social service transportation.

For the purposes of this section, "social service transportation" means transportation services provided by private nonprofit organizations or individuals to either individuals who are senior citizens or individuals or groups of individuals who have special transportation needs because of physical or mental conditions and supported in whole or in part by funding from private or public agencies.

(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 11580.1 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, including the insurer's obligation to defend, 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 or liability for bodily injury to an insured whenever the ultimate benefits of that indemnification accrue directly or indirectly to an insured.

(6) Liability for damage to property owned, rented to, transported by, or in the charge of, an insured. A motor vehicle

operated by an insured shall be considered to be property in the 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 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 leasing vehicles for those vehicles which are leased for a term in excess of six months, or 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. If

the policy is issued to a named insured engaged in the business of leasing vehicles, which business includes the lease of vehicles for a term in excess of six months, and the lessor includes in the lease automobile liability insurance, the terms and limits of which are not otherwise specified in the lease, the named insured shall incorporate a provision in each vehicle lease contract advising the lessee of the provisions of this subdivision and the fact that this limitation is applicable except as otherwise provided for by statute or federal law.

(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 social service transportation. 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 the following:

(1) For the 1980–81 fiscal year, the maximum rate authorized by the State Board of Control, which shall also be known as the "base rate."

(2) For each fiscal year thereafter, the greater of either (A) the maximum rate authorized by the State Board of Control or (B) the base rate as adjusted by the California Consumer Price Index.

No policy of insurance issued under this section may be canceled by an insurer solely for the reason that the named insured is performing volunteer services for a nonprofit charitable organization or governmental agency consisting of providing social service transportation.

For the purposes of this section, "social service transportation" means transportation services provided by private nonprofit

organizations or individuals to either individuals who are senior citizens or individuals or groups of individuals who have special transportation needs because of physical or mental conditions and supported in whole or in part by funding from private or public agencies.

(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.3. It is the intent of the Legislature, if this bill and Assembly Bill 3579 are both chaptered and become effective January 1, 1983, both bills amend Section 11580.1 of the Insurance Code, and this bill is chaptered after Assembly Bill 3579, that the amendments to Section 11580.1 proposed by both bills be given effect and incorporated in Section 11580.1 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 3579 are both chaptered and become effective January 1, 1983, both amend Section 11580.1, and this bill is chaptered after Assembly Bill 3579, in which case Section 1 of this act shall not become operative.

CHAPTER 1540

An act relating to parks and recreation, making an appropriation therefor, and in this connection amending and supplementing the Budget Act of 1982 by adding Item 3790-304-721 thereto, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. The sum of four hundred thousand dollars ($400,000) of the unencumbered balance of moneys appropriated by category (*l*) of Item 530 of the Budget Act of 1980 is hereby reverted to the State Parks and Recreation Fund and reappropriated to the Department of Parks and Recreation in augmentation of Item 3790-001-001 of the Budget Act of 1982 for the state park system in accordance with the following schedule:

Schedule:	
(a) Portola State Park	78,666
(b) Sugarloaf Ridge State Park	97,239
(c) Thornton State Beach	15,000
(d) North Coast Area: Caspar Headlands State Beach, Admiral William Standley State Recreation Area, Reynolds Wayside Camp Ground	20,000
(e) Folsom Lake Powerhouse	27,000
(f) Preacquisition planning and processing of "no state cost" acquisitions and leases	150,000
(g) Economic uncertainties	12,095

SEC. 2. Notwithstanding Section 8.10 of the Budget Act of 1982 (Chapter 326, Statutes of 1982), the Department of Parks and Recreation may enter into an operating agreement with the County of Ventura to allow the county to operate Emma Wood State Beach or a portion of the beach.

SEC. 3. Item 3790-304-721 is added to the Budget Act of 1982 (Chapter 326, Statutes of 1982), to read:

PARKLANDS FUND OF 1980
PROGRAM

3790-304-721—For capital outlay, Department of Parks and Recreation, payable from the Parklands Fund of 1980	500,000
Schedule:	
(a) Emma Wood State Beach—development, restoration, or both, campground, utilities, and kiosk	500,000

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

In order to provide funds for the operation and maintenance of certain units of the state park system during the 1982 recreational

season, thereby avoiding the necessity of closing them during that period, and to ensure the most efficient use possible of Emma Wood State Beach, it is necessary that this act take effect immediately.

CHAPTER 1541

An act to amend Section 739 of the Public Utilities Code, relating to public utilities.

[Approved by Governor September 29, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. The Legislature finds and declares as follows:

(a) Rate structures for the furnishing of gas and electricity by public utilities should be designed to encourage conservation of scarce energy resources.

(b) Inverted block rate structures are effective incentives to energy conservation and provide gas and electricity at a fair cost to all users.

(c) Considerable confusion exists surrounding the enactment, amendment, and implementation of the Miller-Warren Energy Lifeline Act (Section 739 of the Public Utilities Code as added by Chapter 1010 of the Statutes of 1975), and the Public Utilities Commission, by resolution, has requested that the Legislature clarify the lifeline program established by that act.

(d) The lifeline program established by the Miller-Warren Energy Lifeline Act should continue as an energy baseline program consistent with the amendments made to Section 739 of the Public Utilities Code by this act.

(e) In order for the Miller-Warren Energy Lifeline Act to continue as an incentive to conserve energy, no end uses shall be specifically included in the baseline program established by Section 739 of the Public Utilities Code as amended by this act except for those specified in subdivision (b) thereof.

SEC. 2. Section 739 of the Public Utilities Code is amended to read:

739. (a) The commission shall designate a baseline quantity of gas and electricity which is necessary to supply a significant portion of the reasonable energy needs of the average residential customer. In estimating those quantities, the commission shall take into account differentials in energy needs between customers whose residential energy needs are currently supplied by electricity alone or by both electricity and gas. The commission shall develop a separate baseline quantity for all-electric residential customers. For these purposes, "all-electric residential customers" are residential customers having electrical service only or whose space heating is provided by

electricity, or both. The commission shall also take into account differentials in energy use by climatic zone and season.

(b) The commission shall establish a standard limited allowance which shall be in addition to the baseline quantity of gas and electricity for residential customers dependent on life support equipment, including, but not limited to, emphysema and pulmonary patients. A residential customer dependent on life support equipment shall be given a higher energy allocation than the average residential customer.

"Life support equipment" means that equipment which utilizes mechancial or artificial means to sustain, restore, or supplant a vital function, or mechanical equipment which is relied upon for mobility both within and outside of buildings. "Life support equipment," as used in this subdivision, includes all of the following: all types of respirators, iron lungs, hemodialysis machines, suction machines, electric nerve stimulators, pressure pads and pumps, aerosol tents, electrostatic and ultrasonic nebulizers, compressors, IPPB machines, and motorized wheelchairs.

The limited additional allowance shall also be made available to paraplegic and quadriplegic persons in consideration of the increased heating needs of those persons.

The limited additional allowance shall also be made available to multiple sclerosis patients in consideration of the increased heating and cooling needs of those persons.

(c) The commission shall require that every electrical and gas corporation file a schedule of rates and charges providing baseline rates. The baseline rates shall apply to the first or lowest block of an increasing block rate structure which shall be the baseline quantity and shall be established for the residential consumption of gas or electricity at a differential of from 15 to 25 percent below the system average rate. The commission, however, after a hearing on the matter, may establish baseline rates at a differential of less than 15 percent below the system average rate upon finding that such rates are necessary to insure that revenue requirements for electrical or gas service from customer classes are met or to prevent increases in rates for low priority gas customers which may cause substantial switching to other forms of energy by those customers.

(d) The commission shall, after public hearings, implement the provisions of this section for each electrical and each gas corporation in an order resulting from the first general rate proceeding for that corporation decided on or after January 1, 1983, with an effective date of not earlier than January 1, 1984. Pending that effective date, the lifeline allowances existing on December 31, 1982, shall continue in effect.

(e) As used in this section:

(1) "Baseline quantity" means a quantity of electricity or gas for residential customers to be established by the commission based on from 50 to 60 percent of average residential consumption of these commodities, except that, for residential gas customers and for

all-electric residential customers, the baseline quantity shall be established at from 60 to 70 percent of average residential consumption during the winter heating season. In establishing the baseline quantities, the commission shall take into account climatic and seasonal variations in consumption and the availability of gas service. The commission shall review and revise baseline quantities as average consumption patterns change in order to maintain these ratios.

(2) "Residential customer" means those customers receiving electrical or gas service pursuant to a domestic rate schedules and excludes industrial, commercial, and every other category of customer.

(f) Wholesale electrical or gas purchases and the rates charged therefor are exempt from the provisions of this section.

(g) Nothing contained in this section shall be construed to prohibit experimentation with alternative gas or electrical rate schedules for the purpose of achieving energy conservation.

CHAPTER 1542

An act to amend Sections 309 and 311 of the Public Utilities Code, relating to the Public Utilities Commission.

[Approved by Governor September 29, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 309 of the Public Utilities Code is amended to read:

309. The executive director may employ such officers, administrative law judges, experts, engineers, statisticians, accountants, inspectors, clerks, and employees as the executive director deems necessary to carry out the provisions of this part or to perform the duties and exercise the powers conferred upon the commission by law. All officers and employees shall receive such compensation as is fixed by the commission.

SEC. 2. Section 311 of the Public Utilities Code is amended to read:

311. The commission, each commissioner, the executive director, and the assistant executive directors may administer oaths, certify to all official acts, and issue subpoenas for the attendance of witnesses and the production of papers, waybills, books, accounts, documents, and testimony in any inquiry, investigation, hearing, or proceeding in any part of the state.

The administrative law judges may administer oaths, examine witnesses, issue subpoenas, and receive evidence, under such rules as the commission adopts. The commission, upon scheduling

hearings and specifying the scope of issues to be heard in any proceeding involving an electrical, gas, or telephone corporation, shall assign an administrative law judge to preside over the hearings, either sitting alone or assisting the commissioner or commissioners who will hear the case. The administrative law judge shall prepare and file an opinion setting forth recommendations, findings, and conclusions. The opinion of the administrative law judge shall become the proposed decision and a part of the public record in the proceeding. The evidence in any hearing shall be taken by the administrative law judge designated for that purpose. The proposed decision of the administrative law judge shall be filed with the commission and served upon all parties to the action or proceeding without undue delay but in no event later than 90 days after the matter has been submitted for decision. The commission may, in issuing its decision, adopt, modify, or set aside the proposed decision or any part thereof. Every finding, opinion, and order made in the proposed decision and approved or confirmed by the commission shall, upon that approval or confirmation, be deemed to be the finding, opinion, and order of the commission.

The commission may specify that the administrative law judge assigned to a proceeding involving an electrical, gas, or telephone corporation initiated by ratepayer or subscriber complaint need not prepare, file, and serve an opinion, unless the commission finds this is required in the public interest in a particular case.

SEC. 3. It is the intent of the Legislature that the implementation of this act shall not require extension of the time period currently required for the Public Utilities Commission to act on any matter before it, and that the schedule for acting on rate increase applications by the commission, as specified in the commission's Regulatory Lag Plan for Major Utility General Rate Cases (commission resolutions nos. A-4693 and M-4706), shall not be changed by the provisions of this act.

CHAPTER 1543

An act to amend Section 4205.1 of the Civil Code, to repeal and add Section 411.20 of the Code of Civil Procedure, to amend Sections 8209 and 8213 of the Government Code, to amend Sections 587, 653, 1004, 1025.5, 1068, 1123.5, 1138.6, and 1200 of the Probate Code, and to amend Sections 14508, 14509, and 14511 of the Revenue and Taxation Code, relating to local government.

[Approved by Governor September 29, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 4205.1 of the Civil Code is amended to read:

4205.1. In any county, the board of supervisors may designate the county clerk as a commissioner of civil marriages. The commissioner of civil marriages may appoint deputy commissioners of civil marriages who may solemnize marriages in the county under the direction of the commissioner of civil marriages and shall perform such other duties as the commissioner may direct. The commissioner of civil marriages and deputy commissioners shall solemnize marriages only within their county and only during regular hours established by the board.

This section shall not be operative at any time except during such period or periods as the board of supervisors may find by resolution that conditions in the county are such that the convenience of the public requires the availability of commissioners of civil marriages for the solemnization of marriage by civil ceremony. The board of supervisors which has made such a finding may, by resolution, at any time rescind or repeal such finding and this section shall no longer be operative in that county until the board again makes such a finding.

SEC. 2. Section 411.20 of the Code of Civil Procedure is repealed.

SEC. 3. Section 411.20 is added to the Code of Civil Procedure, to read:

411.20. (a) If the clerk accepts for filing a complaint or other first paper, or any subsequent filing, and payment is made by check which is later returned without payment, the clerk shall, by mail, notify the party tendering the check that he or she has 20 days from the date of mailing of the notice within which to pay the fee, either by cash or by certified check. The clerk's certificate as to the mailing of notice pursuant to this section establishes a rebuttable presumption that the fees were not paid. This presumption is a presumption affecting the burden of producing evidence.

(b) If, after the 20-day period following the mailing of notice, the party tendering a check that is returned without payment has not paid the fee either by cash or certified check, the clerk shall void the filing. Any filing voided by this section can be disposed of without microfilming immediately after the 20 days have elapsed.

(c) If an adverse party files a pleading in response to a complaint, paper or filing referred to in subdivision (a), together with a filing fee, and the original filing is voided pursuant to subdivision (b), the adverse party's filing is not required, and the adverse party's filing fee shall be refunded upon request. If an adverse party tenders a check that is returned without payment, the procedures in subdivisions (a) and (b) shall apply.

SEC. 4. Section 8209 of the Government Code is amended to read:

8209. (a) If any notary public resigns, is disqualified, removed from office, or allows his or her appointment to expire without

obtaining reappointment within 30 days, all notarial records and papers shall be delivered within 30 days to the clerk of the county in which the notary public's current official oath of office is on file. If the notary public willfully fails or refuses to deliver all notarial records and papers to the county clerk within 30 days, the person is guilty of a misdemeanor and shall be personally liable for damages to any person injured by that action or inaction.

(b) In the case of the death of a notary public, the personal representative of the deceased shall promptly notify the Secretary of State of the death of the notary public and shall deliver all notarial records and papers of the deceased to the clerk of the county in which the notary public's official oath of office is on file.

(c) After 10 years from the date of deposit with the county clerk, if no request for, or reference to such records has been made, they may be destroyed upon order of court.

SEC. 5. Section 8213 of the Government Code is amended to read:

8213. (a) No later than 30 days after the beginning of the term prescribed in the commission, every person appointed a notary public shall file an official bond, and take, subscribe, and file an oath of office in the office of the county clerk of the county within which the person maintains a principal place of business as shown in the application submitted to the Secretary of State, and the commission shall not take effect unless this is done within the 30-day period. Upon filing the oath and bond, the county clerk shall forthwith transmit to the Secretary of State a certificate setting forth the fact of such filing and containing a copy of the official oath, personally signed by the notary public in the form set forth in the commission and shall forthwith deliver the bond to the county recorder for recording. The county clerk shall retain the oath of office for one year following the expiration of the term of the commission for which the oath was taken, after which the oath may be destroyed or otherwise disposed of. The copy of the oath, personally signed by the notary public, on file with the Secretary of State may at any time be read in evidence with like effect as the original oath, without further proof.

(b) If a notary public transfers the principal place of business from one county to another, the notary public may file a new oath of office and bond, or a duplicate of the original bond with the county clerk to which the principal place of business was transferred. If the notary public elects to make a new filing, the notary public shall, within 30 days of the filing, obtain an official seal which shall include the name of the county to which the notary public has transferred. In such a case, the same filing and recording fees are applicable as in the case of the original filing and recording of the bond.

(c) A recording fee of three dollars ($3) shall be paid by the person appointed a notary public. The fee may be paid to the county clerk who shall transmit it to the county recorder.

(d) The county recorder shall record the bond and shall thereafter mail, unless specified to the contrary, it to the person

named in the instrument and, if no person is named, to the party leaving it for recording.

SEC. 6. Section 587 of the Probate Code is amended to read:

587. Whenever it is for the advantage, benefit, and best interest of the estate, and those interested therein, the executor or administrator may, either with or without consideration: (1) dedicate or convey any real property of the estate or interest therein to the state or any county or municipal corporation, or the United States of America or any agency or instrumentality thereof, for street or highway purposes, or any other purpose; (2) dedicate or convey an easement over any real property of the estate to the state or any county, municipal corporation, public district, any person, firm, association, or public or private corporation, or the United States of America or any agency or instrumentality thereof; or (3) convey, release, or relinquish to the state or any county or municipal corporation any access rights to any street, highway, or freeway from any real property of the estate, upon order of court based upon the petition of the executor or administrator or of any person interested in the estate, and after notice is given by the petitioner in the manner specified in Section 1200.5.

SEC. 7. Section 653 of the Probate Code is amended to read:

653. If proceedings for the administration of the estate of a deceased spouse are pending at the time a petition described in Section 650 is filed or, if the proceedings are not pending and if the petition is not joined with a petition for probate of the will or administration of the estate of the deceased spouse, the clerk shall set the petition for hearing. At least 20 days prior to the date of the hearing on the petition, a notice of the hearing and a copy of the petition shall be personally served upon the following persons by the petitioner or mailed, postage prepaid, by the petitioner to the following persons, addressed to the addresses given in their request for special notice or notice of appearance, the addresses of their offices or places of residence, or, if neither of these addresses are known to the petitioner, the county seat of the county in which the proceedings are pending:

(1) Any personal representative who is not the petitioner.

(2) All legatees, devisees, and known heirs of the deceased spouse.

(3) All persons or their attorneys who have requested special notice pursuant to Section 1202.

(4) All persons or their attorneys who have given notice of appearance.

(5) The Attorney General, addressed to the office of the Attorney General at Sacramento, California, if the petitioner bases the allegation that all or part of the estate of the deceased spouse is community property or quasi-community property passing to the surviving spouse upon the will of the deceased spouse and the will involves or may involve (i) a testamentary trust of property for charitable purposes other than a charitable trust with a designated trustee, resident in this state, or (ii) a bequest or devise for a

charitable purpose without an identified legatee, devisee, or beneficiary.

(6) All other persons who are named in the will of the deceased spouse, if the petitioner bases the allegation that all or part of the estate of the deceased spouse is community property or quasi-community property passing to the surviving spouse upon the will.

SEC. 8. Section 1004 of the Probate Code is amended to read:

1004. When the time for filing or presenting claims has expired and all uncontested claims have been paid or are sufficiently secured by mortgage, or otherwise, but the estate is not in a condition to be finally closed and distributed, the executor or administrator to whom authority has been granted to administer the estate without court supervision, in accordance with Article 2 (commencing with Section 591) of Chapter 8 of Division 3, may petition the court for authority to distribute a portion of the estate to the person or persons entitled thereto. Such petition need not include an accounting, provided that when the petition seeks authority to distribute to a trustee the petition shall include an accounting unless the trustee consents to the distribution without an accounting. The total amount of the property distributed under this section shall not exceed 50 percent of the net value of the estate. The clerk shall set the petition for hearing by the court. If the court shall determine that all of the allegations of the petition are true, that the estate is but little indebted, that the property to be distributed does not exceed 50 percent of the net value of the estate, and that the distribution may be made without loss or injury to the estate or any person interested therein, the court shall make an order authorizing the executor or administrator to distribute the property to the person or persons entitled thereto. For purposes of this section, "net value of the estate" means the excess of the value of the assets of the estate reflected by all inventories and appraisements on file with the court over the total amount of all creditors' claims filed or presented and liens and encumbrances recorded or known to the executor or administrator not reflected in any creditors' claims filed or presented, excluding death tax liens occasioned by the decedent's death.

SEC. 9. Section 1025.5 of the Probate Code is amended to read:

1025.5. Within one year from the date of issuance of letters in estates not required to file a federal estate tax return and within 18 months from the date of issuance of letters in estates where such return is required, the executor or administrator shall either petition for final distribution of the estate or file a verified report of status of administration. If a report is filed, it shall show the condition of the estate and the reasons why the estate cannot be distributed and closed. Notice of the hearing of the report shall be given in the manner provided in Section 1200.5. Upon the hearing of the report, the court may either order that the administration of the estate continue for the time and upon the terms and conditions as it determines reasonable, provided that it finds that a continuance is in

the best interests of the estate or the persons interested therein, or it may order the executor or administrator to file the petition for final distribution.

If a petition or report is not filed by the executor or administrator within the times set forth herein or prescribed by the court, then, upon petition of any person interested in the estate or upon its own motion, the court may cite the executor or administrator to appear before the court and show the condition of the estate and the reasons why the estate cannot be distributed and closed. Upon the hearing of the citation, the court may either order the administration of the estate to continue as above provided or may order the executor or administrator to file the petition for final distribution.

Failure of the executor or administrator to comply with any order made under this section shall be grounds for revocation of letters.

If, upon the hearing for final distribution or for an allowance upon the commissions of the executor or administrator or upon the fees of the attorney, the court finds that the time taken for administration of the estate exceeds the applicable time set forth herein or prescribed by the court, and was caused by factors within the control of the executor or administrator or the attorney and that the time taken was not in best interests of the estate or the persons interested therein, the court may, notwithstanding the provisions of Sections 901 and 910, reduce the fees or commissions of the person or persons having control of those factors by an amount as the court deems appropriate, regardless of whether the fees or commissions otherwise allowable under the provisions of Sections 901 and 910 would be reasonable compensation for the services rendered by such person or persons.

This section shall be applicable only to the estates of persons dying on or after January 1, 1977.

SEC. 10. Section 1068 of the Probate Code is amended to read:

1068. A verified petition may be signed and filed by or on behalf of the executor or administrator, at any time after his or her appointment and whether or not he or she has qualified as executor or administrator, setting forth the fact that it appears that there is no property of any kind belonging to the estate and subject to administration, and praying for the termination of further proceedings and for his or her discharge. The clerk of the court shall set the petition for hearing by the court. If it appears to the satisfaction of the court upon the hearing that the facts stated in the petition are true it shall make its order terminating the proceeding and discharging the executor or administrator. The verified petition referred to in this section may be filed and an order may be entered thereon without the return of an inventory provided for by Chapter 9 (commencing with Section 600) of Division 3.

SEC. 11. Section 1123.5 of the Probate Code is amended to read:

1123.5. The court in which the administration is pending or, after final distribution, the court sitting in probate which has jurisdiction over a testamentary trust shall have power to remove a trustee of a

testamentary trust, whether or not any property has been distributed to him or her, who has violated or is unfit to execute the trust or has acquired any interest or become charged with any duty adverse to the interest of any beneficiary in the subject of the trust. The court may remove one or all of the cotrustees of a testamentary trust and appoint new trustees where the court determines that hostility, ill feeling, or continued lack of cooperation among and between cotrustees has impaired the proper administration of the trust. The proceeding may be initiated by the court upon its own motion or by verified petition of a beneficiary of, or any other person interested in, the trust, including any person in being who shall or may participate in the corpus or income of the trust. The clerk shall set the matter for hearing. The trustee whose removal is sought shall be personally served with a copy of the motion or petition and with notice of the time and place of the hearing thereon, at least 10 days before the hearing, provided, that if the trustee is not a resident of this state, or has absconded or concealed himself or herself from the state, the court may fix the manner of giving notice to him or her by mail, publication or otherwise, as the court may determine, and the court may proceed upon the notice as if the trustee had been personally served. In addition, the petitioner, or the court when acting upon its own motion, shall cause a copy of the petition or motion and of the notice of hearing to be mailed to the personal represenative, if any part of the estate remains to be distributed to the trustee, and to each cotrustee and to the beneficiaries, including therein all persons in being who shall or may participate in the corpus or income of the trust, at their last known or other addresses, as provided in Section 1200, whether any of the persons to whom notice is to be given have requested special notice or given notice of appearance, or to be personally served upon those persons.

SEC. 12. Section 1138.6 of the Probate Code is amended to read:

1138.6. (a) Upon the filing of a petition provided for in this article, the clerk shall set the petition for hearing.

At least 30 days before the time set for the hearing of the petition, the petitioner shall cause notice of the time and place of hearing thereof to be mailed to the trustee of the trust when he or she is not the petitioner, to any cotrustee not petitioning, and to all beneficiaries and remaindermen of the trust, including all persons in being who may participate in the corpus or income of the trust, addressed to them at their respective offices or places of residence, if known, and if not known such notice shall be given as the court may require in the manner provided in Section 413.30 of the Code of Civil Procedure.

When a cotrustee not petitioning, a beneficiary, or a remainderman, in person or by counsel, has served and filed a notice of appearance directed to the petitioner or his or her counsel in connection with the particular petition and proceeding, or a written request for a copy of the petition, and given an address to which notices or a copy may be sent or delivered, the petitioner shall cause

a copy of the petition to be sent by mail to the cotrustee or person or counsel within five days after service of notice of appearance or receipt of the request.

Personal delivery is the equivalent of mailing.

Proof of the giving of notice and of mailing or personal delivery of a copy of the petition shall be made at the hearing. If it appears to the satisfaction of the court that the notice has been given as required, the court shall so find in its order, and the order, when it becomes final, shall be conclusive upon all persons.

(b) Proceedings under this article shall be governed, whenever possible, by the provisions of this article, and when the provisions of this article do not appear applicable, the provisions of Division 3 (commencing with Section 300) shall apply.

(c) The court for good cause may shorten the time required for performance of any act required by this section.

(d) Notice of any petition filed pursuant to paragraph (13) of subdivision (a) of Section 1138.1 shall be given to the Attorney General.

SEC. 13. Section 1200 of the Probate Code is amended to read:

1200. (a) Upon the filing of:

(1) A petition for the sale of stocks or bonds;

(2) A petition for confirmation of a sale or a petition to grant an option to purchase real property;

(3) A petition for leave to enter into an agreement to sell or give an option to purchase a mining claim or real property worked as a mine; or

(4) A petition for leave to lease or to exchange property, or to institute an action for the partition of property, the clerk shall set the same for hearing by the court and shall give notice of the proceeding by causing a notice of the time and place of hearing thereof to be posted at the courthouse of the county where the proceedings are pending, at least 10 days before the day of hearing, giving the name of the estate, the name of the petitioner and the nature of the application, referring to the petition for further particulars, and stating the time at which the application will be heard.

(b) Proof of the giving of notice shall be made at the hearing; and, if it appears to the satisfaction of the court that the notice has been regularly given, the court shall so find in its order, and the order shall be conclusive upon all persons when it becomes final.

(c) This section does not apply to proceedings under Division 4 (commencing with Section 1400). When a provision of Division 4 applies the provisions of this code applicable to executors or administrators to proceedings under Division 4, a reference to this section in the provisions applicable to executors or administrators shall be deemed to be a reference to Chapter 3 (commencing with Section 1460) of Part 1 of Division 4.

(d) Notwithstanding any other provision of this code which requires the clerk to post notice of a hearing in accordance with this section, the posting shall not be required, except as to those matters

specifically enumerated in subdivision (a).

SEC. 14. Section 14508 of the Revenue and Taxation Code is amended to read:

14508. (a) On the day that the report is filed, or on the next succeeding judicial day, the clerk of the superior court shall mail a copy of the notice of filing to each person chargeable with any tax in the report who has appeared in the probate proceeding.

(b) When an order fixing tax is made and entered, the clerk of the superior court shall mail an endorsed copy of the order to the Controller.

SEC. 15. Section 14509 of the Revenue and Taxation Code is amended to read:

14509. If no objection to the report is filed prior to the expiration of 10 days from and after the mailing of the notice, the superior court, a judge of the court, or, if the court is located in a county or city and county having a population of 900,000 or more, a court commissioner appointed by the court may, without further notice, make an order confirming the report and fixing the tax in accordance therewith.

SEC. 16. Section 14511 of the Revenue and Taxation Code is amended to read:

14511. If an objection is filed, the clerk of the superior court shall fix a time, not less than 10 days after the filing, for a hearing on the objection. The person making the objection shall forthwith mail a copy of the objection and of the notice to the Controller and the inheritance tax referee.

SEC. 17. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the Legislature finds and declares that there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs.

CHAPTER 1544

An act to amend Section 11349.1 of, and to add Section 11350.3 to, the Government Code, relating to administrative regulations.

[Approved by Governor September 29, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 11349.1 of the Government Code is amended to read:

11349.1. (a) The Office of Administrative Law shall review all regulations adopted pursuant to the procedure specified in Article 5 (commencing with Section 11346) of Chapter 3.5 and submitted to it for publication in the California Administrative Code Supplement

and for transmittal to the Secretary of State and make determinations using the following standards:

(1) Necessity.
(2) Authority.
(3) Clarity.
(4) Consistency.
(5) Reference.
(6) Nonduplication.

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 and with the provisions of this chapter.

(b) The Office of Administrative Law shall adopt regulations governing the procedures it uses in reviewing regulations submitted to it. The regulations shall provide for an orderly review and shall specify the methods, standards, presumptions and principles the office uses, and the limitations it observes, in reviewing regulations to establish compliance with the standards specified in subdivision (a). The regulations adopted by the office shall ensure that it does not substitute its judgment for that of the rulemaking agency as expressed in the substantive content of adopted regulations.

(c) The Office of Administrative Law shall return any regulation subject to the provisions of this chapter to the adopting agency if any of the following occur:

(1) The adopting agency has not prepared the estimate required by paragraph (6) of subdivision (a) of Section 11346.5 and has not included the data used and calculations made and the summary report of the estimate in the file of the rulemaking.

(2) The adopting agency has prepared the estimate required by paragraph (6) of subdivision (a) of Section 11346.5, the estimate indicates that the regulation will result in a cost to local agencies or school districts that is required to be reimbursed under Section 2231 of the Revenue and Taxation Code, and the adopting agency fails to:

(A) Cite an item in the Budget Act for the fiscal year in which the regulation will go into effect as the source from which the Controller may pay the claims of local agencies or school districts; or

(B) Cite an accompanying bill appropriating funds as the source from which the Controller may pay the claims of local agencies or school districts; or

(C) Attach a letter or other documentation from the Department of Finance which states that the Department of Finance has approved a request by the agency that funds be included in the Budget Bill for the next following fiscal year to reimburse local agencies or school districts for the costs mandated by the regulation; or

(D) Attach a letter or other documentation from the Department of Finance which states that the Department of Finance has authorized the augmentation of the amount available for

expenditure under the agency's appropriation in the Budget Act which is for reimbursement pursuant to Section 2231 of the Revenue and Taxation Code to local agencies or school districts from the unencumbered balances of other appropriations in the Budget Act and that this augmentation is sufficient to reimburse local agencies or school districts for their costs mandated by the regulation.

(d) The Office of Administrative Law shall notify the Department of Finance of all regulations returned pursuant to subdivision (c).

SEC. 2. Section 11350.3 is added to the Government Code, to read:

11350.3. Any interested person may obtain a judicial declaration as to the validity of a regulation which the office has disapproved or ordered repealed pursuant to Section 11349.3, 11349.6, or 11349.7 by bringing an action for declaratory relief in the superior court in accordance with the provisions of the Code of Civil Procedure. The court may declare the regulation valid if it determines that the regulation meets the standards set forth in Section 11349.1 and that the agency has complied with the provisions of this chapter. If the court so determines, it may order the office to immediately file the regulation with the Secretary of State.

CHAPTER 1545

An act to amend Sections 17920.3, 17961, and 17985 of, and to add Sections 17991, 17992, 17995.1, 17995.2, 17995.3, 17995.4, and 17995.5 to, the Health and Safety Code, relating to housing.

[Approved by Governor September 29, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 17920.3 of the Health and Safety Code is amended to read:

17920.3. Any building or portion thereof including any dwelling unit, guestroom or suite of rooms, or the premises on which the same is located, in which there exists any of the following listed conditions to an extent that endangers the life, limb, health, property, safety, or welfare of the public or the occupants thereof shall be deemed and hereby is declared to be a substandard building:

(a) Inadequate sanitation shall include, but not be limited to, the following:

(1) Lack of, or improper water closet, lavatory, or bathtub or shower in a dwelling unit.

(2) Lack of, or improper water closets, lavatories, and bathtubs or showers per number of guests in a hotel.

(3) Lack of, or improper kitchen sink.

(4) Lack of hot and cold running water to plumbing fixtures in a

hotel.

(5) Lack of hot and cold running water to plumbing fixtures in a dwelling unit.

(6) Lack of adequate heating.

(7) Lack of, or improper operation of required ventilating equipment.

(8) Lack of minimum amounts of natural light and ventilation required by this code.

(9) Room and space dimensions less than required by this code.

(10) Lack of required electrical lighting.

(11) Dampness of habitable rooms.

(12) Infestation of insects, vermin, or rodents as determined by the health officer.

(13) General dilapidation or improper maintenance.

(14) Lack of connection to required sewage disposal system.

(15) Lack of adequate garbage and rubbish storage and removal facilities as determined by the health officer.

(b) Structural hazards shall include, but not be limited to, the following:

(1) Deteriorated or inadequate foundations.

(2) Defective or deteriorated flooring or floor supports.

(3) Flooring or floor supports of insufficient size to carry imposed loads with safety.

(4) Members of walls, partitions, or other vertical supports that split, lean, list. or buckle due to defective material or deterioration.

(5) Members of walls, partitions, or other vertical supports that are of insufficient size to carry imposed loads with safety.

(6) Members of ceilings, roofs, ceilings and roof supports, or other horizontal members which sag, split, or buckle due to defective material or deterioration.

(7) Members of ceiling, roofs, ceiling and roof supports, or other horizontal members that are of insufficient size to carry imposed loads with safety.

(8) Fireplaces or chimneys which list, bulge, or settle due to defective material or deterioration.

(9) Fireplaces or chimneys which are of insufficient size or strength to carry imposed loads with safety.

(c) Any nuisance.

(d) All wiring, except that which conformed with all applicable laws in effect at the time of installation if it is currently in good and safe condition and working properly.

(e) All plumbing, except that which conformed with all applicable laws in effect at the time of installation and which has been maintained in good condition, or which may not have conformed with all applicable laws in effect at the time of installation but is currently in good and safe condition and working properly, and which is free of cross connections and siphonage between fixtures.

(f) All mechanical equipment, including vents, except that which conformed with all applicable laws in effect at the time of installation

and which has been maintained in good and safe condition, or which may not have conformed with all applicable laws in effect at the time of installation but is currently in good and safe condition and working properly.

(g) Faulty weather protection, which shall include, but not be limited to, the following:

(1) Deteriorated, crumbling, or loose plaster.

(2) Deteriorated or ineffective waterproofing of exterior walls, roof, foundations, or floors, including broken windows or doors.

(3) Defective or lack of weather protection for exterior wall coverings, including lack of paint, or weathering due to lack of paint or other approved protective covering.

(4) Broken, rotted, split, or buckled exterior wall coverings or roof coverings.

(h) Any building or portion thereof, device, apparatus, equipment, combustible waste, or vegetation which, in the opinion of the chief of the fire department or his deputy, is in such a condition as to cause a fire or explosion or provide a ready fuel to augment the spread and intensity of fire or explosion arising from any cause.

(i) All materials of construction, except those which are specifically allowed or approved by this code, and which have been adequately maintained in good and safe condition.

(j) Those premises on which an accumulation of weeds, vegetation, junk, dead organic matter, debris, garbage, offal, rodent harborages, stagnant water, combustible materials, and similar materials or conditions constitute fire, health, or safety hazards.

(k) Any building or portion thereof which is determined to be an unsafe building due to inadequate maintenance, in accordance with the latest edition of the Uniform Building Code.

(*l*) All buildings or portions thereof not provided with adequate exit facilities as required by this code, except those buildings or portions thereof whose exit facilities conformed with all applicable laws at the time of their construction and which have been adequately maintained and increased in relation to any increase in occupant load, alteration or addition, or any change in occupancy.

When an unsafe condition exists through lack of, or improper location of, exits, additional exits may be required to be installed.

(m) All buildings or portions thereof which are not provided with the fire-resistive construction or fire-extinguishing systems or equipment required by this code, except those buildings or portions thereof which conformed with all applicable laws at the time of their construction and whose fire-resistive integrity and fire-extinguishing systems or equipment have been adequately maintained and improved in relation to any increase in occupant load, alteration or addition, or any change in occupancy.

(n) All buildings or portions thereof occupied for living, sleeping, cooking, or dining purposes which were not designed or intended to be used for such occupancies.

(o) Inadequate structural resistance to horizontal forces.

"Substandard building" includes a building not in compliance with Section 17920.7.

However, a condition which would require displacement of sound walls or ceilings to meet height, length, or width requirements for ceilings, rooms, and dwelling units shall not by itself be considered sufficient existence of dangerous conditions making a building a substandard building, unless the building was constructed, altered, or converted in violation of such requirements in effect at the time of construction, alteration, or conversion.

SEC. 2. 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, county or city and county, or any environmental agency authorized pursuant to Section 1155.5, 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. The health department or the environmental agency may, in conjunction with a local housing department, enforce within its jurisdictions 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, provided the agencies shall not duplicate enforcement activities.

SEC. 3. Section 17985 of the Health and Safety Code is amended to read:

17985. (a) Any enforcement agency which institutes an action or proceeding pursuant to this article shall record a notice of the pendency of the action or proceeding in the county recorder's office of the county where the property affected by the action or proceeding is situated. The enforcement agency may charge the property owner for any cost involved in recording the notice. The enforcement agency shall reimburse the owner for any amount charged if the case is dismissed or if the defendant is found innocent. The notice shall be recorded at the time of the commencement of the action or proceeding. It has the same effect as the notice of pendency of action provided for in the Code of Civil Procedure.

(b) The enforcement agency shall record a notice of final disposition of any action or proceeding in the county recorder's office where the property affected by the action or proceeding was recorded immediately following final resolution of the action or proceeding.

SEC. 4. Section 17991 is added to the Health and Safety Code, to read:

17991. The sale or other transfer of property to a third party shall not render moot an action or proceeding pursuant to this article,

including an action under Section 17982, instituted by an enforcement agency against the owner of record on the date a citation for a violation of this part was issued.

SEC. 5. Section 17992 is added to the Health and Safety Code, to read:

17992. Any person who obtains an ownership interest in any property after a notice of pendency of an action or proceeding was recorded with respect to such property pursuant to Section 17985 and where there has been no withdrawal or expungement of the notice, shall be subject to any order to correct a violation, including time limitations, specified in a citation issued pursuant to Sections 17980 and 17981.

SEC. 6. Section 17995.1 is added to the Health and Safety Code, to read:

17995.1. Any person who is convicted pursuant to Section 17995 for a second or subsequent time within a five-year period for violations at the same property shall be punishable by a fine not to exceed five thousand dollars ($5,000) or by imprisonment not exceeding six months, or both such fine and imprisonment.

SEC. 7. Section 17995.2 is added to the Health and Safety Code, to read:

17995.2. Any person found in contempt of a court order or injunction pursuant to the provisions of this part for a second or subsequent time within a five-year period for violation at the same property is guilty of a misdemeanor, punishable by a fine not to exceed five thousand dollars ($5,000) or by imprisonment not exceeding six months, or both such fine and imprisonment.

SEC. 8. Section 17995.3 is added to the Health and Safety Code, to read:

17995.3. Any person who is convicted pursuant to Section 17995 for a second or subsequent time within a five-year period for violations at the same property where such violations are determined by the trier of fact to be so extensive and of such a nature that the immediate health and safety of residents or the public is endangered and where the extent and nature of the violations are due to the defendant's habitual neglect of customary maintenance and display a flagrant lack of concern for the health and safety of residents and the public, shall be punishable by a fine not exceeding five thousand dollars ($5,000) and by imprisonment of not less than six months but not exceeding one year, provided also that the trier of fact finds at least four serious violations of the following categories of violations are involved:

(a) Termination, extended interruption or serious defects of gas, water or electric utility systems provided such interruptions or termination is not caused by the tenant's failure to pay such gas, water or electric bills.

(b) Serious defects or lack of adequate space and water heating.

(c) Serious rodent, vermin or insect infestation.

(d) Severe deterioration, rendering significant portions of the structure unsafe or unsanitary.

(e) Inadequate numbers of garbage receptacles or service.

(f) Unsanitary conditions affecting a significant portion of the structure as a result of faulty plumbing or sewage disposal.

(g) Inoperable hallway lighting.

SEC. 9. Section 17995.4 is added to the Health and Safety Code, to read:

17995.4. Any person found in contempt of a court order or injunction pursuant to the provisions of this part for a second or subsequent time within a five-year period for violations at the same property where such violations are determined by the trier of fact to be so extensive and of such a nature that the immediate health and safety of residents or the public is endangered and where the extent and nature of the violations are due to the defendant's habitual neglect of customary maintenance and display a flagrant lack of concern for the health and safety of residents and the public, shall be punishable by a fine not exceeding five thousand dollars ($5,000) and by imprisonment of not less than six months but not exceeding one year, provided also that the trier of fact finds at least four serious violations of the following categories of violations are involved:

(a) Termination, extended interruption or serious defects of gas, water or electric utility systems provided such interruptions or termination is not caused by the tenant's failure to pay such gas, water or electric bills.

(b) Serious defects or lack of adequate space and water heating.

(c) Serious rodent, vermin or insect infestation.

(d) Severe deterioration, rendering significant portions of the structure unsafe or unsanitary.

(e) Inadequate numbers of garbage receptacles or service.

(f) Unsanitary conditions affecting a significant portion of the structure as a result of faulty plumbing or sewage disposal.

(g) Inoperable hallway lighting.

SEC. 10. Section 17995.5 is added to the Health and Safety Code, to read:

17995.5. Fines collected pursuant to this part in excess of five hundred dollars ($500) per violation shall be reimbursed to the enforcement agency which investigated the violations.

SEC. 5.

SEC. 11. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1546

An act to amend Section 33753 of the Health and Safety Code, relating to redevelopment.

[Approved by Governor September 29, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 33753 of the Health and Safety Code is amended to read:

33753. The definitions set forth in Article 1 (commencing with Section 33000) of Chapter 1 of this part shall govern the construction of this chapter. Additionally, as used in this chapter:

(a) "Construction loan" means a loan to finance residential construction under this chapter, whether such loan is insured or uninsured.

(b) "Financing" means the lending of moneys or any other thing of value for the purpose of facilitating residential construction pursuant to this chapter, including the making of construction loans and mortgage loans to purchasers of newly constructed and newly rehabilitated residences and the making of loans to qualified mortgage lenders.

(c) "Local codes" means applicable local, state and federal standards for residential construction or rehabilitation, including any higher standards adopted by the agency for a redevelopment project area or as part of its redevelopment program.

(d) "Mortgage loan" means a long-term loan which is secured by a mortgage and is made for permanent financing of residences, pursuant to this chapter.

(e) "Participating party" means any person, corporation, partnership, firm, or other entity or group of entities requiring financing for residential construction pursuant to the provisions of this chapter. No elective officer of the state other than officers provided for by Article VI of the California Constitution, and no employee or member of the redevelopment agency, shall be eligible to be a participating party under the provisions of this chapter. If any elected officer of any political subdivision of the state participates in deliberations or votes on a financing plan, redevelopment plan, or bond issue, that person shall not be eligible to be a participating party for bonds issued pursuant to those plans or issues.

(f) "Qualified mortgage lender" means a mortgage lender authorized by a redevelopment agency to do business with the agency and to aid in financing pursuant to this chapter on behalf of the agency, for which service the qualified mortgage lender will be reasonably compensated. Such a mortgage lender shall be a state or national bank, federal or state-chartered savings and loan association, or trust company or mortgage banker which is capable of providing service or otherwise aiding in the financing of mortgages on residential construction within the jurisdiction of the agency. Nothing in any other provision of state law shall prevent such a lender from serving as a qualified mortgage lender pursuant to this chapter.

(g) "Redevelopment project area" means a project area, as defined in Section 33320.1, for which a final redevelopment plan has been adopted pursuant to Section 33365.

(h) "Rehabilitation" means repairs and improvements to a substandard residence necessary to make it meet local codes. As used in this section, "substandard residence" has the same meaning as the term "substandard building," as defined in Section 17920.3, except that "substandard residence" shall include all property improved with any structure defined in subdivision (j) of this section as a "residence," with respect to which any of the conditions listed in Section 17920.3 exist. Until January 1, 1984, up to 20 percent of the proceeds of a bond issued under this part, may be used for rehabilitation which 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) A qualified home improvement loan, which has the same meaning as in Section 103A of the federal Internal Revenue Code of 1954, as amended by Public Law 96-499, December 5, 1980.

(i) "Residential construction" means the construction of new residences or the rehabilitation and improvement of substandard residences to meet requirements of local codes and the redevelopment plan. "Residential construction" also means the improvement of residences as provided in subdivision (h).

(j) "Residence" means real property improved with a residential structure and within a redevelopment project area real property improved with a commercial structure (or structures) or a mixed residential and commercial structure, which the redevelopment agency determines to be an integral part of a residential neighborhood. For purposes of determining the integrality of new construction for such purpose, a proposed commercial or mixed residential and commercial structure shall be located within or immediately adjacent to a neighborhood primarily residential in character.

New construction of any commercial structure, or of the commercial portion of any mixed residential and commercial structure, financed under this chapter shall not exceed 80,000 square feet of gross building area per development. Any suit challenging such finding shall be filed within 60 days, or the findings of the agency shall be conclusive.

An agency may not provide long-term financing pursuant to this chapter for new construction of a commercial structure or the commercial portion of a mixed residential and commercial structure

if conventional financing in an amount sufficient to complete the construction has been obtained for the construction of such structure or portion thereof.

Prior to the financing of any commercial structure within a redevelopment project area, the agency shall adopt a financing plan by resolution, which may include commercial and residential structures. The square footage of the commercial structures shall not exceed 30 percent of the aggregate square footage of all the commercial and residential structures within the project area and financed pursuant to the financing plan. The financing plan for the commercial and residential structures shall include structures that have been, or are being, financed pursuant to this chapter or under federal or state financial assistance programs or local assistance programs of any kind whatsoever. However, such a financing plan shall not be required for an agency that has financed residential structures with the proceeds of bonds issued prior to September 30, 1980, nor shall such amendments affect the validity of the tax-exempt status of bonds issued pursuant to this chapter prior to such date.

Additionally, any financing for a commercial structure or a mixed residential and commercial structure authorized or preliminarily approved by resolution adopted by a redevelopment agency or community development commission established pursuant to Section 33201 either (1) on or before June 3, 1980, in furtherance of which the agency or any person or entity has expended substantial funds or committed to reimburse another person or entity which has expended substantial funds; provided that if the long-term permanent financing is in excess of five million dollars ($5,000,000) on any one project from all financing sources, including conventional and tax-exempt financing, a redevelopment agency or community development commission shall not provide such long-term permanent financing unless such agency or commission adopted a resolution before January 1, 1981, officially approving and authorizing the sale of revenue bonds to provide such long-term permanent financing, and the bonds were sold and delivered before March 1, 1981; or (2) before October 31, 1980, in furtherance of which the agency has expended funds in connection with such financing or plans relating to such financing if the structure to be financed is located within a city designated pursuant to Section 119 of federal Public Law 95-128, as amended, or within a city designated as of September 30, 1980, under Title IX of federal Public Law 89-136, as amended, as a long-term economic deterioration area, or financing for a commercial structure or mixed residential and commercial structure as to which bonds have been delivered on or before July 31, 1980 (without regard to the date the bonds were authorized or received preliminary approval), shall not be subject to new requirements or conditions of this subdivision enacted by Chapter 1331 of the Statutes of 1980.

"Residence" includes condominium and cooperative dwelling units, and includes both real property improved with single-family

residential structures and real property improved with multiple-family residential structures.

(k) "Revenue bonds" means any bonds, notes, interim certificates, debentures, or other obligations issued by an agency pursuant to this chapter and which are payable exclusively from revenues and from any other funds specified in this chapter upon which the revenue bonds may be made a charge and from which they are payable.

(*l*) "Revenues" means all amounts received as repayment of principal, interest, and all other charges received for, and all other income and receipts derived by, the redevelopment agency from the financing of residential construction, including moneys deposited in a sinking, redemption, or reserve fund or other fund to secure the revenue bonds or to provide for the payment of the principal of, or interest on, the revenue bonds.

SEC. 2. Section 33753 of the Health and Safety Code as amended by Section 1 of Senate Bill 1970, is amended to read:

33753. The definitions set forth in Article 1 (commencing with Section 33000) of Chapter 1 of this part shall govern the construction of this chapter. Additionally, as used in this chapter:

(a) "Construction loan" means a loan to finance residential construction under this chapter, whether such loan is insured or uninsured.

(b) "Financing" means the lending of moneys or any other thing of value for the purpose of facilitating residential construction pursuant to this chapter, including the making of construction loans and mortgage loans to purchasers of newly constructed and newly rehabilitated residences and the making of loans to qualified mortgage lenders, and the making of mortgage loans to purchasers of newly constructed or existing residences located in targeted areas as provided in Section 33760.

(c) "Local codes" means applicable local, state and federal standards for residential construction or rehabilitation, including any higher standards adopted by the agency for a redevelopment project area or as part of its redevelopment program.

(d) "Mortgage loan" means a long-term loan which is secured by a mortgage and is made for permanent financing of residences, pursuant to this chapter.

(e) "Participating party" means any person, corporation, partnership, firm, or other entity or group of entities requiring financing for residential construction pursuant to the provisions of this chapter. No elective officer of the state other than officers provided for by Article VI of the California Constitution, and no employee or member of the redevelopment agency, shall be eligible to be a participating party under the provisions of this chapter. If any elected officer of any political subdivision of the state participates in deliberations or votes on a financing plan, redevelopment plan, or bond issue, that person shall not be eligible to be a participating party for bonds issued pursuant to those plans or issues.

(f) "Qualified mortgage lender" means a mortgage lender authorized by a redevelopment agency to do business with the agency and to aid in financing pursuant to this chapter on behalf of the agency, for which service the qualified mortgage lender will be reasonably compensated. Such a mortgage lender shall be a state or national bank, federal or state-chartered savings and loan association, or trust company or mortgage banker which is capable of providing service or otherwise aiding in the financing of mortgages on residential construction within the jurisdiction of the agency. Nothing in any other provision of state law shall prevent such a lender from serving as a qualified mortgage lender pursuant to this chapter.

(g) "Redevelopment project area" means a project area, as defined in Section 33320.1, for which a final redevelopment plan has been adopted pursuant to Section 33365.

(h) "Rehabilitation" means repairs and improvements to a substandard residence necessary to make it meet local codes. As used in this section, "substandard residence" has the same meaning as the term "substandard building," as defined in Section 17920.3, except that "substandard residence" shall include all property improved with any structure defined in subdivision (j) of this section as a "residence," with respect to which any of the conditions listed in Section 17920.3 exist. Until January 1, 1984, up to 20 percent of the proceeds of a bond issued under this part, may be used for rehabilitation which 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) A qualified home improvement loan, which has the same meaning as in Section 103A of the federal Internal Revenue Code of 1954, as amended by Public Law 96-499, December 5, 1980.

(i) "Residential construction" means the construction of new residences or the rehabilitation and improvement of substandard residences to meet requirements of local codes and the redevelopment plan. "Residential construction" also means the improvement of residences as provided in subdivision (h).

(j) "Residence" means real property improved with a residential structure and within a redevelopment project area real property improved with a commercial structure (or structures) or a mixed residential and commercial structure, which the redevelopment

agency determines to be an integral part of a residential neighborhood. For purposes of determining the integrality of new construction for such purpose, a proposed commercial or mixed residential and commercial structure shall be located within or immediately adjacent to a neighborhood primarily residential in character.

New construction of any commercial structure, or of the commercial portion of any mixed residential and commercial structure, financed under this chapter shall not exceed 80,000 square feet of gross building area per development. Any suit challenging such finding shall be filed within 60 days, or the findings of the agency shall be conclusive.

An agency may not provide long-term financing pursuant to this chapter for new construction of a commercial structure or the commercial portion of a mixed residential and commercial structure if conventional financing in an amount sufficient to complete the construction has been obtained for the construction of such structure or portion thereof.

Prior to the financing of any commercial structure within a redevelopment project area, the agency shall adopt a financing plan by resolution, which may include commercial and residential structures. The square footage of the commercial structures shall not exceed 30 percent of the aggregate square footage of all the commercial and residential structures within the project area and financed pursuant to the financing plan. The financing plan for the commercial and residential structures shall include structures that have been, or are being, financed pursuant to this chapter or under federal or state financial assistance programs or local assistance programs of any kind whatsoever. However, such a financing plan shall not be required for an agency that has financed residential structures with the proceeds of bonds issued prior to September 30, 1980, nor shall such amendments affect the validity of the tax-exempt status of bonds issued pursuant to this chapter prior to such date.

Additionally, any financing for a commercial structure or a mixed residential and commercial structure authorized or preliminarily approved by resolution adopted by a redevelopment agency or community development commission established pursuant to Section 33201 either (1) on or before June 3, 1980, in furtherance of which the agency or any person or entity has expended substantial funds or committed to reimburse another person or entity which has expended substantial funds; provided that if the long-term permanent financing is in excess of five million dollars ($5,000,000) on any one project from all financing sources, including conventional and tax-exempt financing, a redevelopment agency or community development commission shall not provide such long-term permanent financing unless such agency or commission adopted a resolution before January 1, 1981, officially approving and authorizing the sale of revenue bonds to provide such long-term permanent financing, and the bonds were sold and delivered before

March 1, 1981; or (2) before October 31, 1980, in furtherance of which the agency has expended funds in connection with such financing or plans relating to such financing if the structure to be financed is located within a city designated pursuant to Section 119 of federal Public Law 95-128, as amended, or within a city designated as of September 30, 1980, under Title IX of federal Public Law 89-136, as amended, as a long-term economic deterioration area, or financing for a commercial structure or mixed residential and commercial structure as to which bonds have been delivered on or before July 31, 1980 (without regard to the date the bonds were authorized or received preliminary approval), shall not be subject to new requirements or conditions of this subdivision enacted by Chapter 1331 of the Statutes of 1980.

"Residence" includes condominium and cooperative dwelling units, and includes both real property improved with single-family residential structures and real property improved with multiple-family residential structures.

(k) "Revenue bonds" means any bonds, notes, interim certificates, debentures, or other obligations issued by an agency pursuant to this chapter and which are payable exclusively from revenues and from any other funds specified in this chapter upon which the revenue bonds may be made a charge and from which they are payable.

(*l*) "Revenues" means all amounts received as repayment of principal, interest, and all other charges received for, and all other income and receipts derived by, the redevelopment agency from the financing of residential construction, including moneys deposited in a sinking, redemption, or reserve fund or other fund to secure the revenue bonds or to provide for the payment of the principal of, or interest on, the revenue bonds.

(m) "Target areas" has the same meaning as in Section 103A of the Federal Internal Revenue Code of 1954, as amended.

SEC. 3. It is the intent of the Legislature, if this bill and Senate Bill 1970 are both chaptered and become effective on or before January 1, 1983, both bills amend Section 33753 of the Health and Safety Code, and this bill is chaptered after Senate Bill 1970, that Section 33753 of the Health and Safety Code, as amended by Section 1 of Senate Bill 1970, 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 33753 proposed by this bill. Therefore, if this bill and Senate Bill 1970 are both chaptered and become effective on or before January 1, 1983, and Senate Bill 1970 is chaptered before this bill and amends Section 33753, 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 1547

An act to amend Section 1 of Chapter 789 of the Statutes of 1978, Section 1 of Chapter 1135 of the Statutes of 1979, and Section 2 of Chapter 1122 of the Statutes of 1980, relating to prisons, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 1 of Chapter 789 of the Statutes of 1978 is amended to read:

Section 1. The sum of seven million six hundred thousand dollars ($7,600,000) is hereby appropriated from the General Fund to the Department of Corrections for the preliminary planning for an additional maximum security facility or facilities.

This appropriation is also made for the preliminary planning for the renovation of existing facilities and to inventory existing surplus state lands and to determine the suitability of these lands for new prison facilities.

Any plan developed for the construction of permanent new capacity shall not be adopted or implemented by the Department of Corrections until the proposal is submitted for review by the Legislature, in addition to annual state budget hearings, and enacted into law.

SEC. 2. Section 1 of Chapter 1135 of the Statutes of 1979 is amended to read:

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) 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. 3. Section 2 of Chapter 1122 of the Statutes of 1980 is amended to read:

Sec. 2. (a) It is the intent of the Legislature that the Department of Corrections utilize, to the extent possible, the authority granted in Chapter 9.5 (commencing with Section 6250) of Title 7 of Part 3 of the Penal Code to place inmates in community facilities, and to that end, all reasonable efforts shall be made to provide facilities to house at least 700 inmates by December 31, 1981. Further, it is the intent of the Legislature that the department utilize such facilities for prerelease planning for the maximum number of inmates to the extent authorized by law.

(b) The Director of Corrections is authorized to construct and establish two maximum security institutions on the existing site at Tehachapi.

(c) Within two years of completion of new maximum security facilities, exclusive of those in existence on July 1, 1982, to house 3,500 inmates, the department shall conduct a cost-benefit analysis of whether to raze or to rehabilitate substantially the maximum security facility at San Quentin, shall choose between those two alternatives, and shall complete the razing or the rehabilitation.

(d) It is the intent of the Legislature that the department house each inmate at the lowest custody level consistent with his or her classification and that the department acquire and build adequate facilities similar to those presently used in the Conservation Camp Program to house minimum custody inmates. Further, it is the intent of the Legislature that the department make all reasonable efforts to house 300 additional inmates in such facilities by June 30, 1982.

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

It is necessary that this bill take effect immediately to avoid severe overcrowding of prisons at the least possible cost due to the current financial situation.

CHAPTER 1548

An act relating to prisons, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1982. Filed with Secretary of State September 30, 1982]

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

SECTION 1. (a) The Department of Corrections is authorized to:

(1) Construct and establish three maximum security institutions, together with a service facility of lesser security with a capacity not in excess of 200 inmates, on the grounds of the present California State Prison at Folsom, notwithstanding any other provisions of law.

(2) Construct and establish two maximum security institutions, together with a service facility of lesser security with a capacity not in excess of 150 inmates at Adelanto.

(b) The name of any prison or service facility authorized in this section shall not include the name of the city where the prison or service facility is located. The board of supervisors of the county in which the prison or service facility is located, if it chooses, may select the name of the prison or service facility. If the board of supervisors does not select a name, the Department of Corrections shall select a name.

(c) The authorization to construct any prison or service facility pursuant to this section shall not become effective until the appropriate policy committees of the Senate and the Assembly of the Legislature have reviewed and approved the proposed site, preliminary plans, and working drawings for each such facility.

SEC. 2. Notwithstanding any other provision of law, funds for the occupancy of a prison at Adelanto shall not be allocated until a site has been designated and approved pursuant to Section 1 of Senate Bill 1574 of the 1981–82 Regular Session of the Legislature for a new state prison in Los Angeles County.

SEC. 2.5. Subject to Section 2, but notwithstanding any other provision of law, funds for the prison at Adelanto shall be allocated for that facility unless the Board of Supervisors of San Bernardino County and the Department of Corrections agree by January 1, 1983, to an alternative site proposed by the board.

SEC. 3. Notwithstanding any other provision of law, water service for the maximum security complex at Tehachapi authorized pursuant to Section 2 of Chapter 1122 of the Statutes of 1980 shall be purchased from the Tehachapi Cummings Water District at such time as such complex has been completed and occupied. No groundwater may be utilized at such complex in the absence of an agreement from the Tehachapi Cummings Valley Water District and the Cummings Basin water master, if a water master is appointed by a court for the basin.

SEC. 4. It is the intent of the Legislature that the permanent design capacity of the complex to be constructed at Adelanto not be expanded beyond a total of 1,150 inmates.

SEC. 5. Water to be supplied to the complex to be constructed at Adelanto shall be purchased, once the complex has been completed and occupied, from the Mojave Water Agency, from that agency's allocation from the State Water Project. The State of

California shall take all financial responsibility for constructing facilities needed to transport and treat the water from the State Water Project to the complex.

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

The state prison system is presently operating at 117 percent of capacity. Despite statutory authorization of additional prison facilities expected to be operational by the 1984–85 fiscal year, the Department of Corrections faces an 8,000 bed shortage in 1985. In order to help alleviate this shortage by authorizing construction of new prison facilities, it is necessary that this act go into immediate effect.

CHAPTER 1549

An act to amend Sections 1364, 1365, 2700, 2701, 2706, 2716, 2760, 2761, 2762, 2770, 2780.1, and 2960 of, to add Article 1 (commencing with Section 2800) to Chapter 6 of Title 1 of Part 3 of, and to repeal Sections 2702, 2705, 2709, 2710, 2711, 2712, 2714, 2764, 2769, 2773, 2774, 3323, and 3324 of, and to repeal Article 2 (commencing with Section 2721) and Article 3 (commencing with Section 2740) of Chapter 5 of Title 1 of Part 3 of, Article 1 (commencing with Section 2870) and Article 3 (commencing with Section 2895) of Chapter 6 of Title 1 of Part 3 of, and Chapter 3.5 (commencing with Section 5085) of Title 7 of Part 3 of, the Penal Code, and to amend Section 4456.5 of the Welfare and Institutions Code, relating to prisons and prisoners, and making an appropriation therefor.

[Approved by Governor September 29, 1982 Filed with Secretary of State September 30, 1982.]

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

SECTION 1. (a) The Department of Corrections is authorized to construct and establish six work-based medium security prisons. It may also establish two service facilities of lesser security, each with a capacity not in excess of 200 inmates. Not more than four medium security prisons and one service facility shall be constructed on one site. One site shall be in Los Angeles County and one site shall be in Riverside County.

(b) In addition to the prisons authorized in subdivision (a), the Department of Corrections is authorized to construct and establish one medium security prison for women on the grounds of the Northern California Youth Center in San Joaquin County. The prison for women shall have a capacity not in excess of 400 inmates and shall not be used to house male inmates. Excess land at the site of the

Northern California Youth Center shall be sold as surplus property as provided by law. Prior to the occupancy of the prison for women, the Department of Corrections shall commence construction of a prison authorized in subdivision (a) in Los Angeles County.

(c) The prison inmate design capacity for the Deuel Vocational Institution shall be limited to 2,500 inmates.

(d) The name of any prison or service facility authorized in this section shall not include the name of the city where the prison or service facility is located. The board of supervisors of the county in which the prison or service facility is located, if it chooses, may select the name of the prison or service facility. If the board of supervisors does not select a name, the Department of Corrections shall select a name.

(e) The authorization to construct any prison or service facility pursuant to this section shall not become effective until the appropriate policy committees of the Senate and the Assembly of the Legislature have reviewed and approved the proposed site, preliminary plans, and working drawings for each such facility.

SEC. 2. The Legislature finds and declares that:

(a) The present prison industries program has failed to provide productive jobs to prisoners, to meaningfully offset the cost of running the prison system, or to reduce the idleness and underemployment which are rampant in California's prisons.

(b) The constraints of state government severely impede the ability of the prison industries program to operate on a self-supporting or profit-making basis.

(c) A successful prison industries program can best be accomplished by providing the management of the prison industries program with a reasonable degree of autonomy and by establishing a special authority to manage and operate prison industries and the funds associated with such programs.

SEC. 2.5. (a) The Joint Legislative Prison Committee is hereby created. The committee shall assume primary responsibility for providing close legislative scrutiny over prison construction and operation.

(b) The committee shall consist of three Members of the Senate appointed by the Committee on Rules thereof, and three Members of the Assembly appointed by the Speaker thereof. The chairperson and vice chairperson of the committee shall each appoint a staff assistant from their respective houses. Such staff shall be able to inspect prison facilities and departmental documents except as otherwise provided by law.

(c) 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.

(d) This section shall remain in effect until January 1, 1987, and as

of that date is repealed.

SEC. 3. It is the intent of the Legislature that:

(a) The operation of the prison industries program be self-sustaining, financed from its own operating resources.

(b) The prison industries program reduces the burdensome cost of the correctional system on the citizens of this state through the establishment of self-sustaining or profit-making enterprises which are operated primarily by inmates and which do not unfairly compete with private enterprise.

(c) The prison industries program promote the security goals of the Department of Corrections by reducing idleness and providing an incentive for work in prisons, thereby contributing to an atmosphere in which tension and violence will be reduced.

(d) The prison industries program serve the goal of reintegrating ex-offenders into the outside working population by replicating as closely as possible free world production and service operations, in conjunction with relevant education, training, and post-release job placement.

SEC. 4. Section 1364 of the Penal Code is amended to read:

1364. The Department of Mental Health shall develop a voluntary experimental treatment program that can be evaluated, limited to no more than 50 beds, for persons convicted of sex offenses against a person under the age of 14 years or of a sex offense accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury to the victim. The screening of inmates for the program shall be performed jointly by the Department of Mental Health and the Department of Corrections, based upon program criteria, procedures, and guidelines developed by the Department of Mental Health in consultation with the Department of Corrections.

The treatment shall only be done during the last two years of incarceration, and only persons who voluntarily consent shall be included in the program. The Department of Corrections shall inform such convicted persons of the state hospital program established pursuant to this section.

The Director of Corrections shall, if he or she receives a recommendation for such treatment, and with the consent of the convicted person, transfer, unless he or she is a security risk, the person to an appropriate state hospital designated by the Director of Mental Health for treatment. No such transfer may occur without the approval of the medical director of the state hospital. In no event shall the person be placed on outpatient status pursuant to such treatment. In no event shall the person be released prior to his or her determinate sentence date, nor shall treatment pursuant to this section exceed the term of imprisonment imposed. The medical director of the state hospital shall make a recommendation prior to the person's release date whether the person should receive outpatient treatment as a condition of parole. If outpatient treatment is provided in a county Short-Doyle Program, then treatment shall

be funded as provided in Section 5710.1 of the Welfare and Institutions Code.

If the person refuses to cooperate in his or her treatment while in the state hospital, or is found unamenable to treatment, or if the person requests a return to the Department of Corrections, the medical director of the state hospital shall cause the person to be returned to the Department of Corrections.

Physical transfer of the inmate from the Department of Corrections to the state hospital and return shall be the responsibility of the Department of Corrections. Upon request of the medical director of the state hospital for return of the person to prison, the Director of Corrections shall immediately send for, take, and receive the person back into prison.

All days of confinement in a state hospital for testing and treatment shall be credited to the person's term of imprisonment and the provisions of Section 2931 shall apply.

SEC. 5. Section 1365 of the Penal Code is amended to read:

1365. The program described in Section 1364 shall be established according to a valid experimental design in order that the most effective, newest, and promising methods of treatment of sex offenders may be rigorously tested. The Department of Mental Health shall submit an evaluation report to the Legislature by July 1, 1985. Subsequent evaluation reports shall include treatment outcome measures and shall be submitted every two years thereafter until the termination of the program. The program established pursuant to Section 1364 shall terminate January 1, 1991.

SEC. 6. Section 2700 of the Penal Code is amended to read:

2700. The Department of Corrections shall require of every able-bodied prisoner imprisoned in any state prison as many hours of faithful labor in each day and every day during his or her term of imprisonment as shall be prescribed by the rules and regulations of the Director of Corrections.

Whenever by any statute a price is required to be fixed for any services to be performed in connection with the work program of the Department of Corrections, the compensation paid to prisoners shall be included as an item of cost in fixing the final statutory price.

Prisoners not engaged on work programs under the jurisdiction of the Prison Industry Authority, but who are engaged in productive labor outside of such programs may be compensated in like manner. The compensation of such prisoners shall be paid either out of funds appropriated by the Legislature for that purpose or out of such other funds available to the Department of Corrections for expenditure, as the Director of Finance may direct.

When any prisoner escapes, the director shall determine what portion of his or her earnings shall be forfeited and such forfeiture shall be deposited in the State Treasury in a fund known as the Inmate Welfare Fund of the Department of Corrections.

SEC. 7. Section 2701 of the Penal Code is amended to read:

2701. The Department of Corrections is hereby authorized and

empowered to cause the prisoners in the state prisons of this state to be employed in the rendering of such services as are now, or may hereafter be, needed by the state, or any political subdivision thereof, or that may be needed for any state, county, district, municipal, school, or other public use, or that may be needed by any public institution of the state or of any political subdivision thereof, or that may be needed for use by the federal government, or any department, agency, or corporation thereof, or that may be needed for use by the government of any other state, or any department, agency, or corporation thereof, except for services provided by enterprises under the jurisdiction of the Prison Industry Authority. The Department of Corrections may enter into contracts for the purposes of this article.

SEC. 8. Section 2702 of the Penal Code is repealed.

SEC. 9. Section 2705 of the Penal Code is repealed.

SEC. 10. Section 2706 of the Penal Code is amended to read:

2706. All prisoners shall be employed under supervision of the wardens respectively, and such skilled foremen as they may deem necessary in the performance of work for the state.

SEC. 11. Section 2709 of the Penal Code is repealed.

SEC. 12. Section 2710 of the Penal Code is repealed.

SEC. 13. Section 2711 of the Penal Code is repealed.

SEC. 14. Section 2712 of the Penal Code is repealed.

SEC. 15. Section 2714 of the Penal Code is repealed.

SEC. 16. Section 2716 of the Penal Code is amended to read:

2716. (a) The Director of Corrections may enter into agreements with other state agencies for the use of inmates confined in the state prisons to perform work necessary and proper to be done by them in facilities of such state agencies for the purpose of vocational training and the improvement of job skills preparatory to release.

(b) The director shall determine which prisoners shall be eligible for such assignment and training.

(c) Suitable facilities for the housing, care, and feeding of the inmates may be provided by the agency for whom the work is performed at the location of such agency.

(d) The director shall have full jurisdiction over the discipline and control of the inmates assigned.

(e) The provisions of Title 5 (commencing with Section 4500) of Part 3 shall apply to all persons on such assignment.

SEC. 17. Article 2 (commencing with Section 2721) of Chapter 5 of Title 1 of Part 3 of the Penal Code is repealed.

SEC. 18. Article 3 (commencing with Section 2740) of Chapter 5 of Title 1 of Part 3 of the Penal Code is repealed.

SEC. 19. Section 2760 of the Penal Code is amended to read:

2760. The Department of Transportation of the State of California may employ or cause to be employed, prisoners confined in the state prisons in the improvement and maintenance of any state highway.

SEC. 20. Section 2761 of the Penal Code is amended to read:

2761. The Director of Corrections shall determine which prisoners shall be eligible for employment by the Department of Transportation in the improvement and maintenance of state highways, and shall establish lists of prisoners eligible for such employment. Upon the requisition of said department, the Director of Corrections shall send to the place and at the time designated the number of prisoners requisitioned or such number thereof as have been determined to be eligible for such employment and are available.

The director may return to prison any prisoner transferred to camp pursuant to this section, when the need for such prisoner's labor has ceased or when the prisoner is guilty of any violation of the rules and regulations of the prison or camp.

SEC. 21. Section 2762 of the Penal Code is amended to read:

2762. The Director of Corrections shall fix a daily rate to be expended for convict labor, and when so fixed, the Department of Transportation shall monthly set aside funds to the director to pay for this labor from funds appropriated in the Budget Act for this purpose, and where no funds are available to the Department of Transportation the director may set aside the department's own funds to pay for this labor from funds appropriated in the Budget Act for this purpose. The Department of Corrections shall set up an account for each convict which shall be credited monthly with an amount computed by multiplying the daily rate by the number of days such convict actually performed labor during the month. Such account shall be debited monthly with the convict's proportionate share of all expenses of camp maintenance, including the expenses for food, medicine, medical attendance, clerical and accounting personnel, and the expenses necessary to maintain care and welfare facilities such as camp hospital for first aid, barber shop and cobbler shop, and the convict's personal expenses covering his drawings from the commissary for clothing, toilet articles, tobacco, candy, and other personal items. The charge for camp maintenance may be made at a standard rate determined by the department maintaining the camps to be adequate to cover all expenses and shall be adjusted periodically at the discretion of the department as needs of the camp require. No charge shall be made against such account for the costs of transporting prisoners to and from prison and camp or for the expense of guarding prisoners, which items shall be paid by the Department of Corrections from appropriations made for the support of the department. The director, by regulation, may fix the maximum amount, over and above all deductions, that a convict may receive. The Department of Transportation, in computing the debits to be made to the convict's accounts, may add not to exceed 10 percent on all items.

SEC. 22. Section 2764 of the Penal Code is repealed.

SEC. 23. Section 2769 of the Penal Code is repealed.

SEC. 24. Section 2770 of the Penal Code is amended to read:

2770. The Department of Transportation shall designate and supervise all road work done under the provisions of this article. It shall provide, supervise and maintain necessary camps and commissariat, except that where no funds are available to the Department of Transportation, the director may provide, erect, and maintain the necessary camps.

SEC. 25. Section 2773 of the Penal Code is repealed.

SEC. 26. Section 2774 of the Penal Code is repealed.

SEC. 27. Section 2780.1 of the Penal Code is amended to read:

2780.1. Money received from the rendering of services under the prison camp work program shall be paid to the Treasurer monthly and shall be credited to the support appropriation of the prison rendering such services, in augmentation thereof. The appropriation to be credited shall be the appropriation current at the time of rendering the services. Nothing in this section shall apply to prison road camps established under Article 4 (commencing with Section 2760) of this chapter, except that, by mutual agreement between the Department of Transportation and the Department of Corrections, subject to the approval of the Department of Finance, such prison road camps may be administered, instead, under the provisions of this article.

SEC. 28. Article 1 (commencing with Section 2800) is added to Chapter 6 of Title 1 of Part 3 of the Penal Code, to read:

Article 1. Prison Industry Authority

2800. There is hereby established the Prison Industry Authority. As used in this article "authority" means the Prison Industry Authority.

2801. The purposes of the authority are:

(a) To develop and operate industrial, agricultural, and service enterprises employing prisoners in institutions under the jurisdiction of the Department of Corrections, which enterprises may be located either within those institutions or elsewhere, all as may be determined by the authority.

(b) To create and maintain working conditions within the enterprises as much like those which prevail in private industry as possible, to assure prisoners employed therein the opportunity to work productively, to earn funds, and to acquire or improve effective work habits and occupational skills.

(c) To operate a work program for prisoners which will ultimately be self-supporting by generating sufficient funds from the sale of products and services to pay all the expenses of the program, and one which will provide goods and services which are or will be used by the Department of Corrections, thereby reducing the cost of its operation.

2802. The authority shall be under the policy direction of a board of directors, to be known as the Prison Industry Board, and to be referred to hereafter as the board. The board shall consist of eleven

members:

(a) The Director of Corrections shall be a member.

(b) The Director of the Department of General Services, or his designee, shall be a member.

(c) The Director of the Department of Economic and Business Development, or his designee, shall be a member.

(d) The Speaker of the Assembly shall appoint two members to represent the general public.

(e) The Senate Rules Committee shall appoint two members to represent the general public.

(f) The Governor shall appoint four members. Of these, two shall be representatives of organized labor, and two shall be representatives of industry. The initial term of one of the members appointed by the Speaker of the Assembly shall be two years, and the initial term of the other shall be three years. The initial term of one of the members appointed by the Senate Rules Committee shall be two years, and the initial term of the other shall be three years. The initial terms of the four members appointed by the Governor shall be four years. All subsequent terms of all members shall be for four years. Each member's term shall continue until the appointment and qualification of his successor.

2803. The Director of Corrections shall be the chairman of the board. The board shall meet regularly at least four times during each fiscal year, and shall hold extra meetings on the call of the chairman or a majority of the board. Six members of the board, including the chairman, shall constitute a quorum. The vote of a majority of the members in office is necessary for the transaction of the business of the board.

2804. The appointed members of the board shall receive a per diem to be determined by the chairman, but not less than the usual per diem rate allowed to the Department of Corrections employees during travel out of state. All members, including the chairman, shall also receive their actual and necessary expenses of travel incurred in attending meetings of the commission and in making investigations, either as a board or individually as members of the board at the request of the chairman. All the expenses shall be paid from the Prison Industries Revolving Fund.

2805. The authority shall assume jurisdiction over the operation of all industrial, agricultural, and service operations formerly under the jurisdiction of the Correctional Industries Commission. In addition, the authority shall have the power to establish new industrial, agricultural and service enterprises which it deems appropriate, to initiate and develop new vocational training programs, and to assume jurisdiction over existing vocational training programs. The authority shall have control over and the power to buy and sell all equipment, supplies and materials used in the operations over which it assumes control and jurisdiction.

2806. There is hereby constituted a permanent revolving fund in the sum of not less than seven hundred thirty thousand dollars

($730,000), to be known as the Prison Industries Revolving Fund, and to be used to meet the expenses necessary in the purchasing of materials and equipment, salaries, construction and cost of administration of the prison industries program. The fund may also be used to refund deposits either erroneously made or made in cases where delivery of products cannot be consummated. The fund shall at all times contain the amount of at least seven hundred thirty thousand dollars ($730,000), either in cash or in receivables, consisting of raw materials, finished or unfinished products, inventory at cost, equipment, or any combination of the above. Money received from the rendering of services or the sale of products in the prisons and institutions under the jurisdiction of the board shall be paid to the State Treasurer monthly and shall be credited to the fund. At any time that the authority and the Director of Finance jointly determine that the balance in said revolving fund is greater than is necessary to carry out the purposes of the authority, they shall so inform the Controller and request a transfer of the unneeded balance from the revolving fund to the General Fund of the State of California. The Controller is authorized to transfer balances upon request. Funds deposited in the revolving fund are not subject to annual reappropriation by the Legislature and may be used without a time limit by the authority.

The revolving fund created by Section 2714 known as the Correctional Industries Revolving Fund is abolished, and the Controller shall transfer the balance in that revolving fund to the Prison Industries Revolving Fund.

2807. (a) The authority is hereby authorized and empowered to operate industrial, agricultural and service enterprises which will provide products and services needed by the state, or any political subdivision thereof, or by the federal government, or any department, agency, or corporation thereof, or for any other public use.

(b) All things authorized to be produced under subdivision (a) above shall be purchased by the state or any agency thereof, and may be purchased by any county, city, district, or political subdivision, or any agency thereof, at the prices fixed by the board. State agencies shall make maximum utilization of such products, and shall consult with the staff of the authority to develop new products and adapt existing products to meet their needs.

2808. The board shall, in the exercise of its duties, have all the powers and do all the things which the board of directors of a private corporation would do, except as specifically limited in this article, including, but not limited to, the following:

(a) To enter into contracts and leases, execute leases, pledge the equipment, inventory and supplies under the control of the authority and the anticipated future receipts of any enterprise under the jurisdiction of the authority as collateral for loans, and execute other necessary instruments and documents.

(b) To assure that all funds received by the authority are kept in

commercial accounts according to standard accounting practices.

(c) To arrange for an independent annual audit.

(d) To review and approve the annual budget for the authority, in order to assure that the solvency of the Prison Industries Revolving Fund is maintained.

(e) To appoint a general manager to serve as the chief administrative officer of the authority. The person so appointed shall serve at the pleasure of the chairman. The general manager shall have wide and successful experience with a productive enterprise and have a demonstrated appreciation of the problems associated with prison management.

(f) To apply for and administer grants and contracts of all kinds.

(g) To establish, notwithstanding any other provision of law, procedures governing the purchase of raw materials, component parts, and any other goods and services which may be needed by the authority or in the operation of any enterprise under its jurisdiction. Such procedures shall contain provisions for appeal to the board from any action taken in connection with them.

(h) To establish, expand, diminish, or discontinue industrial, agricultural and service enterprises under its jurisdiction to enable the authority to operate as a self-supporting organization, to provide as much employment for inmates as is feasible, and to provide diversified work activities to minimize the impact on existing private industry in the state.

(i) To hold public hearings pursuant to paragraph (h) above to provide an opportunity for persons or organizations who may be affected to appear and present testimony concerning the plans and activities of the authority. The authority shall assure adequate public notice of such hearings. No new industrial, agricultural, or service enterprise which involves a gross annual production of more than fifty thousand dollars ($50,000) shall be established unless and until a hearing concerning the enterprise has been held by the authority. The authority shall take into consideration the effect of a proposed enterprise on California industry and shall not approve the establishment of the enterprise if it would have a comprehensive and substantial adverse impact on a particular California business, enterprise, or industry.

(j) To periodically determine the prices at which activities, supplies, and services shall be sold, which prices, except for articles or services to be sold to the Department of Corrections, shall be as near as possible to the prices for which agencies eligible to purchase would buy items of equivalent quality from commercial sources.

(k) To report to the Legislature in writing, on or before February 1 of each year, regarding:

(1) The financial activity and condition of each enterprise under its jurisdiction.

(2) The plans of the board regarding any significant changes in existing operations.

(3) The plans of the board regarding the development of new

enterprises.

(4) A breakdown, by institution, of the number of prisoners at each institution, working in enterprises under the jurisdiction of the authority, said number to indicate the number of prisoners which are not working full time.

2809. Notwithstanding any other provision of law, the authority may recruit and employ such civilian staff as may be necessary to carry out the purposes of this article, and shall establish recruiting, testing, hiring, promotion, disciplinary, and dismissal procedures and practices which will meet the unique personnel needs of the authority. The practices may include incentives based on productivity, profit-sharing plans, or other criteria which will encourage civilian employee involvement in the productivity goals of the authority. The procedures and practices shall apply to all employees working in enterprises under the jurisdiction of the authority. The Director of Corrections shall be the appointing authority for all personnel of the authority other than the general manager.

2810. The board may authorize the borrowing of money by the authority for purposes of:

(a) Operating the business affairs of the authority.

(b) Purchasing new equipment, materials and supplies.

(c) Constructing new facilities, or repairing, remodeling, or demolishing old facilities. Funds may be borrowed from the State Treasury to be repaid over up to 20 years, upon interest rates fixed by the Director of Finance, comparable to the lowest class of risk of state investment. In addition, funds may be borrowed from private sources, upon such terms as the board deems appropriate, including but not limited to, the use of equipment under the jurisdiction of the authority, and of the future income of an enterprise under the jurisdiction of the authority, as collateral to secure any loan.

2811. The board shall adopt and maintain a compensation schedule for prisoner employees. Such compensation schedule shall be based on quantity and quality of work performed and shall be required for its performance, but in no event shall such compensation exceed one-half the minimum wage provided in Section 1182 of the Labor Code, except as otherwise provided in this code. This compensation shall be credited to the account of the prisoner.

Such compensation shall be paid from the Prison Industries Revolving Fund.

2812. It is unlawful for any person to sell, expose for sale, or offer for sale within this state, any article or articles manufactured wholly or in part by convict or other prison labor, except articles the sale of which is specifically sanctioned by law.

Every person selling, exposing for sale, or offering for sale any article manufactured in this state wholly or in part by convict or other prison labor, the sale of which is not specifically sanctioned by law, is guilty of a misdemeanor.

2813. The director may provide for the manufacture of small articles of handiwork by the prisoners out of raw materials purchased by the prisoners with their own funds or funds borrowed from the Inmates' Welfare Fund, or from raw materials furnished by the director without compensation therefor as provided in this section which articles may be sold to the public at the state prisons, in public buildings, at fairs, or on property operated by nonprofit associations. State-owned property shall not be given to prisoners for use under this section, unless all proceeds from the sale thereof shall be deposited in the Inmates' Welfare Fund. The director may provide that all or a part of the sale price of all other articles manufactured and sold under this section be deposited to the account of the prisoner manufacturing the article.

SEC. 29. Article 1 (commencing with Section 2870) of Chapter 6 of Title 1 of Part 3 of the Penal Code is repealed.

SEC. 30. Article 3 (commencing with Section 2895) of Chapter 6 of Title 1 of Part 3 of the Penal Code is repealed.

SEC. 31. Section 2960 of the Penal Code is amended to read:

2960. Before releasing any inmate or terminating supervision of any parolee who is a danger to self or others, or gravely disabled as a result of mental disorder, the Director of Corrections may, upon probable cause, place, or cause to be placed, the person in a state hospital pursuant to the Lanterman-Petris-Short Act, Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code.

The cost of inpatient treatment under this article shall be a state expense while the person is under the jurisdiction of the Department of Corrections.

Any person placed outside of a facility of the Department of Corrections for the purposes of inpatient treatment under the article shall not be deemed to be released from imprisonment or from the custody of the Department of Corrections prior to the expiration of the maximum term of imprisonment of the person.

SEC. 32. Section 3323 of the Penal Code is repealed.

SEC. 33. Section 3324 of the Penal Code is repealed.

SEC. 34. Chapter 3.5 (commencing with Section 5085) of Title 7 of Part 3 of the Penal Code is repealed.

SEC. 35. Section 4456.5 of the Welfare and Institutions Code is amended to read:

4456.5. (a) The security of patients committed pursuant to Section 1026 of, and Chapter 6 (commencing with section 1367) of Title 10 of Part 2 of, the Penal Code, and Sections 6316 and 6321 of the Welfare and Institutions Code, at Patton State Hospital shall be the responsibility of the Director of the Department of Corrections.

(b) The Department of Corrections and the State Department of Mental Health shall jointly develop a plan to transfer all patients committed to Patton State Hospital pursuant to the provisions in subdivision (a) from Patton State Hospital no later than January 1, 1986, and shall transmit this plan to the Senate Committee on

Judiciary and to the Assembly Committee on Criminal Justice, and to the Senate Health and Welfare Committee and Assembly Health Committee by June 30, 1983. The plan shall address whether the transferred patients shall be moved to other state hospitals or to correctional facilities, or both, for commitment and treatment.

(c) This section shall remain in effect only until all patients committed, pursuant to the provisions enumerated in subdivision (a), have been removed from Patton State Hospital and shall have no force or effect on or after that date.

SEC. 36. Notwithstanding any other provision of law, no state prison or state correctional facility of any kind shall be established on or adjacent to the site now occupied by Patton State Hospital nor shall state prisoners be housed on or adjacent to this site.

SEC. 37. It is the intent of the Legislature that Atascadero State Hospital is the preferred location for housing patients committed pursuant to Section 1026 of, Chapter 6 (commencing with Section 1367) of Title 10 of Part 2 of, and Article 3 (commencing with Section 2684) of Chapter 4 of Title 1 of Part 3 of the Penal Code, and Sections 6316 and 6321 of the Welfare and Institutions Code.

Notwithstanding any other provision of law, no state hospital under the jurisdiction of the Department of Mental Health or the Department of Developmental Services shall be converted into a state prison without specific prior approval of the Legislature.

SEC. 38. Notwithstanding any other provision of law, there shall be no increase in the number of state prisoners, mentally disordered sex offenders, or commitments made pursuant to the Penal Code, except as provided in Section 1370.1 of the Penal Code, at any state hospital under the jurisdiction of the Department of Developmental Services without the express, prior approval of the Legislature.

SEC. 39. Due to the unique circumstances concerning the lack of adequate security at Patton State Hospital, the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the Constitution.

SEC. 40. 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 1550

An act to amend Section 327 of the Probate Code, relating to probate.

[Approved by Governor September 29, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 327 of the Probate Code is amended to read:

327. When the petition is filed, the clerk of the court shall set the same for hearing by the court upon some day not less than 10 nor more than 30 days thereafter, and cause notice thereof to be published pursuant to Section 333. At the request of the petitioner which shall be made at the time the petition is filed, the clerk of the court shall set the petition for hearing by the court upon some day not less than 30 nor more than 45 days thereafter.

CHAPTER 1551

An act to amend Section 1170.1 of, and to add Section 12022.1 to, the Penal Code, relating to punishment for crimes.

[Approved by Governor September 29, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 1170.1 of the Penal Code is amended to read:

1170.1. (a) Except as provided in subdivision (b) and subject to Section 654, when any person is convicted of two or more felonies, whether in the same proceeding or court or in different proceedings or courts, and whether by judgment rendered by the same or by a different court, and a consecutive term of imprisonment is imposed under Sections 669 and 1170, the aggregate term of imprisonment for all such convictions shall be the sum of the principal term, the subordinate term and any additional term imposed pursuant to Section 667.5, 667.6, or 12022.1. The principal term shall consist of the greatest term of imprisonment imposed by the court for any of the crimes, including any enhancements imposed pursuant to Section 12022, 12022.3, 12022.5, 12022.6, 12022.7 or 12022.8. The subordinate term for each consecutive offense which is not a "violent felony" as defined in subdivision (c) of Section 667.5 shall consist of one-third of the middle term of imprisonment prescribed for each other such felony conviction for which a consecutive term of imprisonment is imposed, and shall exclude any enhancements. In no case shall the total of subordinate terms for such consecutive offenses which are not "violent felonies" as defined in subdivision (c) of Section 667.5 exceed five years. The subordinate term for each consecutive offense which is a "violent felony" as defined in subdivision (c) of Section 667.5, including those offenses described in paragraph (8) of subdivision (c) of Section 667.5, shall consist of one-third of the middle term of imprisonment prescribed for each other such felony conviction for which a consecutive term of imprisonment is imposed,

and shall include one-third of any enhancements imposed pursuant to Section 12022, 12022.5 or 12022.7.

(b) In the case of any person convicted of one or more felonies committed while such person is confined in a state prison, or is subject to reimprisonment for escape from such custody and the law either requires the terms to be served consecutively or the court imposes consecutive terms, the term of imprisonment for all such convictions which such person is required to serve consecutively shall commence from the time such person would otherwise have been released from prison. If the new offenses are consecutive with each other, the principal and subordinate terms shall be calculated as provided in subdivision (a), except that the total of subordinate terms may exceed five years. The provisions of this subdivision shall be applicable in cases of convictions of more than one offense in different proceedings, and convictions of more than one offense in the same or different proceedings.

(c) When the court imposes a prison sentence for a felony pursuant to Section 1170 the court shall also impose the additional terms provided in Sections 667.5, 12022, 12022.5, 12022.6, and 12022.7, unless the additional punishment therefore is stricken pursuant to subdivision (g). The court shall also impose any other additional term which the court determines in its discretion or as required by law shall run consecutive to the term imposed under Section 1170. In considering the imposition of such additional term, the court shall apply the sentencing rules of the Judicial Council.

(d) When two or more enhancements under Sections 12022, 12022.5, and 12022.7 may be imposed for any single offense, only the greatest enhancement shall apply; however, in cases of robbery, rape or burglary, or attempted robbery, rape or burglary the court may impose both (1) one enhancement for weapons as provided in either Section 12022 or 12022.5 and (2) an enhancement for great bodily injury as provided in Section 12022.7.

(e) The enhancements provided in Sections 667.5, 667.6, 12022, 12022.1, 12022.3, 12022.5, 12022.6, 12022.7, and 12022.8 shall be pleaded and proven as provided by law.

(f) The term of imprisonment shall not exceed twice the number of years imposed by the trial court as the base term pursuant to subdivision (b) of Section 1170 unless the defendant stands convicted of a "violent felony" as defined in subdivision (c) of Section 667.5, or a consecutive sentence is being imposed pursuant to subdivision (b) of this section, or an enhancement is imposed pursuant to Section 12022, 12022.5, 12022.6 or 12022.7 or the defendant stands convicted of felony escape from an institution in which he is lawfully confined.

(g) Notwithstanding any other provision of law, the court may strike the additional punishment for the enhancements provided in Sections 667.5, 12022, 12022.5, 12022.6, and 12022.7 if it determines that there are circumstances in mitigation of the additional punishment and states on the record its reasons for striking the additional punishment.

(h) For any violation of subdivision (2) or (3) of Section 261, Section 264.1, subdivision (b) of Section 288, Section 289, or sodomy or oral copulation by force, violence, duress, menace or threat of great bodily harm as provided in Section 286 or 288a, the number of enhancements which may be imposed shall not be limited, regardless of whether such enhancements are pursuant to this or some other section of law. Each of such enhancements shall be a full and separately served enhancement and shall not be merged with any term or with any other enhancement.

SEC. 1.5. Section 1170.1 of the Penal Code is amended to read:

1170.1 (a) Except as provided in subdivision (c) and subject to Section 654, when any person is convicted of two or more felonies, whether in the same proceeding or court or in different proceedings or courts, and whether by judgment rendered by the same or by a different court, and a consecutive term of imprisonment is imposed under Sections 669 and 1170, the aggregate term of imprisonment for all such convictions shall be the sum of the principal term, the subordinate term and any additional term imposed pursuant to Section 667.5, 667.6, or 12022.1. The principal term shall consist of the greatest term of imprisonment imposed by the court for any of the crimes, including any enhancements imposed pursuant to Section 12022, 12022.3, 12022.5, 12022.6, 12022.7 or 12022.8. The subordinate term for each consecutive offense which is not a "violent felony" as defined in subdivision (c) of Section 667.5 shall consist of one-third of the middle term of imprisonment prescribed for each other such felony conviction for which a consecutive term of imprisonment is imposed, and shall exclude any enhancements. In no case shall the total of subordinate terms for such consecutive offenses which are not "violent felonies" as defined in subdivision (c) of Section 667.5 exceed five years. The subordinate term for each consecutive offense which is a "violent felony" as defined in subdivision (c) of Section 667.5, including those offenses described in paragraph (8) of subdivision (c) of Section 667.5, shall consist of one-third of the middle term of imprisonment prescribed for each other such felony conviction for which a consecutive term of imprisonment is imposed, and shall include one-third of any enhancements imposed pursuant to Section 12022, 12022.5 or 12022.7.

(b) When a consecutive term of imprisonment is imposed under Sections 669 and 1170 for two or more convictions for kidnapping, as defined in Section 207, involving both separate victims and separate occasions, the aggregate term shall be calculated as provided in subdivision (a), except that the subordinate term for each subsequent kidnapping conviction shall consist of the middle term for each kidnapping conviction for which a consecutive term of imprisonment is imposed and shall include one-third of any enhancements imposed pursuant to Section 12022, 12022.5, or 12022.7. The five-year limitation on the total of subordinate terms provided in subdivision (a) shall not apply to subordinate terms for second and subsequent convictions of kidnapping, as defined in

Section 207, involving separate victims and separate occasions.

(c) In the case of any person convicted of one or more felonies committed while such person is confined in a state prison, or is subject to reimprisonment for escape from such custody and the law either requires the terms to be served consecutively or the court imposes consecutive terms, the term of imprisonment for all such convictions which such person is required to serve consecutively shall commence from the time such person would otherwise have been released from prison. If the new offenses are consecutive with each other, the principal and subordinate terms shall be calculated as provided in subdivision (a), except that the total of subordinate terms may exceed five years. The provisions of this subdivision shall be applicable in cases of convictions of more than one offense in different proceedings, and convictions of more than one offense in the same or different proceedings.

(d) When the court imposes a prison sentence for a felony pursuant to Section 1170 the court shall also impose the additional terms provided in Sections 667.5, 12022, 12022.5, 12022.6, and 12022.7, unless the additional punishment therefore is stricken pursuant to subdivision (g). The court shall also impose any other additional term which the court determines in its discretion or as required by law shall run consecutive to the term imposed under Section 1170. In considering the imposition of such additional term, the court shall apply the sentencing rules of the Judicial Council.

(e) When two or more enhancements under Sections 12022, 12022.5, and 12022.7 may be imposed for any single offense, only the greatest enhancement shall apply; however, in cases of robbery, rape or burglary, or attempted robbery, rape or burglary the court may impose both (1) one enhancement for weapons as provided in either Section 12022 or 12022.5 and (2) an enhancement for great bodily injury as provided in Section 12022.7.

(f) The enhancements provided in Sections 667.5, 667.6, 12022, 12022.1, 12022.3, 12022.5, 12022.6, 12022.7, and 12022.8 shall be pleaded and proven as provided by law.

(g) The term of imprisonment shall not exceed twice the number of years imposed by the trial court as the base term pursuant to subdivision (b) of Section 1170 unless the defendant stands convicted of a "violent felony" as defined in subdivision (c) of Section 667.5, or a consecutive sentence is being imposed pursuant to subdivision (c) of this section, or an enhancement is imposed pursuant to Section 12022, 12022.5, 12022.6 or 12022.7 or the defendant stands convicted of felony escape from an institution in which he is lawfully confined.

(h) Notwithstanding any other provision of law, the court may strike the additional punishment for the enhancements provided in Sections 667.5, 12022, 12022.5, 12022.6, and 12022.7 if it determines that there are circumstances in mitigation of the additional punishment and states on the record its reasons for striking the additional punishment.

(i) For any violation of subdivision (2) or (3) of Section 261,

Section 264.1, subdivision (b) of Section 288, Section 289, or sodomy or oral copulation by force, violence, duress, menace or threat of great bodily harm as provided in Section 286 or 288a, the number of enhancements which may be imposed shall not be limited, regardless of whether such enhancements are pursuant to this or some other section of law. Each of such enhancements shall be a full and separately served enhancement and shall not be merged with any term or with any other enhancement.

SEC. 2. Section 12022.1 is added to the Penal Code, to read:

12022.1. Any person convicted of a felony offense which was committed while that person was released from custody on bail or on his or her own recognizance pending trial on an earlier felony offense shall, upon conviction of the later felony offense, be subject to a penalty enhancement as follows:

(a) If the person is convicted of a felony for the earlier offense, is sentenced to state prison for the earlier offense, and is convicted of a felony for the later offense, any state prison sentence for the later offense shall be consecutive to the earlier sentence. In addition, the sentence for the later offense shall be enhanced by an additional term of two years.

(b) If the person is convicted of a felony for the earlier offense, is granted probation for the earlier offense, and is convicted of a felony for the later offense, any state prison sentence for the later offense shall be enhanced by an additional term of two years.

(c) If the earlier offense conviction is reversed on appeal, the enhancement shall be suspended pending retrial of that felony. Upon retrial and reconviction, the enhancement shall be reimposed. If the person is no longer in custody for the later offense upon reconviction of the earlier offense, the court may, at its discretion, reimpose the enhancement and order him or her recommitted to custody.

SEC. 3. It is the intent of the Legislature, if this bill and Assembly Bill 3477 are both chaptered and become effective January 1, 1983, both bills amend Section 1170.1 of the Penal Code, and this bill is chaptered after Assembly Bill 3477, that the amendments to Section 1170.1 proposed by both bills be given effect and incorporated in Section 1170.1 in the form set forth in Section 1.5 of this act. Therefore, Section 1.5 of this act shall become operative only if this bill and Assembly Bill 3477 are both chaptered and become effective January 1, 1983, both amend Section 1170.1, and this bill is chaptered after Assembly Bill 3477, in which case Section 1 of this act shall not become operative.

SEC. 4. This act shall become operative only if the people of California adopt the New Prison Construction Bond Act of 1981, as set forth in Section 1 of Chapter 273 of the Statutes of 1981, as Proposition 1 on the ballot for the 1982 primary election.

CHAPTER 1552

An act to amend Sections 17052.5 and 23601 of, and to add and repeal Sections 17052.3 and 23601.3 of, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 29, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. It is the intent of the Legislature in enacting this act to clarify the solar energy tax credit eligibility of solar energy systems which may be purchased but not installed prior to the expiration date of the solar energy tax credit prescribed by Sections 17052.5 and 23601 of the Revenue and Taxation Code.

SEC. 2. Section 17052.3 is added to the Revenue and Taxation Code, to read:

17052.3. (a) Notwithstanding Section 5 of Chapter 903 of the Statutes of 1980 or any other provision of law, a taxpayer who has incurred the costs of, or commenced significant physical work of construction on, a solar energy system prior to December 31, 1983, shall be eligible for the tax credit authorized pursuant to Section 17052.5 (as that section reads as of December 31, 1983) in the taxable year in which the system is installed.

(b) For purposes of this section, "incurred the costs" means the actual expenditure of funds or, in the case of a binding contract for the purchase and construction of a solar device, the placement of funds in an escrow account, prior to December 31, 1983. Funds placed in escrow may include funds borrowed pursuant to a construction loan or other debt arrangement.

(c) For purposes of this section, "installed" means placed in position in a functionally operative state.

(d) For purposes of this section, "commenced significant physical work of construction" means actual land preparation or building, and shall not include activities such as planning or designing, securing financing, exploring, researching, or developing.

(e) This section shall remain in effect only until January 1, 1986, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1986, deletes or extends that date.

SEC. 3. Section 17052.5 of the Revenue and Taxation Code is amended to read:

17052.5. (a) (1) There shall be allowed as a credit against the amount of "net tax" (as defined in subdivision (i)), an amount equal to the amount determined in paragraph (2), (3), or (6).

(2) Except as provided in subparagraph (D) of this paragraph and paragraphs (3) and (6), the amount of the credit allowed by this section shall be 55 percent of the cost (as defined in paragraph (7)) incurred by the taxpayer for any solar energy system installed on premises in California which are owned by the taxpayer at the time of installation. The credit shall not exceed three thousand dollars

($3,000) per solar energy system as defined in paragraph (6) of subdivision (i).

(A) The owner of the premises on which the solar energy system is installed may claim the tax credit for costs incurred; however, an owner-builder or owner-developer of new dwellings may elect not to claim the solar energy tax credit for any or all systems installed on new dwellings. If an owner-builder or owner-developer irrevocably elects not to claim the tax credit for a solar energy system, the original purchaser of the new dwelling on which the system is installed may claim the credit provided that the purchaser can confirm the election by a written document signed by the owner-builder or owner-developer.

(B) The solar energy tax credit shall be claimed in the state income tax return for the taxable year in which the solar energy system was installed; however, if an owner-builder or owner-developer irrevocably elects not to claim the tax credit for a solar energy system, the original purchaser of the new dwelling on which the system is installed may claim the credit in the taxable year during which the purchaser's escrow closed or the taxable year during which the purchaser acquired legal title to the dwelling.

(C) A taxpayer who claimed the solar energy tax credit in the state income tax return for the taxable year in which the solar energy system was installed, may claim the credit in subsequent years for additions to the system or additional systems pursuant to this paragraph, so long as the total amount of the credit claimed under the 55-percent formula does not exceed three thousand dollars ($3,000).

(D) With regard to recreational or therapeutic solar energy water heating systems, the amount of the credit allowed by this section shall be 45 percent of the cost of the system for systems installed between January 1, 1981, and December 31, 1981, 35 percent of the cost (as defined in paragraph (7)) of the system for systems installed between January 1, 1982, and December 31, 1982, and 25 percent of the cost of the systems installed after January 1, 1983. Such credit shall not exceed three thousand dollars ($3,000).

(3) With regard to premises in California which are owned by the taxpayer, other than dwellings, on which the cost (as defined in paragraph (7)) of the system exceeds twelve thousand dollars ($12,000), the amount of the credit allowed by this section shall be 25 percent of the cost of the solar energy system.

A taxpayer who claimed the solar energy tax credit in the state income tax return for the taxable year in which the solar energy system was installed, may claim the credit in subsequent years for additions to the system or additional systems by the amount prescribed by this paragraph.

(4) If a solar energy system serves two or more dwellings, the owner or owners of the dwellings shall be eligible to receive the credit in proportion to the number of dwelling units served. The amount of the credit shall be determined by dividing the cost (as defined in paragraph (7)) of the solar energy system by the number of dwelling units served by the system, and applying the formula described in paragraph (2) or (6) to the per dwelling cost.

(5) Energy conservation measures applied in conjunction with solar energy systems to reduce the total cost or backup energy requirements of such systems shall be considered part of the systems, and shall be eligible for the tax credit. Qualified energy conservation measures installed within six months of the date of installation of the solar energy system are considered to be installed "in conjunction with" the solar energy system, even if the period spans two taxable years. In cases involving more than six months between the dates of installation of the energy conservation measures and the solar energy system, the taxpayer must be able to provide persuasive evidence that the energy conservation measures were in fact installed in conjunction with a solar energy system. Eligible conservation measures applied in conjunction with solar space heating shall include, but not be limited to, ceiling, wall, and floor insulation above that required by law at the time of original construction. Eligible conservation measures applied in conjunction with solar water heating shall include, but not be limited to, water heater insulation jackets, and shower and faucet flow reducing devices. Energy conservation measures which shall be eligible for the tax credit when applied in conjunction with solar energy systems shall be defined by the Energy Resources Conservation and Development Commission as part of the solar energy system eligibility criteria.

(6) Taxpayers who partially own and partially lease on premises in California a solar energy system from a municipal utility or any lessor granted a permit from a municipal solar utility established by ordinance of the local jurisdiction prior to January 1, 1983, shall receive a tax credit as provided in subparagraph (A) or (B).

(A) Except as provided in subparagraph (B), the credit shall equal 55 percent of the cost (as defined in paragraph (7)) of the purchased portion, and 55 percent of the principal recovery portion (as defined in paragraph (7)) of the lease payments for the first three years of operation or until the solar tax credit terminates, whichever occurs first. That credit shall not exceed three thousand dollars ($3,000) for each system.

(B) In the case of premises, other than dwellings, on which the cost (as defined in paragraph (7)) incurred by the lessor exceeds twelve thousand dollars ($12,000), the credit shall equal 25 percent of the cost (as defined in paragraph (7)) of the purchased portion and 25 percent of the principal recovery portion (as defined in paragraph (7)) of the lease payments for the first three years of operation or until the solar tax credit terminates, whichever occurs first.

(7) The compensation paid to the owner of burdened property in connection with the acquisition of a solar easement as defined in Section 801.5 of the Civil Code, and the fees for the recording of such an easement shall be considered part of the cost of the solar energy systems, and shall be eligible for the tax credit.

In addition, for purposes of computing the credit provided by this section, "cost" shall include installation charges, but shall exclude interest charges. In the case of a system which is leased, "cost" shall

mean the principal recovery portion of monthly lease payments. "Principal recovery portion" means the cost incurred by the lessor in acquiring the solar energy system, but does not include interest charges, sales taxes, or maintenance expenses.

(8) For purposes of computing the credit provided by this section, the cost of any solar energy system eligible for the credit provided by this section shall be reduced by any grant provided by a public entity for such system.

(b) The basis of any system for which a credit is allowed shall be reduced by the amount of the credit and any grant provided by a utility or public entity for such solar energy system. The basis adjustment shall be made for the taxable year for which the credit is allowed.

(c) With the exception of a husband and wife, if there is more than one owner of a premises on which a solar energy system is installed, each owner shall be eligible to receive the solar energy tax credit in proportion to his or her ownership interests in the premises. In the case of a partnership, the solar energy tax credit may be divided between the partners pursuant to a written partnership agreement. In the case of a husband or wife who files a separate return, the credit may be taken by either or equally divided between them.

(d) The tax credit provided by this section shall not apply to trusts or estates subject to tax under this part.

(e) In the case where the credit allowed under this section exceeds the "net tax" for the taxable year, that portion of the credit which exceeds such "net tax" may be carried over to the "net tax" in succeeding taxable years, until such credit is used. The credit shall be applied first to the earliest years possible.

(f) In the case of a taxpayer who qualifies for a refund provided for under this subdivision, whose credits exceed tax liability computed under this part, minus all other credits provided for in this part, except the credits provided in Sections 17061, 18551.1 and 17053.5, the taxpayer shall be allowed a credit to the extent of the taxpayer's tax liability plus a refund in excess of that amount up to, or a combined credit and refund equal to, the credit otherwise provided in this section. For the purposes of this subdivision, a taxpayer qualified for a refund means an individual taxpayer whose adjusted gross income is less than fifteen thousand dollars ($15,000) and married taxpayers filing joint returns whose adjusted gross income is less than thirty thousand dollars ($30,000) in the taxable year in which the credit provided in this section is claimed. This subdivision shall not apply to taxable years beginning on or after January 1, 1982.

(g) The Energy Resources Conservation and Development Commission shall, after one or more public hearings, establish guidelines and criteria for solar energy systems which shall be eligible for the credit provided by this section. Such guidelines and criteria may include, but shall not be limited to, minimum requirements for safety, reliability and durability of solar energy

systems. The Franchise Tax Board shall prescribe such regulations as may be necessary to carry out the purposes of this section.

(h) If a federal income tax credit is enacted for costs incurred by a taxpayer for the purchase and installation of solar energy systems, then to the extent such credit is allowed or allowable for a solar energy system as defined in this section, the state credit provided in paragraph (2) of subdivision (a) and subparagraph (A) of paragraph (6) shall be reduced so that the combined effective credit shall not exceed 55 percent of such costs, notwithstanding the carryover provisions of subdivision (e).

(i) For purposes of this section:

(1) "Installed" means placed in position in a functionally operative state.

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

(3) "Owner" includes duly recorded holders of legal title, lessees with at least three years remaining on their lease, a person purchasing premises under a contract of sale, or who holds shares or membership in a cooperative housing corporation, which holding is a requisite to the exclusive right of occupancy to the premises, a person who is a member of a nonprofit corporation or association which is a duly recorded holder of legal title, or a person who is a member of a nonprofit corporation or association which is a lessee with at least three years remaining on its lease.

(4) "Premises" means the principal stationary location in California where the installed system is to be used and includes land, buildings or portions thereof, or mobilehomes.

(5) "Dwelling" means a building used for residential purposes, and includes single-family residences, mobilehomes, and individual units of apartments, condominiums, cooperatives, or other similar multiple dwellings.

(6) (A) "Solar energy system" means the use of solar devices for the individual function of:

(i) Domestic, recreational, therapeutic, or service water heating;

(ii) Space conditioning;

(iii) Production of electricity;

(iv) Process heat;

(v) Solar mechanical energy; and

(vi) Wind energy for the production of electricity or mechanical work.

The term "solar energy system" shall include, but is not limited to, passive thermal systems, semipassive thermal systems, active thermal systems, photovoltaic systems and wind-driven systems.

(B) Eligible solar energy systems shall have a useful life of not less than three years.

(7) "Solar device" means the equipment associated with the

collection, transfer, distribution, storage or control of solar energy. In the case of a solar device associated with two or more solar energy systems, the credit allowed for the solar device may be taken for any one of the systems, or divided equally between them.

(8) "Passive thermal system" means a system which utilizes the structural elements of the building, and is not augmented by mechanical components, to provide for collection, storage, or distribution of solar energy for heating or cooling.

(9) "Active thermal system" means a system which utilizes solar devices thermally isolated from the living space to provide for collection, storage, or distribution of solar energy for heating or cooling.

(10) "Semipassive thermal system" means a system which utilizes the structure of a building or is augmented by mechanical components to provide for collection, storage, or distribution of solar energy for heating or cooling.

(j) In lieu of claiming the tax credit provided by this section, the taxpayer may elect to take depreciation pursuant to Section 17208. In addition, the taxpayer may take depreciation pursuant to that section for the cost of a solar energy system in excess of the amount of the tax credit claimed under this section.

(k) No tax credit may be claimed under this section for any expenditures which have been otherwise claimed as a tax credit for the current or any prior taxable year as energy conservation measures under this part.

(*l*) No credit shall be allowed under this section if the amount would (but for this subdivision) be less than ten dollars ($10).

SEC. 4. Section 23601 of the Revenue and Taxation Code is amended to read:

23601. (a) (1) There shall be allowed as a credit against the taxes imposed by this part (except the minimum franchise tax and the tax on preference income), an amount equal to the amount determined in paragraph (2), (3), or (6).

(2) Except as provided in subparagraph (D) of this paragraph and paragraphs (3) and (6), the amount of the credit allowed by this section shall be 55 percent of the cost (as defined in paragraph (8)) incurred by the taxpayer for any solar energy system installed on premises in California which are owned by the taxpayer at the time of installation. Such credit shall not exceed three thousand dollars ($3,000) per solar energy system as defined in paragraph (5) of subdivision (f).

(A) The owner of the premises on which the solar energy system is installed may claim the tax credit for costs incurred; however, an owner-builder or owner-developer of new dwellings may elect not to claim the solar energy tax credit for any or all systems installed on new dwellings. If an owner-builder or owner-developer irrevocably elects not to claim the tax credit for a solar energy system, the original purchaser of the new dwelling on which the system is installed may claim the credit provided that the purchaser can

confirm the election by a written document signed by the owner-builder or owner-developer.

(B) The solar energy tax credit shall be claimed in the state return for the income year in which the solar energy system was installed; however, if an owner-builder or owner-developer irrevocably elects not to claim the tax credit for a solar energy system, the original purchaser of the new dwelling on which the system is installed may claim the credit in the year during which the purchaser's escrow closed or the year during which the purchaser acquired legal title to the dwelling.

(C) A taxpayer who claimed the solar energy tax credit in the state income tax return for the income year in which the solar energy system was installed, may claim the credit in subsequent years for additions to the system or additional systems on the basis of the formula in this paragraph, so long as the total amount of the credit claimed under the 55 percent formula, does not exceed three thousand dollars ($3,000).

(D) With regard to recreational or therapeutic solar energy water heating systems, the amount of the credit allowed by this section shall be 45 percent of the cost (as defined in paragraph (8)) of the system for systems installed between January 1, 1981, and December 31, 1981, 35 percent of the cost of the system for systems installed between January 1, 1982, and December 31, 1982, and 25 percent of the cost of the systems installed after January 1, 1983. Such credit shall not exceed three thousand dollars ($3,000).

(3) With regard to premises in California which are owned by the taxpayer, other than a dwelling, on which the cost (as defined in paragraph (8)) of the system exceeds twelve thousand dollars ($12,000), the amount of the credit allowed by this section shall be 25 percent of the cost of the solar energy system.

A taxpayer, who claimed the solar energy tax credit on the state income tax return for the income year in which the solar energy system was installed, may claim the credit in subsequent years for additions to the system or additional systems by the amount prescribed by this paragraph.

(4) If a solar energy system serves two or more dwellings, the owner or owners of the dwellings shall be eligible to receive the credit in proportion to the number of dwelling units served. The amount of the credit shall be determined by dividing the cost (as defined in paragraph (8)) of the solar energy system by the number of dwelling units served by the system, and applying the formula described in paragraph (2) or (6) to the per dwelling cost.

(5) Energy conservation measures applied in conjunction with solar energy systems to reduce the total cost or backup energy requirements of such systems shall be considered part of the systems, and shall be eligible for the tax credit. Qualified energy conservation measures installed within six months of the date of installation of the solar energy system are considered to be installed "in conjunction with" the solar energy system, even if the period spans two taxable

years. In cases involving more than six months between the dates of installation of the energy conservation measures and the solar energy system, the taxpayer must be able to provide persuasive evidence that the energy conservation measures were in fact installed in conjunction with a solar energy system. Eligible conservation measures applied in conjunction with solar space heating shall include, but not be limited to, ceiling, wall, and floor insulation above that required by law at the time of original construction. Eligible conservation measures applied in conjunction with solar water heating shall include, but not be limited to, water heater insulation jackets, and shower and faucet flow reducing devices. Energy conservation measures which shall be eligible for the tax credit when applied in conjunction with solar energy systems shall be defined by the Energy Resources Conservation and Development Commission as part of the solar energy system eligibility criteria.

(6) Taxpayers who partially own and partially lease on premises in California a solar energy system from a municipal utility or any lessor granted a permit from a municipal solar utility established by ordinance of the local jurisdiction prior to January 1, 1983 shall receive a tax credit as provided in subparagraph (A) or (B).

(A) Except as provided in subparagraph (B), the credit shall equal 55 percent of the cost (as defined in paragraph (8)) of the purchased portion, and 55 percent of the principal recovery portion (as defined in paragraph (8)) of the lease payments for the first three years of operation or until the solar energy tax credit terminates, whichever occurs first. That credit shall not exceed three thousand dollars ($3,000) for each system.

(B) In the case of premises, other than dwellings, on which the cost (as defined in paragraph (8)) incurred by the lessor exceeds twelve thousand dollars ($12,000), the credit shall equal 25 percent of the cost (as defined in paragraph (8)) of the purchased portion and 25 percent of the principal recovery portion (as defined in paragraph (8)) of the lease payments for the first three years of operation or until the solar energy tax credit terminates, whichever occurs first.

(7) For purposes of computing the credit provided by this section, the cost of any solar energy system eligible for the credit provided by this section shall be reduced by any grant provided by a public entity for such system.

(8) For the purposes of computing the credit provided by this section, "cost" shall include installation charges, but shall exclude interest charges. In the case of a system which is leased, "cost" shall mean the principal recovery portion of monthly lease payments. "Principal recovery portion" means the cost incurred by the lessor in acquiring the solar energy system, but does not include interest charges, sales taxes, or maintenance expenses.

(b) The basis of any system for which a credit is allowed shall be reduced by the amount of the credit and grant provided by a utility or public entity for such solar energy system. The basis adjustment

shall be made for the income year for which the credit is allowed.

In the case of a partnership, the solar energy tax credit may be divided between the partners pursuant to a written partnership agreement.

(c) In the case where the credit allowed under this section exceeds the taxes imposed by this part (except the minimum franchise tax and the tax on preference income) for the income year, that portion of the credit which exceeds such taxes may be carried over to the taxes imposed by this part (except the minimum franchise tax and the tax on preference income) in succeeding income years until such credit is used. The credit shall be applied first to the earliest years possible.

(d) The Energy Resources Conservation and Development Commission shall, after one or more public hearings, establish guidelines and criteria for solar energy systems which shall be eligible for the credit provided by this section. Such guidelines and criteria may include, but shall not be limited to, minimum requirements for safety, reliability and durability of solar energy systems. The Franchise Tax Board shall prescribe such regulations as may be necessary to carry out the purposes of this section.

(e) If federal income tax credit is enacted for costs incurred by a taxpayer for the purchase and installation of solar energy systems, then to the extent such credit is allowed or allowable for a solar energy system as defined in this section, the state credit provided in paragraph (2) of subdivision (a) and subparagraph (A) of paragraph (6) shall be reduced so that the combined effective credit shall not exceed 55 percent of such costs, notwithstanding the carryover provisions of subdivision (c).

(f) The following definitions govern construction of this section:

(1) "Installed" means placed in position in a functionally operative state.

(2) "Owner" includes duly recorded holders of legal title, lessees with at least three years remaining on their lease, a person purchasing premises under a contract of sale, or who holds shares or membership in a cooperative housing corporation, which holding is a requisite to the exclusive right of occupancy to the premises, a person who is a member of a nonprofit corporation or association which is a duly recorded holder of legal title, or a person who is a member of a nonprofit corporation or association which is a lessee with at least three years remaining on its lease.

(3) "Premises" means the principal stationary location in California where the installed system is to be used and includes land, buildings or portions thereof, or mobilehomes.

(4) "Dwelling" means a building used for residential purposes, and includes single-family residences, mobilehomes, and individual units of apartments, condominiums, cooperatives, or other similar multiple dwellings.

(5) (A) "Solar energy system" means the use of solar devices for the individual function of:

(i) Domestic, recreational, therapeutic, or service water heating;
(ii) Space conditioning;
(iii) Production of electricity;
(iv) Process heat;
(v) Solar mechanical energy; and
(vi) Wind energy for the production of electricity or mechanical work.

The term "solar energy system" shall include, but is not limited to, passive thermal systems, semipassive thermal systems, active thermal systems, photovoltaic systems and wind-driven systems.

(B) Eligible solar energy systems shall have a useful life of not less than three years.

(6) "Solar device" means the equipment associated with the collection, transfer, distribution, storage or control of solar energy. In the case of a solar device associated with two or more solar energy systems, the credit allowed for the solar device may be taken for any one of the systems, or divided equally between them.

(7) "Passive thermal system" means a system which utilizes the structural elements of the building, and is not augmented by mechanical components, to provide for collection, storage, or distribution of solar energy for heating or cooling.

(8) "Active thermal system" means a system which utilizes solar devices thermally isolated from the living space to provide for collection, storage, or distribution of solar energy for heating or cooling.

(9) "Semipassive thermal system" means a system which utilizes the structure of a building and is augmented by mechanical components to provide for collection, storage, or distribution of solar energy for heating or cooling.

(g) In lieu of claiming the tax credit provided by this section, the taxpayer may elect to take a depreciation pursuant to Section 24349. Also, the taxpayer may take depreciation pursuant to that section for the cost of a solar energy system in excess of the amount of the tax credit claimed under this section.

(h) No tax credit may be claimed under this section for any expenditures which have been otherwise claimed as a tax credit for the current or any prior taxable year as energy conservation measures under this part.

(i) No credit shall be allowed under this section if the amount would (but for this subdivision) be less than ten dollars ($10).

(j) Any order of the Public Utilities Commission requiring the implementation of programs to demonstrate or evaluate methods of financing solar water heating devices shall evaluate, among other matters, whether some methods of financing may accelerate utilization of such devices more rapidly than tax credits alone.

SEC. 5. Section 23601.3 is added to the Revenue and Taxation Code, to read:

23601.3. (a) Notwithstanding Section 5 of Chapter 903 of the Statutes of 1980 or any other provision of law, a taxpayer who has

incurred the costs of, or commenced significant physical work of construction on, a solar energy system prior to December 31, 1983, shall be eligible for the tax credit authorized pursuant to Section 23601 (as that section reads as of December 31, 1983) in the taxable year in which the system is installed.

(b) For purposes of this section, "incurred the costs" means the actual expenditure of funds or, in the case of a binding contract for the purchase and construction of a solar device, the placement of funds in an escrow account, prior to December 31, 1983. Funds placed in escrow may include funds borrowed pursuant to a construction loan or other debt arrangement.

(c) For purposes of this section, "installed" means placed in position in a functionally operative state.

(d) For purposes of this section, "commenced significant physical work of construction" means actual land preparation or building, and shall not include activities such as planning or designing, securing financing, exploring, researching, or developing.

(e) This section shall remain in effect only until January 1, 1986, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1986, deletes or extends that date.

SEC. 6. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 1553

An act to add Section 801.7 to the Civil Code, to add Title 11 (commencing with Section 92000) to the Government Code, to amend Sections 21080 and 30114 of the Public Resources Code, and to add Sections 7551.1 and 7556.1 to the Public Utilities Code, relating to transportation.

[Approved by Governor September 29, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 801.7 is added to the Civil Code, to read:

801.7. (a) When a right-of-way is granted pursuant to Section 801 or 802 to a railroad corporation whose primary business is the transportation of passengers, the grant shall include, but not be limited to, a right-of-way for the location, construction, and maintenance of the railroad corporation's necessary works and for every necessary adjunct thereto.

(b) A "railroad corporation" shall have the same definition as provided in Section 230 of the Public Utilities Code.

SEC. 2. Title 11 (commencing with Section 92000) is added to the Government Code, to read:

TITLE 11. CALIFORNIA PASSENGER RAIL FINANCING COMMISSION ACT

CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

Article 1. General Provisions

92000. This title may be cited as the California Passenger Rail Financing Commission Act.

92001. The Legislature hereby finds that it is necessary and essential that the state use all means and measures to promote rapid rail transit systems within the state in order to reduce air pollution and reduce congestion on freeways, streets, and highways.

The Legislature further finds that the alternative methods of financing provided in this title are needed to finance the cost of acquiring, constructing, and developing facilities for rapid rail transit systems within the state and that these methods will increase economic opportunities, contribute to economic development, be in the public interest and serve a public purpose, and will promote the health, safety, and welfare of citizens within the State of California.

92002. It is the purpose of this title to carry out and make effective the findings of the Legislature and, to that end, to provide an alternative method of financing in acquiring, constructing, or rehabilitating facilities to be used as part of rapid rail systems, all to the mutual benefit of the people of the state and to protect their health and welfare.

Article 2. Definitions

92010. Unless the context otherwise requires, the definitions in this article govern the construction of this title.

92011. "Commission" means the California Passenger Rail Financing Commission established pursuant to Section 92100 and any board, commission, department, or officer succeeding to the functions thereof or to whom the powers conferred upon the commission by this title is granted by law.

92012. "Cost," as applied to a project or portion thereof financed under this title, embraces 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 land to which the buildings or structures may be removed, the cost of all machinery and equipment, rolling stock, financing charges, interest prior to, during, and for a period after completion of construction as determined by the commission, provisions for working capital, reserves for principal and interest, and for extensions, enlargements, additions, replacements, renovations, and improvements, the cost of architectural, engineering, financial, and legal services, plans, specifications, estimates, and 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 of any project.

92013. "Participating party" means any person, company, corporation, partnership, firm, or other entity, or group of entities, engaged in operations within this state which requires financing pursuant to the terms of this title to aid and assist in the development of a rapid rail transportation system within the state.

92014. "Rapid rail transit" means the rapid rail transportation of passengers and their incidental luggage at peak speeds exceeding 120 miles per hour.

92015. "Rapid rail transit system" or "project" means land, buildings, all improvements thereto, work, property, or structures, real or personal, rolling stock, rights-of-way, easements, rail lines, rail beds, stations, platforms, switches, yards, terminals, parking lots, and any and all other facilities and equipment necessary or convenient for the conduct of rapid rail transit service, and all other structures, facilities, or equipment now or hereafter developed or useful for the conduct of rapid rail transit service, underground, upon or above the ground, and under, upon, or over public streets, highways, bridges, or other public ways or waterways, together with all physical structures necessary or convenient for the access of persons and vehicles thereto.

92016. "Public agency" means any state agency, department, board, or commission, any county, city and county, city, regional agency, district, or other political subdivision.

92017. "Revenues" means all rents, receipts, purchase payments, and all other income or receipts derived by the commission from the sale, lease, or other disposition of rapid rail transit facilities and any income or revenue derived from the investment of any money in any fund or account of the commission.

CHAPTER 2. ORGANIZATION OF COMMISSION

92100. There is in the state government the California Rail Passenger Financing Commission.

The commission constitutes a public instrumentality and a political subdivision of the State of California, and the exercise by the commission of the powers conferred by this title shall be deemed and held to be the performance of an essential public function.

92101. The commission shall consist of the Treasurer and three appointed members, one each by the Governor, the Senate Rules Committee, and the Speaker of the Assembly.

The Treasurer is an elected public official for purposes of federal tax laws.

92102. The first meeting of the commission shall be convened by the Treasurer, who shall be the chairman.

92103. All members of the commission shall serve thereon without compensation.

92104. The Treasurer shall have and is hereby vested with all powers reasonably necessary to carry out the administrative

responsibilities expressly granted or imposed upon him under this title.

92105. The commission shall maintain an office in the City of Sacramento.

92106. The Treasurer may employ an executive secretary and other persons as are necessary to enable him to perform properly the duties imposed upon him by this title.

The executive secretary shall serve at the pleasure of the Treasurer and shall receive compensation as fixed by the Treasurer.

92107. The commission shall, in accordance with Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code, adopt all necessary rules and regulations to carry out its powers and duties under this title.

92108. The Attorney General shall be the legal counsel for the commission, but with the approval of the Attorney General, the commission may employ legal counsel as, in its judgment, is necessary or advisable to enable it to carry out the duties and functions imposed upon it by this title.

92109. The Treasurer shall be the treasurer for the commission.

92110. On behalf of the commission, the Treasurer may employ and fix the compensation of bond counsel, financial consultants, and advisers as may be necessary, in his judgment, in connection with the issuance and sale of any bonds, notes, bond anticipation notes, or other obligations of the commission.

92111. The commission may do all of the following:

(a) Adopt an official seal.

(b) Sue and be sued in its own name.

(c) Do all things generally necessary or convenient to carry out its powers and the purposes under this title.

CHAPTER 3. PROJECTS

92150. The commission may charge reasonable application and project fees to reimburse the commission for costs incurred in administering applications for financing pursuant to this title.

92151. The commission may determine the projects to be financed under this title; lend financial assistance to any participating party to construct, reconstruct, renovate, replace, lease, as lessor or lessee, and regulate a project; and enter into contracts for the sale of any rapid rail transit facilities.

92152. The commission may issue bonds, notes, bond anticipation notes (including commercial paper), and other obligations of the commission for any of its corporate purposes, and to fund or refund them, pursuant to this title.

92153. The commission may do all of the following:

(a) Fix fees and charges for project facilities and revise, from time to time, those fees and charges.

(b) Collect rates, rents, fees, and charges for the use of and for any facilities or service furnished, or to be furnished, by a project or any

part thereof.

(c) Contract with any person, partnership, association, corporation, or public agency with respect to a project.

(d) Fix the terms and conditions upon which any project facilities may be sold or disposed of, whether by installment sales contracts or otherwise.

92154. The commission may contract for engineering, architectural, accounting, or other services of appropriate agencies as may be necessary, in its judgment, for the successful development of any project and pay the reasonable costs of consulting engineers, architects, accountants, and construction experts employed by any participating party if, in its judgment, those services are necessary to the successful development of any project and are not obtainable from any public agency.

CHAPTER 4. GENERAL POWERS AND DUTIES

92200. All expenses incurred in carrying out the provisions of this title shall be payable solely from funds provided under the authority of this title, and no liability or obligation shall be imposed upon the State of California.

Except as provided in Section 92270, no expenses shall be incurred by the commission in excess of the amount of money which has been provided under this title.

Under no circumstances shall the commission create any debt, liability, or obligation on the part of the State of California payable from any source whatsoever other than from the money provided under this title.

92201. The commission is authorized to acquire by deed, purchase, lease, contract, gift, devise, or otherwise, any real or personal property, structures, rights, rights-of-way, franchises, easements, and other interests in lands located within this state necessary or convenient for the construction or operation of a project, upon terms and conditions it deems advisable, and to lease, sell, or dispose of the property or interest therein in the manner that may be necessary or desirable to carry out the objects and purposes of this title.

Nothing in this division shall authorizes the commission to exercise the power of eminent domain.

92202. When the principal of, and interest on, bonds of the commission issued to finance the cost of a particular project for a participating party, including any refunding bonds issued to refund and refinance the bonds, have been fully paid and retired or when adequate provision has been made for the payment and retirement of the bonds, and all other conditions of the resolution, indenture, or agreement authorizing and securing the bonds have been released in accordance with the provision thereof, the commission, upon terms and conditions that may be prescribed by the commission, execute deeds and conveyances that are necessary or required to

convey title to the project to the participating party.

92203. (a) No project, or portion thereof, is eligible for financing under this title for which, at the time an application is submitted to the commission, financing has been otherwise obtained.

(b) No project is eligible for financing under this title unless it is intended to reduce traffic congestion on freeways, streets, and highways, is intended to improve the quality of rail transportation within the area to be served by the project, and is otherwise in accord with the purposes and requirements of this title.

92204. The commission, not later than March 1 of each year, shall submit to the Legislature a report of its activities for the preceding calendar year.

The report shall include (1) a listing of applications received, (2) a listing of applications accepted for financing, (3) specification of bonds sold, interest rates thereon, and whether the bond sales were pursuant to public bid or were negotiated, (4) specification of the amount of bonds authorized but currently unsold, (5) a projection of the commission's needs and requirements for the coming year, and (6) a report of revenues and expenditures for the preceding fiscal year.

The Legislative Analyst and the Treasurer shall review the report and individually advise the Legislature, in writing, of any problems and of any impact on the state's credit rating and the state's ability to borrow funds for state programs as a result of any action or proposed action of the commission as indicated in the report.

CHAPTER 5. BONDS AND NOTES

92250. The commission may incur indebtedness and issue securities of any kind or class, and renew them, if all indebtedness is payable solely from revenues of the commission.

92251. At times that the commission desires to issue bonds, as defined in Section 92252, it shall adopt a resolution specifying the total amount of bonds proposed to be issued.

The maximum aggregate principal amount of bonds which may be issued under the authority of this title is one billion two hundred fifty million dollars ($1,250,000,000) plus the amount of any indebtedness authorized by Section 99270.

The above limitation does not apply to bonds or other evidence of indebtedness, including bond anticipation notes and commercial paper, issued to refund bonds, bond anticipation notes, or commercial paper.

92252. The commission may, from time to time, issue its negotiable bonds, notes, debentures, or other securities, collectively called "bonds" for any corporate purpose.

The bonds may be authorized, without limiting the generality of the foregoing, to finance a single project for a single participating party, a series of projects for a single participating party, a single project for several participating parties, or several projects for

several participating parties.

92253. In anticipation of the sale of the bonds as authorized by Section 92250, or as may be authorized pursuant to Section 92251, the commission may issue, may renew from time to time, negotiable bond anticipation notes or commercial paper. The bond anticipation notes and commercial paper may be paid from the proceeds of sale of the bonds of the commission in anticipation of which they were issued.

Notes and agreements relating thereto and bond anticipation notes and commercial paper, collectively called "notes," and the resolution authorizing the notes or commercial paper, may contain any provisions, conditions, or limitations which a bond, an agreement relating thereto, and a bond resolution of the commission may contain, except that the notes and commercial paper, and renewals thereof, shall mature at a time not exceeding three years from the date of issue of the original notes or commercial paper.

92254. Except as may be otherwise expressly provided by the commission, every issue of its bonds, notes, or other obligation shall be general obligations of the commission payable from any revenues or money of the commission available therefor and not otherwise pledged, subject only to any agreement with the holders of particular bonds, notes, or other obligations pledging any particular revenues or money and subject to any agreement with any participating party.

Notwithstanding that the bonds, notes, or other obligations 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 the bonds, notes, or other obligations for registration.

92255. (a) The bonds may be issued as serial bonds or as term bonds, or the commission, in its discretion, may issue bonds of both types.

(b) The bonds shall be authorized by resolution of the commission and shall bear the date or dates, mature at the time or times, not exceeding 50 years from their respective dates, bear interest at the rate or rates, be payable at the time or times, be in the denominations, be in the form, either coupon or registered, carry the registration privileges, be executed in the manner, be payable in lawful money of the United States of America at the place or places, and be subject to the terms of redemption, as the resolution or resolutions may provide.

(c) The bonds or notes shall be sold by the Treasurer within 60 days of receipt of a certified copy of the commission's resolution authorizing the sale of the bonds, except that the commission, at its discretion, may adopt a resolution extending the 60-day period. The sales may be at public or private sale, and for the price or prices and on the terms and conditions, as the commission shall determine after giving due consideration to the recommendations of any participating party to be assisted from the proceeds of the bonds or notes.

(d) Pending preparation of the definitive bonds, the Treasurer

may issue interim receipts, certificates, or temporary bonds which shall be exchanged for the definitive bonds. The Treasurer may sell any bonds, notes, or other evidence of indebtedness at a price or prices below the par value thereof without any limitation on price or prices.

92256. Any resolution or resolutions authorizing any bonds, or any issue of bonds, may contain provisions, which shall be a part of the contract with the holders of the bonds to be authorized, as to the following:

(a) Pledging the full faith and credit of the commission or pledging all or any part of the revenues of any project or any revenue-producing contract or contracts made by the commission with any individual, partnership, corporation, or association or other body, public or private, or other money of the commission, to secure the payment of the bonds or of any particular issue of bonds, subject to any agreement with bondholders that may then exist.

(b) The rentals, fees, purchase payments, and other charges to be charged, and the amounts to be raised in each year thereby, and the use and disposition of the revenues.

(c) The setting aside of reserves or sinking funds, and the regulation and disposition thereof.

(d) Limitations on the right of the commission or its agent to regulate the use of the project or projects to be financed out of the proceeds of the bonds or any particular issue of bonds.

(e) Limitations on the purpose to which the proceeds of sale of any issue of bonds then or thereafter to be issued may be applied, and pledging the proceeds to secure the payment of the bonds or any issue of the bonds.

(f) Limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured and the refunding of outstanding bonds.

(g) The procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds that the holders who are required to consent thereto, and the manner in which the consent may be given.

(h) Limitations on expenditures for operating, administrative, or other expenses of the commission.

(i) Defining the acts or omissions to act which constitute a default in the duties of the commission to holders of its obligations, and providing the rights and remedies of the holders in the event of a default.

(j) The mortgaging of any project, or any part thereof, for the purpose of securing the bondholders.

(k) The mortgaging of land, improvements, or other assets owned by a participating party for the purpose of securing the bondholders.

(*l*) Procedures for the selection of projects to be financed with the proceeds of the bonds authorized by the resolution, if the bonds are to be sold in advance of the designation of the projects, and participating parties to receive the financing.

92257. Neither the members of the commission, nor any person executing the bonds or notes shall be liable personally on the bonds or notes, or be subject to any personal liablility or accountability by reason of the issuance thereof.

92258. The commission may, from any funds available therefor, purchase its bonds or notes. The commission may hold, pledge, cancel, or resell the bonds, subject to and in accordance with agreements with the bondholders.

92259. (a) All bonds, notes, and commercial paper issued by the commission under this chapter shall be issued only after a public hearing on the issuance thereof has been held at the offices of the commission in Sacramento, California, not less than 14 days following the date of publication of a notice of the hearing in a financial publication generally circulated throughout the state and in a newspaper of general circulation published within each county in which is located any portion of the project to be financed with the bonds, notes or commercial paper.

(b) The notice shall include the date, time and place of the hearing, the principal amount of bonds, notes, or commercial paper which may be issued, and a brief description of the project to be financed with the proceeds thereof, including its location and routing.

(c) In addition, no bonds, notes, or commercial paper shall be issued by the commission, unless approved for issuance following the hearing by a majority of the commission and by the Treasurer.

(d) Any or all of the requirements of this section may be waived by the commission, upon the request of a participating party, if the requirement to be waived is not necessary to qualify interest on the bonds, notes, or commercial paper for exemption from federal income taxes.

92260. (a) At the discretion of the commission, any bonds issued under this title may be secured by a trust agreement by and between the commission and a trustee or trustees, which may be any trust company or bank having the powers of a trust company within or without the state.

92261. (a) The trust agreement or the resolution providing for the issuance of the bonds may pledge or assign the revenues to be received or proceeds of any contract or contracts pledged and may convey or mortgage the project or projects, or any portion thereof, to be financed out of the proceeds of the bonds. The trust agreement or resolution providing for the issuance of the bonds may contain 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 provisions specifically authorized to be included in any resolution of the commission authorizing bonds thereof.

(b) Any bank or trust company doing business under the laws of this state which may act as depository of the proceeds of bonds or of revenues or other moneys may furnish indemnifying bonds or pledge

securities as may be required by the commission.

(c) Any 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, any trust agreement or resolution may contain other provisions that the commission may deem reasonable and proper for the security of the bondholders.

92262. Notwithstanding any other provision of law, the Treasurer shall not be deemed to have a conflict of interest by reason of acting as trustee pursuant to this title.

92263. All expenses incurred in carrying out the provisions of the trust agreement or resolution may be treated as a part of the cost of the operation of a project.

92264. Bonds issued under this title shall not be deemed to constitute a debt or liability of the state or of any political subdivision thereof, other than the commission, or a pledge of the faith and credit of the state or of any such political subdivision, other than the commission, but shall be payable solely from the funds herein provided therefor. All the bonds shall contain on the face thereof a statement to the following effect:

"Neither the faith and credit nor the taxing power of the State of California or any local agency is pledged to the payment of the principal of or interest on this bond."

The issuance of bonds under this title shall not directly or indirectly or contingently obligate the state or any political subdivision thereof to levy, or to pledge any form of, taxation therefor or to make any appropriation for their payment.

Nothing in this section shall prevent, or be construed to prevent, the commission from pledging its full faith and credit to the payment of bonds or issue of bonds authorized pursuant to this title.

92265. (a) The commission may provide for the issuance of bonds of the commission for the purpose of refunding any bond, notes, or other securities of the commission then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the earliest or subsequent date of redemption, purchase, or maturity of the bonds and, if deemed advisable by the commission, for the additional purpose of paying all or any part of the cost of constructing and acquiring additions, improvements, extensions, or enlargements of a project or any portion thereof.

92266. (a) The proceeds of any bonds issued for the purpose of refunding outstanding bonds, notes, or other securities may, in the discretion of the commission, be applied to the purchase or retirement at maturity or redemption of outstanding bonds either on their earliest or any subsequent redemption date or upon the purchase or retirement at the maturity thereof and may, pending such application, be placed in escrow to be applied to the purchase or retirement at maturity or redemption on the date as may be determined by the commission.

(b) Pending that use, the escrowed proceeds may be invested and reinvested by the Treasurer 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 time or times 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 the 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 the proceeds and interest, income, and profits, if any, earned or realized on the investments thereof may be returned to the commission for use by it in any lawful manner.

92267. The proceeds of any bonds issued for the additional purpose of paying all or any part of the cost of constructing and acquiring additions, improvements, extensions, or enlargements of a project may be invested and reinvested by the Treasurer 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 not later than the time or times when the proceeds will be needed for the purpose of paying all or any part of the cost. The interest, income, and profits, if any, earned or realized on the investment may be applied to the payment of all or any part of the cost or may be used by the commission in any lawful manner.

92268. Bonds issued pursuant to Section 99265 are subject to this title in the same manner and to the same extent as other bonds issued pursuant to this title.

92269. If, in the opinion of the Treasurer, any bonds issued by the commission under this title are adequately secured and the revenues and other funds applicable to the payments of the bonds are, or upon the acquisition, construction, or improvement of the project or projects which the bonds finance, will be sufficient to pay the principal of and interest on the bonds, the Treasurer shall certify that the bonds are legal investments for all trust funds, the funds of all insurance companies, banks (both commercial and savings), trust companies, savings and loan associations, and investment companies, for executors, administrators, guardians, conservators, trustees, and other fiduciaries, for state school funds, and for any funds which may be invested in county, municipal, or school district bonds, and that the bonds are securities which may properly and legally be deposited with, and received by, any state or municipal officer or 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.

92270. No liability shall be incurred by the commission in excess of the amount of money which has been provided under this title, except that, for the purposes of meeting the necessary expenses of initial organization and operation until such date that the

commission derives revenues or proceeds from bonds or notes as provided under this title, the commission may borrow money as needed for those expenses from private sources.

The borrowed money shall be repaid with interest within a reasonable time after the commission receives revenues or proceeds from bonds or notes as provided under this title.

CHAPTER 6. CONSTRUCTION AND LEASE OF FACILITIES

92300. The commission may contract with any participating party for the construction of a project by the participating party.

All contracts for the construction of a project by a participating party shall provide that the participating party shall be responsible for the architectural and engineering design and for the construction and completion thereof, subject to those standards for architectural and engineering design that may be established, and subject to any supervision that the commission deems necessary.

92301. The commission may agree to pay the cost of a project constructed by any participating party and to advance the costs from time to time in installments or otherwise as required by the contract for the construction thereof.

Title to all projects shall be vested in the commission, subject to the terms of any lease thereof to the participating party or the rights of a participating party under any contract for the purchase of the project, including the payment of the purchase price under installment sales contracts.

92302. The commission may, as lessor or lessee, enter into leases and agreements with any participating party relating to the acquisition, construction, and installation of any project or part thereof.

The terms and conditions of the leases may be as mutually agreed upon.

92303. Any lease may provide the means or methods by which title shall vest in a participating party upon the termination of the lease and shall contain other terms and conditions that the commission may determine.

92304. The commission may fix, revise, charge, and collect rates, rents, fees, and charges for each project.

The rates, rents, fees, and charges shall be fixed and adjusted with respect to the aggregate of rates, rents, fees, and charges from all projects so as to provide funds sufficient with other revenues and moneys available therefor, if any, to do all of the following:

(a) Pay the principal of, and the interest on, outstanding bonds, notes, or other evidences of indebtedness of the commission financing project that shall become due and payable.

(b) Create and maintain reserves required or provided for in any resolution authorizing, or trust agreement securing, the bonds, notes, or other evidences of indebtedness. A sufficient amount of the revenues derived from a project may be set aside at such regular

intervals as may be provided in the resolution or trust agreement in a sinking or other similar fund which is hereby pledged to, and charged with, the payment of the principal of, and interest on, the bonds, notes, or other evidences of indebtedness as they become due, and the redemption price or the purchase price of bonds, notes, or other evidences of indebtedness retired by call or purchase as therein provided. The pledge shall be valid and binding from the time when the pledge is made; the rates, rents, fees, and charges and other revenues or other moneys so pledged and thereafter received by the commission shall immediately be subject to the lien of the pledge without any physical delivery thereof or further act, and the lien of any pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the commission, regardless of whether the parties have notice thereof. No resolution, trust agreement or other agreement, or lease by which a pledge is created need be filed or recorded except in the records of the commission. The use and disposition of money to the credit of sinking or other similar fund shall be subject to the resolution authorizing the issuance of the bonds or of the trust agreement. Except as may be otherwise provided in the resolution or the trust agreement, the sinking or other similar fund may be a fund for all bonds, notes, or other evidences of indebtedness of the commission financing projects of a particular participating party without distinction or priority of one over another. However, the commission, in any resolution or trust agreement, may provide that the sinking or other similar fund shall be the fund for a particular project or projects and for the bonds financing a particular project or projects and may, additionally, permit and provide for the issuance of bonds having a subordinate lien with respect to the security authorized for other bonds, notes, or other evidences of indebtedness of the commission, and, in such case, the commission may create separate sinking or other similar funds for the subordinate lien bonds, notes, or other evidences of indebtedness.

(c) Pay operating and administrative costs of the commission.

92305. The commission may enter into contracts of sale with any participating party covering any project financed by the commission.

The purchase price pursuant to the contract of sale shall be sufficient to provide funds for all the purposes provided in Section 92304 and may be paid in installments, together with interest on the unpaid balance, or otherwise, as may be mutually agreed and set forth in the contract of sale.

All payments received by the commission under any installment sale or conditional sales contract shall be applied by the commission substantially in the same manner as provided in Section 92302 in the case of lease payments or rental charges received by the commission.

92306. As an alternative to leasing or selling a project or part thereof to a participating party, the commission may finance the acquisition, construction, or installation of a project, or any part thereof, by means of a loan to the participating party.

The principal amount of the participating party's obligation as borrower shall be sufficient to provide funds for all the purposes specified in subdivisions (a), (b), and (c) of Section 92304 and may be paid in installments, together with interest on the unpaid balance, or otherwise as may be mutually agreed by the commission and the participating party and set forth in the loan agreement.

Loans made pursuant to this section may be secured or unsecured, in the discretion of the commission.

Section 92300 shall not be applicable to projects constructed with moneys loaned pursuant to this section.

92307. All money received pursuant to this title, whether as proceeds from the sale of bonds, notes, or other evidences of indebtedness or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this title.

Any bank or trust company with which the money is deposited shall act as trustee of the money and shall hold and apply it for the purposes hereof, subject to the resolution authorizing the bonds of any issue or the trust agreement securing the bonds may provide.

92308. Any holder of bonds, notes, or other obligations issued under this title, or any of the coupons appertaining thereto, and the trustee or trustees under any trust agreement, except to the extent the rights herein given may be restricted by any resolution authorizing the issuance of, or any trust agreement securing, the bonds, notes, or other obligations, 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 the resolution or trust agreement, and may enforce and compel the performance of all duties required by this title, or by resolution or trust agreement, to be performed by the commission or by an officer, employee, or agent thereof, including the fixing, charging, and collecting of the rates, rents, fees, and charges authorized by this title and required by the resolution or trust agreement to be fixed, established, and collected.

92309. Notwithstanding any other provision of law:

(a) The commission and its revenues, amounts for administration expenses, and any other income shall be exempt from all taxes on, or measured by, income.

(b) Bonds issued by the commission shall be exempt from all property taxation, and the interest on the bonds shall be exempt from all taxes on income.

(c) All property owned by the commission shall be exempt from property taxes, assessments, and other public charges secured by liens.

(d) All interest of the participating party in the property of any project shall, for purposes of property taxation, be subject to Division 1 (commencing with Section 101) of the Revenue and Taxation Code, and the interests that constitute the tax base for property taxation is subject to assessments and charges on the same basis as other property.

(e) "Sale" and "purchase," for the purposes of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code, do not include any lease or transfer of title of tangible personal property constituting any project of facility to the commission by a participating party, nor any lease or transfer of title of tangible personal property constituting any project or facility by the commission to a participating party, when the transfer or lease is made pursuant to this title.

92310. Subject to Section 92352, the existence of the commission may be terminated at any time by the Legislature. Upon dissolution of the commission, the title to all properties owned by it shall vest in and become the property of the State of California and shall not inure to the benefit of any private party.

CHAPTER 7. SUPPLEMENTAL PROVISIONS

92350. This title, being necessary for the welfare of the state and its inhabitants, shall be liberally construed to effect the purposes hereof.

92351. This title shall be deemed to provide a complete, additional, and alternative method for the doing of the things authorized thereby, and shall be regarded as supplemental and additional to powers conferred by other laws.

The issuance of bonds and refunding bonds under this title need not comply with the requirements of any other law applicable to the issuance of bonds, and, in the construction and acquisition of a project pursuant to this title, the commission need not comply with the requirements of any other law applicable to the construction or acquisition of public works except as specifically provided in this title.

Rapid rail transit system facilities and projects, as defined in Section 92015, may be acquired, constructed, completed, repaired, altered, improved, or extended, and bonds may be issued for any of those purposes under this title, notwithstanding that any other law may provide for such acquisition, construction, completion, repair, alteration, improvement, or extension of similar facilities or for the issuance of bonds for similar purposes and without regard to the requirements, restrictions, limitations, or other provisions contained in any other law.

92352. The State of California does hereby pledge to, and agree with, the holders of any obligations issued under this title, and with those parties who may enter into contracts with the commission pursuant to this title, that the state will not limit or alter the rights hereby vested in the commission until the obligations, together with the interest thereon, are fully met and discharged and the contracts are fully performed on the part of the commission. However, nothing in this section precludes such limitation or alteration if and when adequate provision has been made by law for the protection of the holders of obligations of the commission or those entering into

contracts with the commission.

The commission, as agent for the state, may include this pledge and undertaking for the state in its obligations and contracts.

92353. To the extent that the provisions of this title, with respect to the financing of rapid rail systems, are inconsistent with the provisions of any general statute or special act or parts thereof, with respect to the financing of rapid rail transit facilities, the provisions of this title shall be deemed controlling.

SEC. 3. Section 21080 of the Public Resources Code is amended to read:

21080. (a) Except as otherwise provided in this division, this division shall apply to discretionary projects proposed to be carried out or approved by public agencies, including, but not limited to, the enactment and amendment of zoning ordinances, the issuance of zoning variances, the issuance of conditional use permits and the approval of tentative subdivision maps (except where the project is exempt from the preparation of an environmental impact report pursuant to Section 21166).

(b) This division shall not apply to the following:

(1) Ministerial projects proposed to be carried out or approved by public agencies.

(2) Emergency repairs to public service facilities necessary to maintain service.

(3) Projects undertaken, carried out, or approved by a public agency to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as a result of a disaster in a disaster-stricken area in which a state of emergency has been proclaimed by the Governor pursuant to Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code.

(4) Specific actions, necessary to prevent or mitigate an emergency.

(5) Projects which a public agency rejects or disapproves.

(6) Actions undertaken by a public agency relating to any thermal powerplant site or facility, including the expenditure, obligation, or encumbrance of funds by a public agency for planning, engineering, or design purposes, or for the conditional sale or purchase of equipment, fuel, water (except groundwater), steam, or power for a thermal powerplant, if the powerplant site and related facility will be the subject of an environmental impact report or negative declaration or other document, or documents, prepared pursuant to a regulatory program certified pursuant to Section 21080.5, which will be prepared by the State Energy Resources Conservation and Development Commission, by the Public Utilities Commission, or by the city or county in which the powerplant and related facility would be located; provided that the environmental impact report, negative declaration or other document, or documents, shall include the environmental impact, if any, of the action described in this paragraph.

(7) Activities or approvals necessary to the bidding for, hosting or

staging of, and funding or carrying out of, an Olympic games under the authority of the International Olympic Committee, except for the construction of facilities necessary for the Olympic games.

(8) The establishment, modification, structuring, restructuring, or approval of rates, tolls, fares or other charges by public agencies which the public agency finds are for the purpose of (1) meeting operating expenses, including employee wage rates and fringe benefits, (2) purchasing or leasing supplies, equipment or materials, (3) meeting financial reserve needs and requirements, (4) obtaining funds for capital projects, necessary to maintain service within existing service areas, or (5) obtaining funds necessary to maintain those intracity transfers as are authorized by city charter. The public agency shall incorporate written findings in the record of any proceeding in which an exemption under this paragraph is claimed setting forth with specificity the basis for the claim of exemption.

(9) Actions taken prior to January 1, 1982, by a public agency to implement the transition from the property taxation system in effect prior to June 1, 1978, to the system provided for by Article XIII A of the California Constitution. Those actions shall be limited to projects defined in subdivision (a) or (b) of Section 21065 which initiate or increase fees, rates, or charges charged for any existing public service, program, or activity; reduce or eliminate the availability of an existing public service, program, or activity; close publicly owned or operated facilities; or reduce or eliminate the availability of an existing publicly owned transit service, program, or activity.

(10) All classes of projects designated pursuant to Section 21084.

(11) A project for the institution or increase of passenger or commuter service on rail or highway rights-of-way already in use, including the modernization of existing stations and parking facilities.

(12) A project for the institution or increase of passenger or commuter service on high-occupancy vehicle lanes already in use, including the modernization of existing stations and parking facilities.

(13) Facility extensions not to exceed four miles in length which are required for transfer of passengers from or to exclusive public mass transit guideway or busway public transit services.

(14) A project for the development of a regional transportation improvement program or the state transportation improvement program.

(15) Any project or portion thereof located in another state which will be subject to environmental impact review pursuant to the National Environmental Policy Act of 1969 or similar state laws of that state. Any emissions or discharges that would have a significant effect on the environment in the State of California are subject to this division.

(16) Projects undertaken by a local agency to implement a rule or regulation imposed by a state agency, board, or commission under a

certified regulatory program pursuant to Section 21080.5. Any site-specific effect of the project which was not analyzed as a significant effect in the plan or other written documentation required by Section 21080.5 is subject to this division.

(17) A project for the granting of an easement or franchise for the use of highway or street rights-of-way for high-speed intercity passenger rail purposes.

(18) A project for the granting of a certificate of public convenience and necessity for a railroad corporation whose primary business is the transportation of passengers, notwithstanding Sections 1001 and 1002 of the Public Utilities Code, except that the commission may require the applicant to submit information regarding energy requirements.

(c) In the event that a lead agency determines that a proposed project, not otherwise exempt from the provisions of this division, does not have a significant effect on the environment, such lead agency shall adopt a negative declaration to that effect.

SEC. 4. Section 30114 of the Public Resources Code is amended to read:

30114. "Public works" means the following:

(a) All production, storage, transmission, and recovery facilities for water, sewerage, telephone, and other similar utilities owned or operated by any public agency or by any utility subject to the jurisdiction of the Public Utilities Commission, except for energy facilities.

(b) All public transportation facilities, including streets, roads, highways, public parking lots and structures, ports, harbors, airports, railroads, and mass transit facilities and stations, bridges, trolley wires, and other related facilities. For purposes of this division, neither the Ports of Hueneme, Long Beach, Los Angeles, nor San Diego Unified Port District nor any of the developments within these ports shall be considered public works. A railroad whose primary business is the transportation of passengers shall not be considered public works nor a development if at least 90 percent of its routes located within the coastal zone utilize existing rail or highway rights-of-way.

(c) All publicly financed recreational facilities, all projects of the State Coastal Conservancy, and any development by a special district.

(d) All community college facilities.

SEC. 5. Section 7551.1 is added to the Public Utilities Code, to read:

7551.1. The Secretary of the Business, Transportation and Housing Agency may grant to every railroad corporation whose primary business is the transportation of passengers the rights-of-way for the location, construction, and maintenance of its necessary works and for every necessary adjunct thereto over any portion of highway owned by the State of California which is not otherwise disposed of or in use, not in any case exceeding in lenght or width

that which is necessary for the construction of works and adjuncts, or for the protection thereof, and in no case to exceed 200 feet in width.

SEC. 6. Section 7556.1 is added to the Public Utilities Code, to read:

7556.1. Notwithstanding Section 7556, to railroad corporations whose primary business is the transportation of passengers, the governing body of a county, city and county, or city under regulations, restrictions, and limitations, and upon terms and payment of a license tax as the county, city and county, or city may provide, may grant franchises for the construction of elevated or underground railroad tracks over, across, or under the public streets and highways of the county, city and county, or city.

CHAPTER 1554

An act to amend Section 1522 of, and to add Section 1564 to, the Health and Safety Code, and to add Section 11402.9 to the Welfare and Institutions Code, relating to community care facilities.

[Approved by Governor September 29, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 1522 of the Health and Safety Code is amended to read:

1522. (a) Before issuing a license or special permit to any person or persons to operate or manage a community care facility, the state department shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any other person specified in subdivision (b) has ever been convicted of a crime other than a minor traffic violation. No fee shall be charged by the Department of Justice or the state department for the fingerprinting of an applicant for a license or special permit to operate a facility providing nonmedical board, room, and care for six or less children or for obtaining a criminal record of such an applicant pursuant to this section. If it is found that the applicant or any other person specified in subdivision (b) has been convicted of a crime, other than a minor traffic violation, the application shall be denied, unless the director grants an exemption pursuant to subdivision (d).

(b) In addition to the applicant, the provisions of this section shall be applicable to criminal convictions of the following persons:

(1) The facility administrator or manager.

(2) Any person residing or regularly in the facility having routine contact with the residents.

(3) If the applicant is a firm, partnership, association, or corporation, any officer, director, or shareholder with a beneficial

ownership interest in the applicant exceeding 10 percent.

(4) Additional officers of the governing body of the applicant, or other persons with a financial interest in the applicant, as determined necessary by the department by regulation. The criteria used in the development of these regulations shall be based on the person's capability to exercise substantial influence over the operation of the facility.

(c) For purposes of this section or any other provision of this chapter, a conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which the state department is permitted to take following the establishment of a conviction may be taken 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, notwithstanding a subsequent order pursuant to the provisions of Sections 1203.4 and 1203.4a of the Penal Code permitting 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. For purposes of this section or any other provision of this chapter, the record of a conviction, or a copy thereof certified by the clerk of the court or by a judge of the court in which the conviction occurred, shall be conclusive evidence of the conviction.

(d) After review of the record, the director may grant an exemption from disqualification for a license or special permit pursuant to subdivision (a), if the director has substantial and convincing evidence to support a reasonable belief that the applicant and the person convicted of the crime, if other than the applicant, are of such good character as to justify issuance of the license or special permit. However, no exemption shall be granted if the applicant or administrator of a community care facility located within one mile of an elementary school has been convicted of a sex offense against a minor, as defined in Section 1564. If such a person has been granted an exemption prior to January 1, 1983, the department shall notify the facility that this person may no longer be the licensee for, or administrator of, such a facility after June 30, 1983.

SEC. 2. Section 1564 is added to the Health and Safety Code, to read:

1564. (a) No individual who has ever been convicted of a sex offense against a minor shall reside in a community care facility that is within one mile of an elementary school.

(b) Any community care facility which is located within one mile of an elementary school shall obtain from each individual who is a resident of the facility on the effective date of this section a signed statement that the resident or applicant for residence has never been convicted of a sex offense against a minor.

(c) If on January 1, 1983, a person who has been convicted of a sex offense against a minor is residing in a community care facility that is within one mile of a school, the operator shall notify the

appropriate placement agency. Continued residence in the facility shall extend no longer than six months.

(d) Prior to placement in a community care facility which is located within one mile of an elementary school, the placement agency shall obtain, from the client to be placed, a signed statement that he or she has never been convicted of a sex offense against a minor. Any placement agent who knowingly places a person who has been convicted of a sex offense against a minor in a facility which is located within one mile of an elementary school shall be guilty of a misdemeanor.

Where there is no placement agency involved, the community care facility shall obtain from any applicant a signed statement that he or she has never been convicted of a sex offense against a minor.

(e) Any resident or applicant for residence who makes a false statement as to a conviction for a prior sex offense against a minor is guilty of a misdemeanor.

(f) For purposes of this section, "sex offense" means any one or more of the following offenses:

(1) Any offense defined in Section 220, 261, 261.5, 266, 266e, 266f, 266i, 266j, 267, 273f as it pertains to houses of prostitution, 273g, 285, 286, 288, 288a, 289, 290, 311, 311.2, 311.4, 313.1, 318, subdivision (a) or (d) of Section 647, 647a, 650½ as it relates to lewd or lascivious behavior, 653f, or 653m of the Penal Code.

(2) Any offense defined in subdivision (5) of former Section 647 of the Penal Code repealed by Chapter 560 of the Statutes of 1961, or any offense defined in subdivision (2) of former Section 311 of the Penal Code repealed by Chapter 2147 of the Statutes of 1961, if the offense defined in such sections was committed prior to September 15, 1961.

(3) Any offense defined in Section 314 of the Penal Code committed on or after September 15, 1961.

(4) Any offense defined in subdivision (1) of former Section 311 of the Penal Code repealed by Chapter 2147 of the Statutes of 1961 committed on or after September 7, 1955, and prior to September 15, 1961.

(5) Any offense involving lewd and lascivious conduct under Section 272 of the Penal Code committed on or after September 15, 1961.

(6) Any offense involving lewd and lascivious conduct under former Section 702 of the Welfare and Institutions Code repealed by Chapter 1616 of the Statutes of 1961, if such offense was committed prior to September 15, 1961.

(7) Any offense defined in Section 286 or 288a of the Penal Code prior to the effective date of the amendment of either section enacted at the 1975–76 Regular Session of the Legislature committed prior to the effective date of the amendment.

(8) Any attempt or conspiracy to commit any of the above-mentioned offenses.

(9) Any federal sex offense or any sex offense committed or

attempted in any other state which, if committed or attempted in this state, would have been punishable as one or more of the above-mentioned offenses.

(g) This section shall not apply to residential care facilities for the elderly.

SEC. 3. Section 11402.9 is added to the Welfare and Institutions Code, to read:

11402.9. In order to receive funding on behalf of children receiving AFDC-FC, each group home shall provide a full disclosure of all financial information related to its operation, including independent certification of the information provided, in a manner and format established by the department.

SEC. 4. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1555

An act to add and repeal Section 66477.5 of, the Government Code, relating to local government.

[Approved by Governor September 29, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 66477.5 is added to the Government Code, to read:

66477.5. Any city, county, or city and county may use the interest earned on the accumulated in-lieu fees required pursuant to Section 66477 for the maintenance of any existing park within the city, county, or city and county.

This section shall remain in effect only until January 1, 1985, and as of that date is repealed, unless a later enacted statute which is chaptered before January 1, 1985, deletes or extends that date.

CHAPTER 1556

An act to add Section 107.5 to the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 29, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 107.5 is added to the Revenue and Taxation Code, to read:

107.5. For purposes of Section 107, "possessory interest" as it applies to property owned by any agency of the government of the United States means possession of, claim to, or right to the possession of, land or improvements. "Improvements" include all buildings, structures, fixtures, and fences erected on or affixed to the land.

"Improvements" as it applies to property owned by any agency of the government of the United States mean items which are permanently affixed to land such as buildings, structures, fixtures, fences and movable items which have become a part of real property by having been physically incorporated therein or permanently affixed thereto. Items shall be considered physically incorporated or permanently affixed when they have lost their separate identity and have become an integral and inseparable part of the real property and perform functions usually associated with a building such as furnishing shelter, heating and cooling for the comfort of people, lighting, and other normal building functions, or are attached pursuant to Section 660 of the Civil Code. Items such as basic plumbing, heating and cooling, primary electrical lighting, and other essential building appurtenances are a part of the building to make the building useful in the normal course of business.

All other personal property owned by the United States government, including, but not limited to, machinery, general and special purpose equipment, dimensional tooling, special test equipment and furniture which is related to the commercial or industrial operations conducted within the building and which performs a testing, processing, research, manufacturing, computing, recording, or any similar function shall remain personal property, and shall not be construed to be constructively affixed, attached, or annexed to the realty, even though connected to improvements by power wiring, plumbing, or similar connections.

"Constructively affixed, attached, or annexed" means an item of personal property becomes a fixture if its function makes it a necessary integral part of the realty. The factors to be used in determining the necessary or integral nature of a nonattached item are all of the following:

(a) Whether it is specifically designed for use only with property permanently attached to the realty.

(b) Whether the items can perform the functions desired by the designer without the nonattached items.

Personal property is not considered to be constructively affixed, attached, or annexed to the realty solely by reason of the fact that it merely rests on the floor (not in the manner specified by Section 660 of the Civil Code), or on a raised flooring and is connected to the realty by means of power or electronic cable which was installed in a trench under the floor, under raised flooring above the floor, on overhead racks, or any other similar means, merely for safety purposes or regulatory requirements. The personal property shall not be deemed to be constructively affixed, attached, or annexed to the realty solely by reason of the fact that it is connected to the realty by any other conduit such as a heating, cooling, or ventilation duct, the purpose of which is to provide for the proper functioning of the equipment and not of the building or the environment within it.

For purposes of this section, if the nature or use of an item of property is insufficient to determine whether the item is an improvement, the item shall not be considered an improvement unless: (1) removal would cause substantial damage to either the item or to the real estate to which the item is attached; or (2) the item is attached to the realty in such a manner that it is considered permanently affixed; or (3) in normal business situations, the item would remain as part of the realty if business operations ceased.

SEC. 2. Notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made by this act, and the state shall not reimburse any local agency for any property tax revenues lost by it under this act.

SEC. 3. If any section, part, clause, or phrase of this act is for any reason held to be invalid or unconstitutional, the remaining sections, parts, clauses, or phrases of this act shall not be affected, but shall remain in full force and effect.

SEC. 4. The provisions of this act shall not apply to any action or claim for a tax refund by any taxpayer for any fiscal year commencing prior to the effective date of this act.

SEC. 5. The State Board of Equalization shall adopt by January 1, 1985, regulations relating to possessory interest in property owned by an agency of the government of the United States to define "constructive attachment" of items of personal property and to provide criteria for determination by county assessors as to when property is considered "constructively attached" for property tax assessment purposes.

SEC. 6. Section 1 of this act shall become operative on January 1, 1985, only if the State Board of Equalization has not adopted regulations in accordance with Section 6 of this act by January 1, 1985.

CHAPTER 1557

An act to amend Sections 18490, 18491, 18506, 18520, 18520.1, 18523, and 18523.2 of, and to repeal Section 18523.1 of, the Financial Code, relating to industrial loan companies.

[Approved by Governor September 29, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 18490 of the Financial Code is amended to read:

18490. When the property and business of a member has been liquidated or is in the process of liquidation by the commissioner and the proceeds of liquidation distributed ratably are insufficient to pay up to ten thousand dollars ($10,000) of each thrift obligation specified in Section 18523, or up to fifty thousand dollars ($50,000) of each thrift obligation specified in Section 18523, pursuant to Section 18520.1, the commissioner shall direct Guaranty Corporation to pay and Guaranty Corporation shall pay each such deficiency at the direction of and in amounts as directed by the commissioner within 120 days from the date the commissioner makes demand for payment. If the total funds available from Guaranty Corporation at such time are insufficient to pay in full the amounts provided by Section 18523, the amount paid to each thriftholder shall be ratably reduced in proportion to the amount by which the fund is deficient, and thereafter further payments shall be made ratably to such thriftholders in accordance with the directions of the commissioner as additional funds are paid into the guarantee fund from assessments or otherwise. When such thrift obligations are paid, each member's account shall be reduced ratably based on the account balance for the total amount paid.

SEC. 2. Section 18491 of the Financial Code is amended to read:

18491. (a) When the property and business of a member is being liquidated the commissioner may direct Guaranty Corporation to pay and Guaranty Corporation shall pay any deficiency up to ten thousand dollars ($10,000) of each thrift obligation specified in Section 18523, or up to fifty thousand dollars ($50,000) of each thrift obligation specified in Section 18523, pursuant to Section 18520.1, as estimated by the commissioner. The commissioner's estimate shall be based upon an examination and evaluation of the company's loans, receivables, and other assets. Payments by Guaranty Corporation shall be made ratably to such thriftholders in accordance with the directions of the commissioner.

(b) When any thrift obligation of ten thousand dollars ($10,000) or less or fifty thousand dollars ($50,000) or less, where applicable, is paid in full, or that portion of any thrift obligation in excess of ten thousand dollars ($10,000) is paid up to ten thousand dollars

($10,000), or that portion of any thrift obligation in excess of fifty thousand dollars ($50,000) is paid up to fifty thousand dollars ($50,000), pursuant to subdivision (a), Guaranty Corporation shall be assigned all rights, title, and interest to each individual thrift obligation up to the amount paid by Guaranty Corporation to each individual thriftholder. In the event that a thrift obligation is in excess of ten thousand dollars ($10,000), is a thrift obligation specified in Section 18523, and Guaranty Corporation has paid the deficiency in full up to ten thousand dollars ($10,000), Guaranty Corporation shall first receive ratable liquidation proceeds up to the amount of any deficiency paid by Guaranty Corporation to a thriftholder prior to any payment of liquidation proceeds to the thriftholder whose account was in excess of ten thousand dollars ($10,000) so that in these circumstances all liquidation proceeds after payment of the deficiency by Guaranty Corporation will first go to Guaranty Corporation for the amount of its assigned claim before any payment is made to such thriftholder. Where Guaranty Corporation guarantees thrift obligations of members up to fifty thousand dollars ($50,000) for each account pursuant to Section 18520.1, and in the event that a thrift obligation is in excess of fifty thousand dollars ($50,000), is a thrift obligation specified in Section 18523, and Guaranty Corporation has paid the deficiency in full up to fifty thousand dollars ($50,000), Guaranty Corporation shall first receive ratable liquidation proceeds up to the amount of any deficiency paid by Guaranty Corporation to a thriftholder prior to any payment of liquidation proceeds to the thriftholder whose account was in excess of fifty thousand dollars ($50,000) so that in these circumstances all liquidation proceeds after payment of the deficiency by Guaranty Corporation will first go to Guaranty Corporation for the amount of its assigned claim before any payment is made to such thriftholder.

(c) For purposes of this section the term "deficiency" is defined as that amount of an individual thriftholder's thrift obligation of ten thousand dollars ($10,000) or less, or fifty thousand dollars ($50,000) or less, pursuant to Section 18520.1, which an industrial loan company cannot honor due to insolvency or any other reason and which Guaranty Corporation is directed to pay by the commissioner pursuant to subdivision (a) of this section.

SEC. 3. Section 18506 of the Financial Code is amended to read:

18506. No person shall advertise, print, display, publish, distribute or broadcast, or cause or permit to be advertised, printed, displayed, published, distributed, or broadcast, in any manner any statement or representation with regard to its membership in Thrift Guaranty Corporation of California or that any of its thrift obligations are in any manner guaranteed unless the amount of the guarantee fund is in excess of one-half of 1 percent of the total outstanding thrift obligations of all members as shown on the most recent independent audit reports required by subdivision (a) of Section 18405 and without first obtaining the written approval of the commissioner. All such advertising shall include one of the following statements,

whichever is applicable, pursuant to Section 18520:

(1) "Accounts protected up to a maximum of $10,000 by Thrift Guaranty Corporation of California only as provided in the California Financial Code."

(2) "Accounts protected up to a maximum of $50,000 by Thrift Guaranty Corporation of California only as provided in the California Financial Code."

SEC. 4. Section 18520 of the Financial Code is amended to read:

18520. It shall be the purpose of Guaranty Corporation to guarantee full payment of thrift obligations of members up to ten thousand dollars ($10,000), or up to fifty thousand dollars ($50,000) if the commissioner so orders pursuant to Section 18520.1, for each account, subject to the express limitations provided in this chapter.

SEC. 5. Section 18520.1 of the Financial Code is amended to read:

18520.1. If the commissioner determines at any time that the amount in the guaranty fund is in excess of 1 percent of the total outstanding thrift obligations of all members, as determined by reference to the unaudited financial reports filed by the companies, the commissioner shall, within 15 days of the determination, issue a written order increasing, effective as of the date of the order, to fifty thousand dollars ($50,000) the amount up to which Guaranty Corporation guarantees thrift obligations of members for each account, subject to the express limitations provided in this chapter.

SEC. 6. Section 18523 of the Financial Code is amended to read:

18523. The following described thrift obligations will be guaranteed by Guaranty Corporation in the amounts hereinafter set forth below, subject to Section 18523.1:

(a) Single ownership accounts. Funds owned by an individual and invested in the manner set forth below shall be added together and guaranteed up to ten thousand dollars ($10,000) in the aggregate, or up to fifty thousand dollars ($50,000) in the aggregate pursuant to Section 18520.1.

(1) Individual accounts (or accounts of the husband-wife community of which the individual is a member) and invested in one or more accounts in his own name shall be guaranteed up to ten thousand dollars ($10,000) in the aggregate, or up to fifty thousand dollars ($50,000) in the aggregate pursuant to Section 18520.1.

(2) Funds owned by a principal and invested in one or more accounts in the name or names of agents or nominees shall be added to any individual accounts of the principal and guaranteed up to ten thousand dollars ($10,000) in the aggregate, or up to fifty thousand dollars ($50,000) in the aggregate pursuant to Section 18520.1.

(3) Accounts held by guardians, custodians or conservators for the benefit of his ward or for the benefit of a minor under a Uniform Gifts to Minors Act and invested in one or more accounts in the name of the guardian, custodian or conservator shall be added to any individual accounts of the ward or minor and guaranteed up to ten thousand dollars ($10,000) in the aggregate, or up to fifty thousand dollars ($50,000) in the aggregate pursuant to Section 18520.1.

(b) Testamentary accounts.

(1) Funds owned by an individual and invested in a revocable trust account, tentative trust account, payable-on-death account or similar account evidencing an intention that on his death the funds shall belong to his spouse, child or grandchild, shall be guaranteed up to ten thousand dollars ($10,000) in the aggregate, or up to fifty thousand dollars ($50,000) in the aggregate pursuant to Section 18520.1, as to each such named beneficiary, separately from any other accounts of the owner.

(2) If the named beneficiary of such an account is other than the owner's spouse, child or grandchild, the funds in such account shall be added to any individual accounts of such owner and guaranteed up to ten thousand dollars ($10,000) in the aggregate, or up to fifty thousand dollars ($50,000) in the aggregate pursuant to Section 18520.1.

(c) Accounts held by executors or administrators. Funds of a decedent held in the name of the decedent or in the name of the executor or administrator of his estate and invested in one or more accounts shall be guaranteed up to ten thousand dollars ($10,000) in the aggregate, or up to fifty thousand dollars ($50,000) in the aggregate pursuant to Section 18520.1, separately from the individual accounts of the beneficiaries of the estate or of the executor or administrator.

(d) Corporation or partnership accounts. Accounts of a corporation or partnership engaged in any independent activity shall be guaranteed up to ten thousand dollars ($10,000) in the aggregate, or up to fifty thousand dollars ($50,000) in the aggregate pursuant to Section 18520.1. An account of a corporation or partnership not engaged in an independent activity shall be deemed to be owned by the person or persons owning such corporation or comprising such partnership and, for guarantee purposes, the interest of each person in such account shall be added to any other accounts individually owned by such person and guaranteed up to ten thousand dollars ($10,000) in the aggregate, or up to fifty thousand dollars ($50,000) in the aggregate pursuant to Section 18520.1. The term "independent activity" means any activity other than one directed solely at increasing guarantee coverage under this chapter.

(e) Unincorporated associations. Accounts of an unincorporated association engaged in any independent activity shall be guaranteed up to ten thousand dollars ($10,000) in the aggregate, or up to fifty thousand dollars ($50,000) in the aggregate pursuant to Section 18520.1. An account of an unincorporated association not engaged in an independent activity shall be deemed to be owned by the persons comprising such association and, for guarantee purposes, the interest of each owner in such account shall be added to any other accounts individually owned by such person and guaranteed up to ten thousand dollars ($10,000) in the aggregate, or up to fifty thousand dollars ($50,000) in the aggregate pursuant to Section 18520.1.

(f) Joint accounts:

(1) Accounts owned jointly, whether as joint tenants with right of survivorship, as tenants by the entireties, as tenants in common, or by husband and wife as community property, shall be guaranteed separately from accounts individually owned by the coowners.

(2) A joint account shall be deemed to exist, for purposes of guarantee of accounts, only if each coowner has personally executed an account signature card and possesses redemption rights.

(3) An account owned jointly which does not qualify as a joint account for purposes of guarantee of accounts shall be treated as owned by the named persons as individuals and the actual ownership interest of each such person in such account shall be added to any other accounts individually owned by such person and guaranteed up to ten thousand dollars ($10,000) in the aggregate, or up to fifty thousand dollars ($50,000) in the aggregate pursuant to Section 18520.1.

(4) All joint accounts owned by the same combination of individuals shall first be added together and guaranteed up to ten thousand dollars ($10,000) in the aggregate, or up to fifty thousand dollars ($50,000) in the aggregate pursuant to Section 18520.1.

(5) The interest of each coowner in all joint accounts owned by different combinations of individuals shall then be added together and guaranteed up to ten thousand dollars ($10,000) in the aggregate, or up to fifty thousand dollars ($50,000) in the aggregate pursuant to Section 18520.1.

(g) Trust accounts. All trust interests for the same beneficiary invested in accounts established pursuant to valid trust arrangements created by the same settlor (grantor) shall be added together and guaranteed up to ten thousand dollars ($10,000) in the aggregate, or up to fifty thousand dollars ($50,000) in the aggregate pursuant to Section 18520.1, separately from other accounts of the trustee of such trust funds or the settlor or beneficiary of such trust arrangements.

(h) Thrift obligations withdrawn by checks that have not cleared a member's bank account at the time the commissioner has taken possession of the property and business of a member. The owner of the funds represented by such a check will be recognized for all purposes of claim for guaranteed thrift obligations to the same extent as if his name and interest were disclosed on the records of the member.

SEC. 7. Section 18523.1 of the Financial Code is repealed.

SEC. 8. Section 18523.2 of the Financial Code is amended to read:

18523.2. Irrespective of any other sections of the Financial Code, any order by the commissioner for a fifty thousand dollar ($50,000) amount pursuant to Section 18520.1 shall not apply to or have any effect upon thrift obligations of a member if the commissioner has taken possession of the property and business of that member before the date of that order.

CHAPTER 1558

An act to amend Sections 17053.7, 17122.7, 17155, 17211.7, 17214.2, 17237, 17283, 17299.6, 17503, 17525.7, 17531, 17535, 17617, 18091, 18093, 18094, 18098, 18183, 18190, 18196, 18681.1, 18684, 18802, 18802.7, 23701a, 24330, 24354.2, 24357.2, 24445, 24621, 24622, and 25934 of, to amend and renumber Section 23186b of, to add Sections 17136.5, 17136.6, 17137.2, 17532.5, 18047, 18143, 18191.5, 18222, 18698.5, 18699, 19282.5, 23701q, 24342, 24357.8, and 26451.5 to, the Revenue and Taxation Code, and to amend Sections 328, 13051, and 13100 of, and to add Section 13101 to, the Unemployment Insurance Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 29, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 17053.7 of the Revenue and Taxation Code is amended to read:

17053.7. (a) There shall be allowed as a credit against the "net tax" (as defined by Section 17039) 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.

The credit under this section shall not apply to an individual unless, before the day on which that individual begins work for the employer, the employer:

(1) Has received a certification from the Employment Development Department, or

(2) Has requested in writing that certification from the Employment Development Department.

(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. With respect to each qualified employee, the aggregate credit under this section shall not exceed six hundred dollars ($600).

(c) The credit under this section shall not apply to wages paid to an individual:

(1) Who bears any of the relationships described in subdivisions (a) through (h), inclusive, of Section 17056 to the taxpayer; or

(2) Who, if the taxpayer is an estate or trust, is a grantor, beneficiary, or fiduciary of the estate or trust, or is an individual who bears any of the relationships described in subdivisions (a) through (h), inclusive, of Section 17056 to a grantor, beneficiary, or fiduciary of the estate or trust; or

(3) Who is a dependent (as described in subdivision (i) of Section 17056) of the taxpayer, or, if the taxpayer is an estate or trust, of a grantor, beneficiary, or fiduciary of the estate or trust.

(d) The credit under this section shall not apply to wages paid to an individual if, prior to the hiring date of that individual, that individual has been employed by the employer at any time during which he or she was not certified by the Employment Development Department to meet the requirements of Section 328 of the Unemployment Insurance Code.

(e) If the certification of an employment has been revoked pursuant to subdivision (c) of Section 328 of the Unemployment Insurance Code, the credit under this section shall not apply to wages paid by the employer after the date on which notice of revocation is received by the employer.

(f) The credit under this section shall be in addition to any deduction under this part to which the taxpayer may be entitled, if any.

(g) The credit provided by this section shall be applied to wages paid to each qualifying employee during the 24-month period beginning on the date such employee begins working for the taxpayer.

(h) This section 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 section shall be operative during such time as the federal Targeted Jobs Tax Credit program, Section 51 of the Internal Revenue Code of 1954, is in effect.

SEC. 1.5. Section 17053.7 of the Revenue and Taxation Code is amended to read:

17053.7. (a) There shall be allowed as a credit against the "net tax" (as defined by Section 17039) 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.

The credit under this section shall not apply to an individual unless, before the day on which that individual begins work for the employer, the employer:

(1) Has received a certification from the Employment Development Department, or

(2) Has requested in writing that certification from the Employment Development Department.

(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. With respect to each qualified employee, the aggregate credit under this section shall not exceed six hundred dollars ($600).

(c) The credit under this section shall not apply to wages paid to an individual:

(1) Who bears any of the relationships described in subdivision

(a) through (h), inclusive, of Section 17056 to the taxpayer; or

(2) Who, if the taxpayer is an estate or trust, is a grantor, beneficiary, or fiduciary of the estate or trust, or is an individual who bears any of the relationships described in subdivision (a) through (h), inclusive, of Section 17056 to a grantor, beneficiary, or fiduciary of the estate or trust; or

(3) Who is a dependent (as described in subdivision (i) of Section 17056) of the taxpayer, or, if the taxpayer is an estate or trust, of a grantor, beneficiary, or fiduciary of the estate or trust.

(d) The credit under this section shall not apply to wages paid to an individual if, prior to the hiring date of that individual, that individual has been employed by the employer at any time during which he or she was not certified by the Employment Development Department to meet the requirements of Section 328 of the Unemployment Insurance Code.

(e) If the certification of employment has been revoked pursuant to subdivision (c) of Section 328 of the Unemployment Insurance Code, the credit under this section shall not apply to wages paid by the employer after the date on which notice of revocation is received by the employer.

(f) The credit under this section shall be in addition to any deduction under this part to which the taxpayer may be entitled, if any.

(g) The credit provided by this section shall be applied to wages paid to each qualifying employee during the 24-month period beginning on the date such employee begins working for the taxpayer.

(h) This section 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.

SEC. 2. Section 17122.7 of the Revenue and Taxation Code is amended to read:

17122.7. (a) If, in connection with the performance of services, property is transferred to any person other than the person for whom those services are performed, the excess of—

(1) The fair market value of that property (determined without regard to any restriction other than a restriction which by its terms will never lapse) at the first time the rights of the person having the beneficial interest in that property are transferable or are not subject to a substantial risk of forfeiture, whichever occurs earlier, over

(2) The amount (if any) paid for the property,

shall be included in the gross income of the person who performed those services in the first taxable year in which the rights of the person having the beneficial interest in that property are transferable or are not subject to a substantial risk of forfeiture, whichever is applicable. The preceding sentence shall not apply if the person sells or otherwise disposes of that property in an

arm's-length transaction before his or her rights in that property become transferable or not subject to a substantial risk of forfeiture.

(b) (1) Any person who performs services in connection with which property is transferred to any person may elect to include in his or her gross income, for the taxable year in which the property is transferred, the excess of—

(A) The fair market value of the property at the time of transfer (determined without regard to any restriction other than a restriction which by its terms will never lapse), over

(B) The amount (if any) paid for the property.

If the election is made, subdivision (a) shall not apply with respect to the transfer of the property, and if the property is subsequently forfeited, no deduction shall be allowed in respect of that forfeiture.

(2) An election under paragraph (1) with respect to any transfer of property shall be made in the manner which the Franchise Tax Board prescribes and shall be made not later than 30 days after the date of the transfer (or, if later, 30 days after the date of the enactment of this section). The election may not be revoked except with the consent of the Franchise Tax Board.

(c) For purposes of this section—

(1) The rights of a person in property are subject to a substantial risk of forfeiture if the person's rights to full enjoyment of the property are conditioned upon the future performance of substantial services by any individual.

(2) The rights of a person in property are transferable only if the rights in the property of any transferee are not subject to a substantial risk of forfeiture.

(3) So long as the sale of property at a profit could subject a person to suit under Section 16(b) of the Securities and Exchange Act of 1934, the person's rights in the property are—

(A) Subject to a substantial risk of forfeiture, and

(B) Not transferable.

For purposes of this section, property is subject to substantial risk of forfeiture and is not transferable so long as the property is subject to a restriction on transfer to comply with the "Pooling-of-Interests Accounting" rules set forth in Accounting Series Release Numbered 130 (October 5, 1972; 17 Code of Federal Regulations Sec. 211.130) and Accounting Series Release Numbered 135 (January 18, 1973; 17 Code of Federal Regulations Sec. 211.135).

(d) (1) In the case of property subject to a restriction which by its terms will never lapse, and which allows the transferee to sell the property only at a price determined under a formula, the price so determined shall be deemed to be the fair market value of the property unless established to the contrary by the Franchise Tax Board, and the burden of proof shall be on the Franchise Tax Board with respect to that value.

(2) If, in the case of property subject to a restriction which by its terms will never lapse, the restriction is canceled, then, unless the taxpayer establishes—

(A) That the cancellation was not compensatory, and

(B) That the person, if any, who would be allowed a deduction if the cancellation were treated as compensatory, will treat the transaction as not compensatory, as evidenced in the manner which the Franchise Tax Board shall prescribe by regulations,

the excess of the fair market value of the property (computed without regard to the restrictions) at the time of cancellation over the sum of—

(C) The fair market value of such property (computed by taking the restriction into account) immediately before the cancellation, and

(D) The amount, if any, paid for the cancellation, shall be treated as compensation for the taxable year in which such cancellation occurs.

(e) This section shall not apply to—

(1) A transaction to which Section 17531 applies,

(2) A transfer to or from a trust described in Section 17501 or a transfer under an annuity plan which meets the requirements of Section 17515,

(3) The transfer of an option without a readily ascertainable fair market value, or

(4) The transfer of property pursuant to the exercise of an option with a readily ascertainable fair market value at the date of grant.

(f) In determining the period for which the taxpayer has held property to which subdivision (a) applies, there shall be included only the period beginning at the first time his or her rights in the property are transferable or are not subject to a substantial risk of forfeiture, whichever occurs earlier.

(g) If property to which subdivision (a) applies is exchanged for property subject to restrictions and conditions substantially similar to those to which the property given in the exchange was subject, and if Sections 17432 to 17439, inclusive, or 18102 (or so much of Section 18081 as relates to Section 18102) applied to the exchange, or if the exchange was pursuant to the exercise of a conversion privilege—

(1) The exchange shall be disregarded for purposes of subdivision (a), and

(2) The property received shall be treated as property to which subdivision (a) applies.

(h) In the case of a transfer of property to which this section applies or a cancellation of a restriction described in subdivision (d), there shall be allowed as a deduction under Section 17202, to the person for whom were performed the services in connection with which the property was transferred, an amount equal to the amount included under subdivision (a),(b), or paragraph (2) of subdivision (d) in the gross income of the person who performed the services. The deduction shall be allowed for the taxable year of the person in which or with which ends the taxable year in which the amount is included in the gross income of the person who performed the services.

(i) This section shall apply to property transferred after June 30, 1969, except that this section shall not apply to property transferred—

(1) Pursuant to a binding written contract entered into before April 22, 1969.

(2) Upon the exercise of an option granted before April 22, 1969.

(3) Before January 1, 1973, upon the exercise of an option granted pursuant to a binding written contract entered into before April 22, 1969, between a corporation and the transferor requiring the transferor to grant options to employees of the corporation (or a subsidiary of the corporation) to purchase a determinable number of shares of stock of the corporation, but only if the transferee was an employee of the corporation (or a subsidiary of the corporation) on or before April 22, 1969, or

(4) In exchange for (or pursuant to the exercise of a conversion privilege contained in) property transferred before July 1, 1969, or for property to which this section does not apply (by reason of paragraph (1) or (2)), if Sections 17432 to 17439, inclusive, or 18102 (or so much of Section 18081 as relates to Section 18102) applies, or if gain or loss is not otherwise required to be recognized upon the exercise of the conversion privilege, and if the property received in the exchange is subject to restrictions and conditions substantially similar to those to which the property given in the exchange was subject.

(j) The amendments made to this section by the act adding this subdivision shall apply to taxable years beginning after December 31, 1981.

SEC. 3. Section 17136.5 is added to the Revenue and Taxation Code, to read:

17136.5. (a) Gross income of an employee does not include amounts paid or incurred by the employer for dependent care assistance provided to the employee if the assistance is furnished pursuant to a program which is described in subdivision (d).

(b) (1) The amount excluded from the income of an employee under subdivision (a) for any taxable year shall not exceed—

(A) In the case of an employee who is not married at the close of the taxable year, the earned income of the employee for that taxable year, or

(B) In the case of an employee who is married at the close of that taxable year, the lesser of—

(i) The earned income of the employee for that taxable year, or

(ii) The earned income of the spouse of the employee for that taxable year.

(2) For purposes of paragraph (1), the provisions of paragraph (2) of subdivision (d) of Section 17052.6 shall apply in determining the earned income of a spouse who is a student or incapable of caring for himself or herself.

(c) No amount paid or incurred during the taxable year of an employee by an employer in providing dependent care assistance to

that employee shall be excluded under subdivision (a) if that amount was paid or incurred to an individual—

(1) With respect to whom, for that taxable year, a credit is allowable under subdivision (c) of Section 17054 (relating to personal exemptions for dependents) to the employee or the spouse of the employee, or

(2) Who is a child of the employee (within the meaning of paragraph (4) of subdivision (c) of Section 17054) under the age of 19 at the close of the taxable year.

(d) (1) For purposes of this section, a dependent care assistance program is a separate written plan of an employer for the exclusive benefit of his or her employees to provide those employees with dependent care assistance which meets the requirements of paragraphs (2) through (6) of this subdivision.

(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 United States Secretary of Labor finds to be a collective-bargaining agreement between employee representatives and one or more employers, if there is evidence that dependent care benefits were the subject of good faith bargaining between those employee representatives and the employer or employers.

(3) Not more than 25 percent of the amounts paid or incurred by the employer for dependent care 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 referred to in paragraph (1) is not required to be funded.

(5) Reasonable notification of the availability and terms of the program shall be provided to eligible employees.

(6) The plan shall furnish to an employee, on or before January 31, a written statement showing the amounts paid or expenses incurred by the employer in providing dependent care assistance to the employee during the previous calendar year.

(e) For purposes of this section—

(1) "Dependent care assistance" means the payment of, or provision of, those services which if paid for by the employee would be considered employment-related expenses under paragraph (2) of subdivision (b) of Section 17052.6 (relating to expenses for household and dependent care services necessary for gainful employment).

(2) "Earned income" shall have the meaning given that term in Section 43(c)(2) of the Internal Revenue Code of 1954, but that term shall not include any amounts paid or incurred by the employer for

dependent care assistance to an employee.

(3) "Employee" includes, for any year, an individual who is an employee within the meaning of subdivision (a) of Section 17052.2 (relating to self-employed individuals).

(4) An individual who owns the entire interest in an unincorporated trade or business shall be treated as his or her own employer. A partnership shall be treated as the employer of each partner who is an employee within the meaning of paragraph (3).

(5) (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)).

(B) The interest of an 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).

(6) A dependent care assistance program shall not be held or considered to fail to meet any requirements of subdivision (d) merely because of utilization rates for the different types of assistance made available under the program.

(7) No deduction or credit shall be allowed under any other section of this part for any amount excluded from income by reason of this section.

(f) This section shall apply to taxable years beginning after December 31, 1981.

SEC. 4. Section 17136.6 is added to the Revenue and Taxation Code, to read:

17136.6. (a) Gross income of an employee, his or her spouse, or his or her dependents, does not include—

(1) Amounts contributed by an employer on behalf of an employee, his or her spouse, or his or her dependents under a qualified group legal services plan (as defined in subdivision (b)); or

(2) The value of legal services provided, or amounts paid for legal services, under a qualified group legal services plan (as defined in subdivision (b)) to, or with respect to, an employee, his or her spouse, or his or her dependents.

(b) For purposes of this section, a qualified group legal services plan is a separate written plan of an employer for the exclusive benefit of employees or their spouses or dependents to provide those employees, spouses, or dependents with specified benefits consisting of personal legal services through prepayment of, or provision in advance for, legal fees in whole or in part by the employer, if the plan meets the requirements of subdivision (c).

(c) (1) The contributions or benefits provided under the plan shall not discriminate in favor of employees who are officers, shareholders, self-employed individuals, or highly compensated.

(2) The plan 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 described in paragraph (1). For purposes of this paragraph, there shall be excluded from consideration employees not included in the plan who are included in a unit of employees covered by an agreement which the United States Secretary of Labor finds to be a collective-bargaining agreement between employee representatives and one or more employers, if there is evidence that group legal services plan benefits were the subject of good faith bargaining between the employee representatives and the employer or employers.

(3) Not more than 25 percent of the amounts contributed under the plan 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) The plan shall give notice to the Franchise Tax Board, in the manner which the board may by regulations prescribe, that it is applying for recognition of the status of a qualified group legal services plan.

(5) Amounts contributed under the plan shall be paid only (A) to insurance companies, or to organizations or persons that provide personal legal service, or indemnification against the cost of personal legal services, in exchange for a prepayment or payment of a premium, (B) to organizations or trusts described in Section 501(c)(20) of the Internal Revenue Code of 1954, (C) to organizations described in Section 501(c) of the Internal Revenue Code of 1954 which are permitted by that section to receive payments from an employer for support of one or more qualified group legal services plan or plans, except that those organizations shall pay or credit the contribution to an organization or trust described in Section 501(c)(20) of the Internal Revenue Code of 1954, (D) as prepayments to providers of legal services under the plan, or (E) a combination of the above.

(d) For purposes of this section—

(1) "Self-employed individual" means, and "employee" includes, for any year, an individual who is an employee within the meaning of subdivision (a) of Section 17052.2 (relating to self-employed individuals).

(2) An individual who owns the entire interest in an unincorporated trade or business shall be treated as his or her own employer. A partnership shall be treated as the employer of each partner who is an employee within the meaning of paragraph (1).

(3) Allocations of amounts contributed under the plan shall be made in accordance with regulations prescribed by the Franchise Tax Board and shall take into account the expected relative utilization of benefits to be provided from the contributions or plan assets and the manner in which any premium or other charge was developed.

(4) "Dependent" has the meaning given to it by Sections 17056 to

17059.5, inclusive.

(5) In the case of a plan to which contributions are made by more than one employer, in determining whether the plan is for the exclusive benefit of an employer's employees or their spouses or dependents, the employees of any employer who maintains the plan shall be considered to be the employees of each employer who maintains the plan.

(6) For purposes of this section—

(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), and

(B) The interest of an 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).

(7) A plan shall not be a qualified group legal services plan for any period prior to the time notification was provided to the Franchise Tax Board in accordance with paragraph (4) of subdivision (c), if the notice is given after the time prescribed by the Franchise Tax Board by regulations for giving the notice.

(e) This section shall not apply to taxable years ending after December 31, 1984.

SEC. 5. Section 17137.2 is added to the Revenue and Taxation Code, to read:

17137.2. (a) Gross income does not include income derived from an obligation of a volunteer fire department, which shall be treated as an obligation of a political subdivision of this state, if—

(1) The department is a qualified volunteer fire department in this state with respect to an area within the jurisdiction of the political subdivision, and

(2) The obligation is issued as part of an issue, otherwise authorized by law to be issued, substantially all of the proceeds of which are to be used for the acquisition, construction, reconstruction, or improvement of a firehouse or firetruck used or to be used by the department.

(b) For purposes of this section "qualified volunteer fire department" means, with respect to a political subdivision of this state, any organization—

(1) Which is organized and operated to provide firefighting or emergency medical services for persons in an area (within the jurisdiction of the political subdivision) which is not provided with any other firefighting services.

(2) Which is required (by written agreement) by the political subdivision to furnish firefighting services in the area.

(c) This section shall apply to obligations issued after December 31, 1981.

SEC. 6. Section 17155 of the Revenue and Taxation Code is

amended to read:

17155. (a) At the election of the taxpayer, gross income shall not include gain from the sale or exchange of property if:

(1) The taxpayer has attained the age of 55 before the date of the sale or exchange, and

(2) During the five-year period ending on the date of the sale or exchange, the 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 twenty-five thousand dollars ($125,000) (sixty-two thousand five hundred dollars ($62,500) 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) The 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 the 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 the property, and

(B) No election by the deceased spouse under subdivision (a) is in effect with respect to a prior sale or exchange then the individual shall be treated as satisfying the holding and use requirements of subdivision (a) with respect to the 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 that section) then:

(A) The holding requirements of subdivision (a) shall be applied

to the holding of that 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 the stockholder.

(4) For purposes of this section, the destruction, theft, seizure, requisition, or condemnation of property shall be treated as the sale of the 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 the 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.

(f) The amendments made to this section by the act adding this subdivision shall apply to residences sold or exchanged in taxable years beginning after December 31, 1981.

SEC. 7. 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, 1984, under the straight line method using a useful life of 60 months and no salvage value. This 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) Except as provided in paragraph (2), 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) 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) may exceed twenty thousand dollars ($20,000), but shall not exceed forty thousand dollars ($40,000), if the rehabilitation is conducted pursuant to a program certified by the Secretary of Housing and Urban Development, or his or her delegate, or by the government of a state or a political subdivision of the United States and if:

(A) The certification of development costs is required;

(B) The tenants occupy units in the property as their principal residence and the program provides for sale of the units to tenants demonstrating homeownership responsibility; and

(C) The leasing and sale of those units are pursuant to a program in which the sum of the taxable income, if any, from leasing of each unit, for the entire period of leasing, and the amount realized from sale or other disposition of a unit, if sold, normally does not exceed the excess of the taxpayer's cost basis for the unit of property, before adjustment under Sections 18052 and 18053 for deductions under Sections 17208 through 17211.9, over the net tax benefits realized by the taxpayer, consisting of the tax benefits from the deductions under Sections 17208 through 17211.9 minus the tax incurred on such taxable income from leasing, if any.

(3) 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 these 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 the term does not include the cost of acquisition of the 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, 1984, and rehabilitation expenditures incurred with respect to low-income rental housing the rehabilitation of which has begun before January 1, 1984, shall be deemed incurred before January 1, 1984.

(d) The amendments to this section 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.

(e) The amendments made to this section by the act adding this subdivision shall apply with respect to rehabilitation expenditures incurred after December 31, 1981.

SEC. 8. Section 17214.2 of the Revenue and Taxation Code is amended to read:

17214.2. (a) In the case of a contribution (not made by a transfer in trust) of an interest in property which consists of less than the taxpayer's entire interest in such property, a deduction shall be allowed under Section 17214 only to the extent that the value of the interest contributed would be allowable as a deduction under Section 17214 if such interest had been transferred in trust. For purposes of this subdivision, a contribution by a taxpayer of the right to use property shall be treated as a contribution of less than the taxpayer's entire interest in such property.

(b) Subdivision (a) shall not apply to a contribution of—

(1) A remainder interest in a personal residence or farm,

(2) An undivided portion of the taxpayer's entire interest in property,

(3) A qualified conservation contribution (as defined in Section 17214.7).

(c) The amendments made to this section by the 1977–78 Regular Session of the Legislature shall apply with respect to contributions or transfers made after December 31, 1976, and before June 14, 1977.

(d) The amendments to this section by the 1981–82 Regular Session of the Legislature shall apply with respect to contributions or transfers made in taxable years beginning on and after January 1, 1982.

SEC. 9. 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 that 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—		The percentage of that amount allowable for each amortization year shall be the following percentage of that amount
Non-residential real property	Residential real property (other than low-income housing)	
	1978	25
1977	1979	20
1978	1980	16⅔
1979	1981	14⅔
1980	1982	12½
1981	1983	11⅑
after 1981	after 1983	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 that 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 that 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—

(1) Low-income housing, or

(2) Real property acquired, constructed, or carried if that property is not, and cannot reasonably be expected to be, held in a trade or business or 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 the interest and taxes are attributable to the construction period for that 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).

(g) The amendments made to this section by the act adding this subdivision shall apply to taxable years beginning after December 31, 1981.

SEC. 11. 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.

(d) (1) No deduction shall be allowed for interest and carrying charges properly allocable to personal property which is part of a straddle (as defined in subdivision (c) of Section 18143). Any amount not allowed as a deduction by reason of the preceding sentence shall be chargeable to the capital account with respect to the personal property to which such amount relates.

(2) For purposes of paragraph (1), the term "interest and carrying charges" means the excess of—

(A) The sum of—

(i) Interest on indebtedness incurred or continued to purchase or carry the personal property, and

(ii) Amounts paid or incurred to insure, store, or transport the personal property, over

(B) The sum of—

(i) The amount of interest (including original issue discount) includable in gross income for the taxable year with respect to the property described in subparagraph (A), and

(ii) Any amount treated as ordinary income under Section 1232(a)(4)(A) of the Internal Revenue Code with respect to that property for the taxable year.

(3) This subdivision shall not apply in the case of any hedging transaction (as defined in subdivision (e) of Section 18222).

SEC. 11.5. 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.

(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.

(6) Expenditures for which a deduction is allowed under Section 17213.5.

(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. Those 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 those expenses are deductible in the case of oil and gas wells.

(d) (1) No deduction shall be allowed for interest and carrying charges properly allocable to personal property which is part of a straddle (as defined in subdivision (c) of Section 18143). Any amount not allowed as a deduction by reason of the preceding sentence shall be chargeable to the capital account with respect to the personal property to which such amount relates.

(2) For purposes of paragraph (1), the term "interest and carrying charges" mean the excess of—

(A) The sum of—

(i) Interest on indebtedness incurred or continued to purchase or carry the personal property, and

(ii) Amounts paid or incurred to insure, store, or transport the personal property, over

(B) The sum of—

(i) The amount of interest (including original issue discount)

includable in gross income for the taxable year with respect to the property described in subparagraph (A), and

(ii) Any amount treated as ordinary income under Section 1232 (a) (4) (A) of the Internal Revenue Code with respect to that property for the taxable year.

(3) This subdivision shall not apply in the case of any hedging transaction (as defined in subdivision (e) of Section 18222).

SEC. 12. Section 17299.6 of the Revenue and Taxation Code is amended 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 which is awarded to an employee by reason of length of service, productivity, or safety achievement, but only to the extent that—

(i) The cost of that item to the taxpayer does not exceed four hundred dollars ($400), or

(ii) That item is a qualified plan award.

(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.

(c) For purposes of this section—

(1) The term "qualified plan award" means an item which is awarded as part of a permanent, written plan or program of the taxpayer which does not discriminate in favor of officers, shareholders, or highly compensated employees as to eligibility or benefits.

(2) An item shall not be treated as a qualified plan award for any taxable year if the average cost of all items awarded under all plans described in paragraph (1) of the taxpayer during the taxable year exceeds four hundred dollars ($400).

(3) An item shall not be treated as a qualified plan award under this subdivision to the extent that the cost of that item exceeds one thousand six hundred dollars ($1,600).

SEC. 14. Section 17503 of the Revenue and Taxation Code is

amended to read:

17503. (a) Except as provided in subdivision (b), the amount actually distributed to any distributee by any employees' trust described in Section 17501 which is exempt from tax under Section 17631 shall be taxable to him or her, in the year in which so distributed, under Sections 17101 to 17112.7, inclusive (relating to annuities). The amount actually distributed to any distributee shall not include net unrealized appreciation in securities of the employer corporation attributable to the amount contributed by the employee. The net unrealized appreciation and the resulting adjustments to basis of those 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 the total distribution as is equal to the excess of the 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 or her 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 the plan before January 1, 1974, and

(2) The denominator of which is the number of calendar years of active participation by the employee in the plan, shall be treated as a gain from the sale or exchange of a capital asset held for more than five years.

Whenever such total distributions include securities of the employer corporation, there shall be excluded from those 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 the 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 those distributions are attributable to contributions made on behalf of the employee while he or she was an employee within the meaning of subdivision (a) of Section 17502.2.

(c) For purposes of this section—

(1) "Securities" means only shares of stock and bonds or debentures issued by a corporation with interest coupons or in registered form.

(2) "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) "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) "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 or her in a qualifying rollover distribution,

(B) The employee transfers any portion of the property he or she receives in the 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 the 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) "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 the 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 97-34 (determined without reference to subparagraphs (B) and (H)).

(B) "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) "Qualified trust" means an employees' trust described in Section 17501 which is exempt from tax under Section 17631.

(D) "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 or her 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 the 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 94-455, 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, c

(B) / 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 the employee if the employees of the employer corporation or the acquiring corporation (whichever applies) are not active participants in the plan at the time of the 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 the parent-subsidiary or controlled group relationship, if the payment or distribution is made later than the end of the second calendar year after the calendar year in which occurs the sale or other transfer of assets, or the liquidation, sale, or other means of terminating the 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 the 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 the sale shall be recognized.

(F) In the case of any distribution from a money purchase pension plan which is maintained by an employer, for purposes of clause (ii) of subparagraph (A) of paragraph (4) of subdivision (d), subparagraph (c) of paragraph (4) of subsection (e) of Section 402 of the Internal Revenue Code of 1954 shall be applied by not taking into account any pension plan maintained by that employer which

is not a money purchase pension plan. The preceding sentence shall not apply to any distribution which is a qualifying rollover distribution without regard to this subparagraph.

(G) If—

(i) Any distribution of the balance to the credit of an employer from a money purchase pension plan maintained by an employer is treated as a qualifying rollover distribution by reason of subparagraph (F), and

(ii) Any portion of that distribution is transferred in a transfer to which paragraph (1) of subdivision (d) applies, then subdivision (b), and paragraphs (1) and (3) of subsection (e) of Section 402 of the Internal Revenue Code of 1954, as amended by Public Law 95-600, shall not apply to any distribution (after the taxable year in which the distribution described in paragraph (1) of subdivision (d) is made) of the balance to the credit of that employee from any other pension plan maintained by that employer.

(f) (1) If—

(A) Any portion of a qualifying rollover distribution attributable to an employee is paid to the spouse of the employee after the employee's death,

(B) The spouse transfers any portion of the property which the spouse receives in the 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 the 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.

(h) The amendments made to this section by the act adding this subdivision shall apply to taxable years beginning after December 31, 1981.

SEC. 15. Section 17525.7 of the Revenue and Taxation Code is amended to read:

17525.7. (a) Amounts paid or accrued by an employer under a qualified foreign plan—

(1) Shall not be allowable as a deduction under Sections 17202 or 17252 or Section 17513 to 17525.5, inclusive, but

(2) If they satisfy the conditions of Section 17202, shall be allowed as a deduction under this section for the taxable year for which such amounts are properly taken into account under this section.

(b) For purposes of this section—

(1) Except as otherwise provided in this section, in the case of a qualified funded plan, contributions are properly taken into account for the taxable year in which paid.

(2) For purposes of paragraph (1), a payment made after the close of a taxable year shall be treated as made on the last day of that year if the payment is made—

(A) On account of such year, and

(B) Not later than the time prescribed by law for filing the return for that year (including extensions thereof).

(3) In the case of a qualified funded plan, the amount allowable as a deduction for the taxable year shall be subject to—

(A) In the case of—

(i) A plan under which the benefits are fixed or determinable, limitations similar to those contained in paragraphs (2) and (3) of subdivision (a) of Section 17514 (determined without regard to the last sentence of that subdivision (a)), or

(ii) Any other plan, limitations similar to the limitations contained in Section 17516, and

(B) Limitations similar to those contained in Section 17520.

(4) If—

(A) The aggregate of the contributions paid during the taxable year reduced by any contributions not allowable as a deduction under paragraphs (1) and (2) of subdivision (g), exceeds

(B) The amount allowable as a deduction under subdivision (a) (determined without regard to subdivision (d)),

that excess shall be treated as an amount paid in the succeeding taxable year.

(5) In the case of a qualified funded plan, a contribution shall be taken into account only if it is paid—

(A) To a trust (or the equivalent of a trust) which meets the requirements of Section 17501(b),

(B) For a retirement annuity, or

(C) To a participant or beneficiary.

(c) For purposes of this section—

(1) In the case of a qualified reserve plan, the amount properly taken into account for the taxable year is the reasonable addition for that year to a reserve for the taxpayer's liability under the plan. Unless otherwise required or permitted in regulations prescribed by the Franchise Tax Board, the reserve for the taxpayer's liability shall be determined under the unit credit method modified to reflect the requirements of paragraphs (3) and (4). All benefits paid under the plan shall be charged to the reserve.

(2) In the case of a plan which is or has been a qualified reserve plan, an amount equal to that portion of any decrease for the taxable year in the reserve which is not attributable to the payment of

benefits shall be included in gross income.

(3) In the case of a qualified reserve plan, an item shall be taken into account for a taxable year only if—

(A) There is no substantial risk that the rights of the employee will be forfeited, and

(B) That item meets those additional requirements which the Franchise Tax Board may by regulation prescribe as necessary or appropriate to ensure that the liability will be satisfied.

(4) There shall be amortized over a 10-year period any increase or decrease to the reserve on account of—

(A) The adoption of the plan or a plan amendment,

(B) Experience gains and losses,

(C) Any change in actuarial assumptions,

(D) Changes in the interest rate under subparagraph (B) of paragraph (3) of subdivision (g), and

(E) Such other factors as may be prescribed by regulations.

(d) (1) In the case of any plan, the amount allowed as a deduction under subdivision (a) for any taxable year shall equal—

(A) The lesser of—

(i) The cumulative United States amount, or

(ii) The cumulative foreign amount, reduced by

(B) The aggregate amount determined under this section for all prior taxable years.

(2) For purposes of paragraph (1)—

(A) The term "cumulative United States amount" means the aggregate amount determined with respect to the plan under this section for the taxable year and for all prior taxable years to which this section applies. That determination shall be made for each taxable year without regard to the application of paragraph (1).

(B) The term "cumulative foreign amount" means the aggregate amount allowed as a deduction under the appropriate foreign tax laws for the taxable year and all prior taxable years to which this section applies.

(3) In determining the earnings and profits and accumulated profits of any foreign corporation with respect to a qualified foreign plan, the amount determined under paragraph (1) with respect to any plan for any taxable year shall in no event exceed the amount allowed as a deduction under the appropriate foreign tax laws for that taxable year.

(e) For purposes of this section, the term "qualified foreign plan" means any written plan of an employer for deferring the receipt of compensation but only if—

(1) That plan is for the exclusive benefit of the employer's employees or their beneficiaries,

(2) Ninety percent or more of the amounts taken into account for the taxable year under the plan are attributable to services—

(A) Performed by nonresident aliens, and

(B) The compensation for which is not subject to tax under this chapter, and

(3) The employer elects (at such time and in such manner as the Franchise Tax Board shall by regulations prescribe) to have this section apply to that plan.

(f) For purposes of this section—

(1) The term "qualified funded plan" means a qualified foreign plan which is not a qualified reserve plan.

(2) The term "qualified reserve plan" means a qualified foreign plan with respect to which an election made by the taxpayer is in effect for the taxable year. An election under the preceding sentence shall be made in that manner and form as the Franchise Tax Board may by regulations prescribe and, once made, may be revoked only with the consent of the Franchise Tax Board.

(g) (1) Except as provided in Section 17518, no deduction shall be allowed under this section for any item to the extent that item is attributable to services—

(A) Performed by a resident of California who is an officer, shareholder, or highly compensated employee, or

(B) Performed in the United States the compensation for which is subject to tax under this chapter.

(2) (A) No deduction shall be allowed under this section with respect to any plan for any taxable year unless the taxpayer furnishes to the Franchise Tax Board with respect to that plan (at such time as the Franchise Tax Board may by regulations prescribe)—

(i) A statement from the foreign tax authorities specifying the amount of the deduction allowed in computing taxable income under foreign law for that year with respect to that plan,

(ii) If the return under foreign tax law shows the deduction for plan contributions or reserves as a separate, identifiable item, a copy of the foreign tax return for the taxable year, or

(iii) Such other statement, return, or other evidence as the Franchise Tax Board prescribes by regulation as being sufficient to establish the amount of the deduction under foreign law.

(B) If the deduction under foreign tax law is adjusted, the taxpayer shall notify the Franchise Tax Board of that adjustment on or before the date prescribed by regulations, and the Franchise Tax Board shall redetermine the amount of the tax year or years affected. In any case described in the preceding sentence, rules similar to the rules of subsection (c) of Section 905 of the Internal Revenue Code of 1954 as amended by Public Law 96-613 shall apply.

(3) (A) Except as provided in subparagraph (B), principles similar to those set forth in paragraphs (3) and (7) of Section 412(c) of the Internal Revenue Code of 1954 as amended by Public Law 96-613 shall apply for purposes of this section.

(B) (i) In the case of a qualified reserve plan, in lieu of taking rates of interest into account under subparagraph (A), the rate of interest for the plan shall be the rate selected by the taxpayer which is within the permissible range.

(ii) Any rate selected by the taxpayer for the plan under this subparagraph shall remain in effect for that plan until the first

taxable year for which that rate is no longer within the permissible range. At that time, the taxpayer shall select a new rate of interest which is within the permissible range applicable at that time.

(iii) For purposes of this subparagraph, the term "permissible range" means a rate of interest which is not more than 20 percent above, and not more than 20 percent below, the average rate of interest for long-term corporate bonds in the appropriate country for the 15-year period ending on the last day before the beginning of the taxable year.

SEC. 16. Section 17531 of the Revenue and Taxation Code is amended to read:

17531. (a) If a share of stock is transferred to an individual in a transfer in respect of which the requirements of Section 17532(a), 17532.5(a), 17533(a), or 17534(a) are met

(1) Except as provided in Section 17532(c)(1), no income shall result at the time of the transfer of the share to the individual upon his or her excercise of the option with respect to the share;

(2) No deduction under Section 24343 (relating to trade or business expenses) shall be allowable at any time to the employer corporation, a parent or subsidiary corporation of such corporation, or a corporation issuing or assuming a stock option in a transaction to which Section 17535(a) applies, with respect to the share so transferred; and

(3) No amount other than the price paid under the option shall be considered as received by any of those corporations for the share so transferred.

(b) If the transfer of a share of stock to an individual pursuant to his or her exercise of an option would otherwise meet the requirements of Section 17532(a), 17532.5(a), 17533(a), or 17534(a) except that there is a failure to meet any of the holding period requirements of Section 17532(a)(1), 17532.5(a)(1), 17533(a)(1), or 17534(a)(1), then any increase in the income of that individual for the taxable year in which the exercise occurred attributable to that disposition, shall be treated as an increase in income in the taxable year of that individual in which the disposition occurred.

(c) (1) If an option to which this article applies is exercised after the death of the employee by the estate of the decedent, or by a person who acquired the right to exercise that option by bequest or inheritance or by reason of the death of the decedent, the provisions of subdivision (a) shall apply to the same extent as if the option had been exercised by the decedent, except that—

(A) The holding period and employment requirements of Sections 17532(a), 17532.5(a), 17533(a), and 17534(a) shall not apply, and

(B) Any transfer by the estate of stock acquired shall be considered a disposition of that stock for purposes of Sections 17533(c) and 17534(c)(1).

(2) In the case of a share of stock acquired by the exercise of an option to which paragraph (1) applies—

(A) The basis of the share shall include so much of the basis of the option as is attributable to that share; except that the basis of the share shall be reduced by the excess (if any) of (i) the amount which would have been includable in gross income under Sections 17532(c)(1), 17533(c), or 17534(c)(1) if the employee had exercised the option on the date of his death and had held the share acquired pursuant to that exercise at the time of his or her death, over (ii) the amount which is includible in gross income under those sections; and

(B) The last sentence of Sections 17532(c)(1), 17533(c), or 17534(c)(1) shall apply only to the extent that the amount includable in gross income under those sections exceeds so much of the basis of the option as is attributable to that share.

(d) The amendments made to this section by the act adding this subdivision shall apply with respect to options granted and exercised on or after January 1, 1982.

SEC. 17. Section 17532.5 is added to the Revenue and Taxation Code, to read:

17532.5. (a) Subdivision (a) of Section 17531 shall apply with respect to the transfer of a share of stock to an individual pursuant to his or her exercise of an incentive stock option if—

(1) No disposition of the share is made by him or her within two years from the date of the granting of the option nor within one year after the transfer of the share to him or her, and

(2) At all times during the period beginning on the date of the granting of the option and ending on the day three months before the date of the exercise, the individual was an employee of either the corporation granting the option, a parent or subsidiary corporation of the corporation, or a corporation or a parent or subsidiary corporation of the corporation issuing or assuming a stock option in a transaction to which subdivision (a) of Section 17535 applies.

(b) For purposes of this article, "incentive stock option" means an option granted to an individual for any reason connected with his or her employment by a corporation, if granted by the employer corporation or its parent or subsidiary corporation, to purchase stock of any of those corporations, but only if it satisfies all of the following requirements:

(1) The option is granted pursuant to a plan which includes the aggregate number of shares which may be issued under options and the employees (or class of employees) eligible to receive options, and which is approved by the stockholders of the granting corporation within 12 months before or after the date the plan is adopted.

(2) The option is granted within 10 years from the date the plan is adopted, or the date the plan is approved by the stockholders, whichever is earlier.

(3) The option by its terms is not exercisable after the expiration of 10 years from the date the option is granted.

(4) The option price is not less than the fair market value of the stock at the time the option is granted.

(5) The option by its terms is not transferable by the individual otherwise than by will or the laws of descent and distribution, and is exercisable, during his or her lifetime, only by him or her.

(6) The individual, at the time the option is granted, does not own stock possessing more than 10 percent of the total combined voting power of all classes of stock of the employer corporation or of its parent or subsidiary corporation.

(7) The option by its terms is not exercisable while there is outstanding (within the meaning of paragraph (7) of subdivision (c)) any incentive stock option which was granted, before the granting of the option, to the individual to purchase stock in his or her employer corporation or in a corporation which (at the time of the granting of the option) is a parent or subsidiary corporation of the employer corporation, or in a predecessor corporation of any of those corporations.

(8) In the case of an option granted after December 31, 1980, under the terms of the plan the aggregate fair market value (determined as of the time the option is granted) of the stock for which any employee may be granted options in any calendar year (under all such plans of his employer corporation and its parent and subsidiary corporation) shall not exceed one hundred thousand dollars ($100,000) plus any unused limit carryover to that year.

(c) (1) If a share of stock is transferred pursuant to the exercise by an individual of an option which would fail to qualify as an incentive stock option under subdivision (b) because there was a failure in an attempt, made in good faith, to meet the requirement of paragraph (4) of subdivision (b), the requirement of paragraph (4) of subdivision (b) shall be considered to have been met.

(2) If—

(A) An individual who has acquired a share of stock by the exercise of an incentive stock option makes a disposition of the share within the two-year period described in paragraph (1) of subdivision (a), and

(B) The disposition is a sale or exchange with respect to which a loss (if sustained) would be recognized to the individual,

then the amount which is includable in the gross income of the individual, and the amount which is deductible from the income of his or her employer corporation, as compensation attributable to the exercise of the option shall not exceed the excess (if any) of the amount realized on the sale or exchange over the adjusted basis of the share.

(3) If an insolvent individual holds a share of stock acquired pursuant to his or her exercise of an incentive stock option, and if the share is transferred to a trustee, receiver, or other similar fiduciary in any proceeding under Title 11 of the United States Code or any other similar insolvency proceeding, neither the transfer, nor any other transfer of the share for the benefit of his or her creditors in the proceeding, shall constitute a disposition of the share for

purposes of paragraph (1) of subdivision (a).

(4) (A) If one hundred thousand dollars ($100,000) exceeds the aggregate fair market value (determined as of the time the option is granted) of the stock for which an employee was granted options in any calendar year after 1980 (under all plans described in subdivision (b) of his or her employer corporation and its parent and subsidiary corporations), one-half of the excess shall be unused limit carryover to each of the three succeeding calendar years.

(B) The amount of unused limit carryover from any calendar year which may be taken into account in any succeeding calendar year shall be the amount of the carryover reduced by the amount of the carryover which was used in prior calendar years.

(C) For purposes of subparagraph (B)—

(i) The amount of options granted during any calendar year shall be treated as first using up the one hundred thousand dollars ($100,000) limitation of paragraph (8) of subdivision (b), and

(ii) Then shall be treated as using up unused limit carryovers to that year in the order of the calendar years in which the carryovers arose.

(5) An option which meets the requirements of subdivision (b) shall be treated as an incentive stock option even if—

(A) The employee may pay for the stock with stock of the corporation granting the option,

(B) The employee has a right to receive property at the time of exercise of the option, or

(C) The option is subject to any condition not inconsistent with the provisions of subdivision (b).

Subparagraph (B) shall apply to a transfer of property (other than cash) only if Section 17122.7 applies to the property so transferred.

(6) Sections 17532 and 17534 shall not apply to an incentive stock option.

(7) For purposes of paragraph (7) of subdivision (b), any incentive stock option shall be treated as outstanding until the option is exercised in full or expires by reason of lapse of time.

(8) Paragraph (6) of subdivision (b) shall not apply if at the time the option is granted the option price is at least 110 percent of the fair market value of the stock subject to the option and the option by its terms is not exercisable after the expiration of five years from the date the option is granted.

(9) For purposes of paragraph (2) of subdivision (a), in the case of an employee who is disabled (within the meaning of paragraph (4) of subdivision (d) of Section 17139), the three-month period of paragraph (2) of subdivision (a) shall be one year.

(d) This section shall apply with respect to options granted and exercised on or after January 1, 1982.

SEC. 18. Section 17535 of the Revenue and Taxation Code is amended to read:

17535. (a) For purposes of this article, the term "issuing or assuming at stock option in a transaction to which Section 17535(a)

applies" means a substitution of a new option for the old option, or an assumption of the old option, by an employer corporation, or a parent or subsidiary of such corporation, by reason of a corporate merger, consolidation, acquisition of property or stock, separation, reorganization, or liquidation, if—

(1) The excess of the aggregate fair market value of the shares subject to the option immediately after the substitution or assumption over the aggregate option price of those shares is not more than the excess of the aggregate fair market value of all shares subject to the option immediately before that substitution or assumption over the aggregate option price of those shares, and

(2) The new option or the assumption of the old option does not give the employee additional benefits which he or she did not have under the old option.

For purposes of this subdivision, the parent-subsidiary relationship shall be determined at the time of any transaction under the subdivision.

(b) For purposes of this article, if stock is received by an individual in a distribution to which Sections 17335, 17336, 17432 to 17439 inclusive, or 18102 (or so much of Section 18081 as relates to Section 18102) apply, and that distribution was made with respect to stock transferred to him or her upon his or her exercise of the option, that stock shall be considered as having been transferred to him or her on his or her exercise of that option. A similar rule shall be applied in the case of a series of those distributions.

(c) (1) Except as provided in paragraph (2), for purposes of this article, the term "disposition" includes a sale, exchange, gift, or a transfer of legal title, but does not include—

(A) A transfer from a decedent to an estate or a transfer by bequest or inheritance;

(B) An exchange to which Sections 17432 to 17439 inclusive, or 18102 (or so much of Section 18081 as relates to Section 18102) apply; or

(C) A mere pledge or hypothecation.

(2) The acquisition of a share of stock in the name of the employee and another jointly with the right of survivorship or a subsequent transfer of a share of stock into that joint ownership shall not be deemed a disposition, but a termination of that joint tenancy (except to the extent that employee acquires ownership of the stock) shall be treated as a disposition by him or her occurring at the time the joint tenancy is terminated.

(d) For purposes of this article, in applying the percentage limitations of Sections 17532(b) (7), 17532.5(b) (6), 17533(b) (3), and 17534(b) (3)—

(1) The individual with respect to whom the limitation is being determined shall be considered as owning the stock owned, directly or indirectly, by or for his or her brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants; and

(2) Stock owned, directly or indirectly, by or for a corporation,

partnership, estate, or trust, shall be considered as being owned proportionately by or for its shareholders, partners, or beneficiaries.

(e) For purposes of this article, the term "parent corporation" means any corporation (other than the employer corporation) in an unbroken chain of corporations ending with the employer corporation if, at the time of the granting of the option, each of the corporations other than the employer corporation owns stock possessing 50 percent or more of the total combined voting power of all classes of stock in one of the other corporations in such chain.

(f) For purposes of this article, the term "subsidiary corporation" means any corporation (other than the employer corporation) in an unbroken chain of corporations beginning with the employer corporation if, at the time of the granting of the option, each of the corporations other than the last corporation in the unbroken chain owns stock possessing 50 percent or more of the total combined voting power of all classes of stock in one of the other corporations in the chain.

(g) In applying subdivisions (e) and (f) for purposes of Sections 17532(a)(2), 17532.5(a)(2), 17533(a)(2), and 17534(a)(2), there shall be substituted for the term "employer corporation" wherever it appears in subdivisions (e) and (f) the term "grantor corporation," or the term "corporation issuing or assuming a stock option in a transaction to which Section 17535(a) applies," as the case may be.

(h) (1) For purposes of this article, if the terms of any option to purchase stock are modified, extended, or renewed, the modification, extension, or renewal shall be considered as the granting of a new option.

(2) (A) In the case of the transfer of stock pursuant to the exercise of an option to which Section 17533 or 17534 applies and which has been so modified, extended, or renewed, then, except as provided in subparagraph (B), the fair market value of that stock at the time of the granting of the option shall be considered as whichever of the following is the highest:

(i) The fair market value of the stock on the date of the original granting of the option,

(ii) The fair market value of the stock on the date of the making of such modification, extension, or renewal, or

(iii) The fair market value of the stock at the time of the making of any intervening modification, extension, or renewal.

(B) Subparagraph (A) shall not apply with respect to a modification, extension, or renewal of a restricted stock option before January 1, 1964 (or after December 31, 1963, if made pursuant to a binding written contract entered into before January 1, 1964), if the aggregate of the monthly average fair market values of the stock subject to the option for the 12 consecutive calendar months before the date of the modification, extension, or renewal, divided by 12, is an amount less than 80 percent of the fair market value of such stock on the date of the original granting of the option or the date of the making of any intervening modification, extension, or

renewal, whichever is the highest.

(3) The term "modification" means any change in the terms of the option which gives the employee additional benefits under the option, but that term shall not include a change in the terms of the option—

(A) Attributable to the issuance or assumption of an option under subdivision (a);

(B) To permit the option to qualify under Sections 17532(b)(6), 17532.5(b)(5), 17533(b)(9), and 17534(b)(2); or

(C) In the case of an option not immediately exercisable in full, to accelerate the time at which the option may be exercised.

If a restricted stock option is exercisable after the expiration of 10 years from the date the option is granted, subparagraph (B) shall not apply unless the terms of the option are also changed to make it not exercisable after the expiration of such period.

(i) For purposes of this article, if the grant of an option is subject to approval by stockholders, the date of grant of the option shall be determined as if the option had not been subject to that approval.

(j) The amendments made to this section by the act adding this subdivision shall apply with respect to options granted and exercised on or after January 1, 1982.

SEC. 19. Section 17617 of the Revenue and Taxation Code is amended to read:

17617. (a) For purposes of this part, in the case of any contract for the sale or exchange of property there shall be treated as interest that part of a payment to which this section applies which bears the same ratio to the amount of the payment as the total unstated interest under the contract bears to the total of the payments to which this section applies which are due under the contract.

(b) For purposes of this section, "total unstated interest" means, with respect to a contract for the sale or exchange of property, an amount equal to the excess of—

(1) The sum of the payments to which this section applies which are due under the contract, over

(2) The sum of the present values of such payments and the present values of any interest payments due under the contract. For purposes of paragraph (2), the present value of a payment shall be determined, as of the date of the sale or exchange, by discounting the payment at the rate, and in the manner, provided in regulations prescribed by the Franchise Tax Board. The regulations shall provide for discounting on the basis of six-month brackets and shall provide that the present value of any interest payment due not more than six months after the date of the sale or exchange is an amount equal to 100 percent of the payment.

(c) (1) Except as provided in subsection (f), this section shall apply to any payment on account of the sale or exchange of property which constitutes part or all of the sales price and which is due more than six months after the date of the sale or exchange under a contract—

(A) Under which some or all of the payments are due more than one year after the date of the sale or exchange, and

(B) Under which, using a rate provided by regulations prescribed by the Franchise Tax Board for purposes of this subparagraph, there is total unstated interest.

Any rate prescribed for determining whether there is total unstated interest for purposes of subparagraph (B) shall be at least 1 percentage point lower than the rate prescribed for purposes of paragraph (2) of subdivision (b).

(2) For purposes of this section, an evidence of indebtedness of the purchaser given in consideration for the sale or exchange of property shall not be considered a payment, and any payment due under that evidence of indebtedness shall be treated as due under the contract for the sale or exchange.

(d) In the case of a contract for the sale or exchange of property under which the liability for, or the amount or due date of, any portion of a payment cannot be determined at the time of the sale or exchange, this section shall be separately applied to that portion as if it (and any amount of interest attributable to that portion) were the only payments due under the contract; and the determinations of liability, amount, and due date shall be made at the time payment of such portion is made.

(e) If the liability for, or the amount or due date of, any payment (including interest) under a contract for the sale or exchange of property is changed, the "total unstated interest" under the contract shall be recomputed and allocated (with adjustment for prior interest (including unstated interest) payments) under regulations prescribed by the Franchise Tax Board.

(f) (1) This section shall not apply to any payment on account of the sale or exchange of property if it can be determined at the time of the sale or exchange that the sales price cannot exceed three thousand dollars ($3,000).

(2) In the case of the purchaser, the tax treatment of amounts paid on account of the sale or exchange of property shall be made without regard to this section if those amounts are treated under subdivision (b) of Section 17203 as if they included interest.

(3) In the case of the seller, the tax treatment of any amounts received on account of the sale or exchange of property shall be made without regard to this section if no part of any gain on such sale or exchange would be considered as gain from the sale or exchange of a capital asset or property described in Sections 18181 and 18182.

(4) This section shall not apply to any payment made pursuant to a transfer described in Section 18192 (relating to sale or exchange of patents).

(5) This section shall not apply to any amount the liability for which depends in whole or in part on the life expectancy of one or more individuals and which constitutes an amount received as an annuity to which Sections 17101 to 17108, inclusive, apply.

(g) (1) In the case of any qualified sale, the maximum interest

rate used in determining the total unstated interest rate under the regulations under subdivision (b) shall not exceed 7 percent, compounded semiannually.

(2) For purposes of this subdivision, "qualified sale" means any sale or exchange of land by an individual to a member of the individual's family (within the meaning of subdivision (d) of Section 17289).

(3) Paragraph (1) shall not apply to any qualified sale between individuals made during any calendar year to the extent that the sale price for the sale (when added to the aggregate sales price for prior qualified sales between the individuals during the calendar year) exceeds five hundred thousand dollars ($500,000).

(4) This section shall not apply to any sale or exchange if any party to the sale or exchange is a nonresident alien individual.

(h) The amendments made by this section at the 1964 First Extraordinary Session of the Legislature shall apply to payments made after December 31, 1963, on account of sales or exchanges of property occurring after June 30, 1963, other than any sale or exchange made pursuant to a binding written contract (including an irrevocable written option) entered into before July 1, 1963.

(i) The amendments made to this section by the act adding this subdivision shall apply to payments made in taxable years beginning on or after January 1, 1982, pursuant to sales or exchanges after June 30, 1981.

SEC. 20. Section 18047 is added to the Revenue and Taxation Code, to read:

18047. (a) Notwithstanding Section 18044, in the case of a decedent dying after December 31, 1981, if

(1) Appreciated property was acquired by the decedent by gift during the one-year period ending on the date of the decedent's death, and

(2) That property is acquired from the decedent by (or passes from the decedent to) the donor of that property (or the spouse of that donor),

the basis of that property in the hands of that donor (or spouse) shall be the adjusted basis of that property in the hands of the decedent immediately before the death of the decedent.

(b) For purposes of subdivision (a):

(1) "Appreciated property" means any property if the fair market value of that property on the day it was transferred to the decedent by gift exceeds its adjusted basis.

(2) In the case of any appreciated property described in paragraph (1) of subdivision (a) sold by the estate of the decedent or by a trust of which the decedent was the grantor, rules similar to the rules of subdivision (a) shall apply to the extent the donor of that property (or the spouse of that donor) is entitled to the proceeds from that sale.

(c) This section shall apply to property acquired after August 12, 1981, by decedents dying after December 31, 1981.

SEC. 21. Section 18091 of the Revenue and Taxation Code is amended to read:

18091. (a) If property (hereinafter in this article called "old residence") used by the taxpayer as his or her principal residence is sold by him or her after December 31, 1952, and, within a period beginning two years prior to the date of the sale and ending two years after the date, property (hereinafter in this article called "new residence") is purchased and used by the taxpayer as his principal residence, gain (if any) from the sale shall be recognized only to the extent that the taxpayer's adjusted sales price (as defined in Section 18092) of the old residence exceeds the taxpayer's cost of purchasing the new residence.

(b) The amendments made to this section by the act adding this subdivision shall apply to these residences (within the meaning of this section) sold or exchanged after July 1, 1980.

SEC. 22. 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 or her residence for other property shall be treated as a sale of the residence, and the acquisition of a residence on the exchange of property shall be treated as a purchase of the 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 or her 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 or her sale of the old residence, the purchased residence shall not be treated as his or her 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 or her as his or her principal residence at some time within two years after the date of the sale of the old residence, only the last of such residences so used by him or her after the date of the sale shall constitute the new residence. If the principal residence is sold in a sale to which subdivision (b) of Section 18094 applies within two years 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 that two-year period.

(e) In the case of a new residence the construction of which was commenced by the taxpayer before the expiration of two years after the date of the sale of the old residence, the period specified in Section 18091, and the two years referred to in subdivision (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.

(f) The amendments made to this section by the act adding this subdivision shall apply to old residences (within the meaning of Section 18091) sold or exchanged after July 1, 1980.

SEC. 23. 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 two years prior to the date of the sale the taxpayer sold at a gain other property used by him or her as his or her principal residence, and any part of that gain was not recognized by reason of the provisions of Section 18091 or 17690.1.

(b) Subdivision (a) shall not apply with respect to the sale of the taxpayer's residence if—

(1) The 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.

(c) The amendments made to this section by the act adding this subdivision shall apply to old residences (within the meaning of Section 18091) sold or exchanged after July 1, 1980.

SEC. 24. Section 18098 of the Revenue and Taxation Code is amended to read:

18098. (a) The running of any period of time specified in Section 18091 or 18093 (other than the two years referred to in Section 18093(d)) shall be suspended during any time that the taxpayer (or his or her spouse if the old residence and the new residence are each used by the taxpayer and his or her spouse as their principal residence) serves on extended active duty with the armed forces of the United States after the date of the sale of the old residence, except that any period so suspended shall not extend beyond the date four years after the date of the sale of the old residence. For the purpose of this section, the term "extended active duty" means any period of active duty pursuant to a call or order to duty for a period in excess of 90 days or for an indefinite period.

(b) The amendments made to this section by the act adding this subdivision shall apply to old residences (within the meaning of Section 18091) sold or exchanged after July 1, 1980.

SEC. 25. Section 18143 is added to the Revenue and Taxation Code, to read:

18143. (a) (1) The recognition of loss shall be limited as follows:

(A) Any loss with respect to one or more positions shall be taken into account for any taxable year only to the extent that the amount of that loss exceeds the unrealized gain (if any) with respect to one or more positions which—

(i) Were acquired by the taxpayer before the disposition giving rise to that loss,

(ii) Were offsetting positions with respect to the one or more positions from which the loss arose, and

(iii) Were not part of an identified straddle as of the close of the taxable year.

(B) Any loss which may not be taken into account under subparagraph (A) for any taxable year shall, subject to the limitations under subparagraph (A), be treated as sustained in the succeeding taxable year.

(2) Identified straddles are subject to the following special rule:

(A) In the case of any straddle which is an identified straddle as of the close of any taxable year—

(i) Paragraph (1) shall not apply for that taxable year, and

(ii) Any loss with respect to that straddle shall be treated as sustained not earlier than the day on which all of the positions making up the straddle are disposed of.

(B) The term "identified straddle" means any straddle—

(i) Which is clearly identified on the taxpayer's records, before the close of the day on which the straddle is acquired, as an identified straddle,

(ii) All of the original positions of which (as identified by the taxpayer) are acquired on the same day and with respect to which—

(I) All of those positions are disposed of on the same day during the taxable year, or

(II) None of those positions has been disposed of as of the close of the taxable year, and

(iii) Which is not part of a larger straddle.

(3) For purposes of this subdivision—

(A) The term "unrealized gain" means the amount of gain which would be taken into account with respect to any position held by the taxpayer as of the close of the taxable year if that position were sold on the last business day of that taxable year at its fair market value.

(B) (i) Each taxpayer shall disclose to the Franchise Tax Board, at such time and in such manner and form as the Franchise Tax Board may prescribe by regulations—

(I) Each position (whether or not part of a staddle) which is held by the taxpayer as of the close of the taxable year and with respect to which there is that unrealized gain, and

(II) The amount of that unrealized gain.

(ii) Clause (i) shall not apply—

(I) To any position which is part of an identified straddle,

(II) To any position which, with respect to the taxpayer, is property described in subdivision (a) or (b) of Section 18161 or to any position which is part of a hedging transaction (as defined in subdivision (e) of Section 18222), or

(III) With respect to any taxable year if no loss on a position (including a regulated futures contract) has been sustained during that taxable year or if the only loss sustained on that position is a loss described in subclause (II).

(b) Under regulations prescribed by the Franchise Tax Board, in

the case of gain or loss with respect to any position of a straddle, rules which are similar to the rules of Sections 18141 and 18142 and which are consistent with the purposes of this section shall apply.

(c) For purposes of this section—

(1) The term "straddle" means offsetting positions with respect to personal property.

(2) With respect to offsetting positions—

(A) A taxpayer holds offsetting positions with respect to personal property if there is a substantial diminution of the taxpayer's risk of loss from holding any position with respect to personal property by reason of his or her holding one or more other positions with respect to personal property (whether or not of the same kind).

(B) If one or more positions offset only a portion of one or more other positions, the Franchise Tax Board shall by regulations prescribe the method for determining the portion of those other positions which is to be taken into account for purposes of this section.

(C) In the case of any position which is not part of an identified straddle (within the meaning of subparagraph (B) of paragraph (3) of subdivision (a)), that position shall not be treated as offsetting with respect to any position which is part of an identified straddle.

(3) (A) For purposes of paragraph (2), two or more positions shall be presumed to be offsetting if—

(i) The positions are in the same personal property (whether established in that property or a contract for that property),

(ii) The positions are in the same personal property, even though that property may be in a substantially altered form,

(iii) The positions are in debt instruments of a similar maturity or other debt instruments described in regulations prescribed by the Franchise Tax Board.

(iv) The positions are sold or marketed as offsetting positions (whether or not those positions are called a straddle, spread, butterfly, or any similar name),

(v) The aggregate margin requirement for those positions is lower than the sum of the margin requirements for each such position (if held separately), or

(vi) There are such other factors (or satisfaction of subjective or objective tests) as the Franchise Tax Board may by regulations prescribe as indicating that those positions are offsetting.

For purposes of the preceding sentence, two or more positions shall be treated as described in clause (i), (ii), (iii), or (vi) only if the value of one or more of those positions ordinarily varies inversely with the value of one or more other such positions.

(B) Any presumption established pursuant to subparagraph (A) may be rebutted.

(d) For purposes of this section—

(1) The term "personal property" means any personal property (other than stock) of a type which is actively traded.

(2) (A) The term "position" means an interest (including a

futures or forward contract or option) in personal property.

(B) The term "position" includes any stock option which is a part of a straddle and which is an option to buy or sell stock which is actively traded, but does not include a stock option which—

(i) Is traded on a domestic exchange or on a similar foreign exchange designated by the Franchise Tax Board, and

(ii) Is of a type with respect to which the maximum period during which that option may be exercised is less than the minimum period for which a capital asset must be held for gain to be reorganized under paragraph (2) of subdivision (a) of Section 18162.5.

(3) (A) In determining whether two or more positions are offsetting, the taxpayer shall be treated as holding any position held by a related person.

(B) For purposes of subparagraph (A), a person is a related person to the taxpayer if with respect to any period during which a position is held by that person, the person is the spouse of the taxpayer.

(C) If part or all of the gain or loss with respect to a position held by a partnership, trust, or other entity would properly be taken into account for purposes of this part by a taxpayer, then, except to the extent otherwise provided in regulations, that position shall be treated as held by the taxpayer.

(4) In the case of a straddle—

(A) At least one (but not all) of the positions of which are regulated futures contracts, and

(B) With respect to which the taxpayer has elected not to have the provisions of Section 18222 apply, the provisions of this section shall apply to any regulated futures contract and any other position making up that straddle.

(5) The term "regulated futures contract" has the same meaning given that term by Section 18222.

(e) This section shall not apply in the case of any hedging transaction (as defined in Section 18222).

SEC. 26. Section 18183 of the Revenue and Taxation Code is amended to read:

18183. For the purpose of this part, in the case of bonds, debentures, notes, or certificates or other evidences of indebtedness, which are capital assets in the hands of the taxpayer, and which are issued by any corporation, or by any government or political subdivision thereof—

(a) Amounts received by the holder on retirement of such bonds or other evidences of indebtedness shall be considered as amounts received in exchange therefor (except that in the case of bonds or other evidences of indebtedness issued before January 1, 1955, this subdivision shall apply only to those issued with interest coupons or in registered form, or to those in such form on December 31, 1954).

(b) (1) Except as provided in paragraph (3), on the sale or exchange of bonds or other evidences of indebtedness issued by a corporation after May 27, 1969, held by the taxpayer more than one

year, any gain realized shall (except as provided in the following sentence) be considered gain from the sale or exchange of a capital asset. If at the time of original issue there was an intention to call the bond or other evidence of indebtedness before maturity, any gain realized on the sale or exchange thereof which does not exceed an amount equal to the original issue discount (as defined in Section 18184) reduced by the portion of original issue discount previously includable in the gross income of any holder (as provided in paragraph (2) of subdivision (c)) shall be considered as gain from the sale or exchange of property which is not a capital asset.

(2) Except as provided in paragraph (3), on the sale or exchange of bonds or other evidences of indebtedness issued by a government or political subdivision thereof after December 31, 1954, or by a corporation after December 31, 1954, and on or before May 27, 1969, held by the taxpayer more than one year, any gain realized which does not exceed—

(A) An amount equal to the original issue discount (as defined in Section 18184), or

(B) If at the time of original issue there was no intention to call the bond or other evidence of indebtedness before maturity, an amount which bears the same ratio to the original issue discount (as defined in Section 18184) as the number of complete months that the bond or other evidence of indebtedness was held by the taxpayer bears to the number of complete months from the date of original issue to the date of maturity,

shall be considered as gain from the sale or exchange of property which is not a capital asset. Gain in excess of such amount shall be considered gain from the sale or exchange of a capital asset.

(3) This subdivision shall not apply to—

(A) Obligations the interest on which is not includable in gross income under Section 17137 (relating to certain governmental obligations); or

(B) Any holder who has purchased the bond or other evidence of indebtedness at a premium.

(4) In the case of obligations with respect to which the taxpayer has made an election provided by Section 17581 (relating to accounting rules for certain obligations issued at a discount), this section shall not require the inclusion of any amount previously includable in gross income.

(c) (1) There shall be included in the gross income of the holder of any bond or other evidence of indebtedness issued by a corporation after May 27, 1969, the ratable monthly portion of original issue discount multiplied by the number of complete months (plus any fractional part of a month determined in accordance with the last sentence of this paragraph) such holder held such bond or other evidence of indebtedness during the taxable year. Except as provided in paragraph (2), the ratable monthly portion of original issue discount shall equal the original issue discount (as defined in Section 18184) divided by the number of complete months from the

date of original issue to the stated maturity date of such bond or other evidence of indebtedness. For purposes of this section, a complete month commences with the date of original issue and the corresponding day of each succeeding calendar month (or the last day of a calendar month in which there is no corresponding day); and, in any case where a bond or other evidence of indebtedness is acquired on any other day, the ratable monthly portion of original issue discount for the complete month in which such acquisition occurs shall be allocated between the transferor and the transferee in accordance with the number of days in such complete month each held the bond or other evidence of indebtedness.

(2) For purposes of this subdivision, the ratable monthly portion of original issue discount shall not include an amount, determined at the time of any purchase after the original issue of such bond or other evidence of indebtedness, equal to the excess of—

(A) The cost of such bond or other evidence of indebtedness incurred by such holder, over

(B) The issue price of such bond or other evidence of indebtedness increased by the portion of original discount previously includable in the gross income of any holder (computed without regard to this paragraph),

divided by the number of complete months (plus any fractional part of a month commencing with the date of purchase) from the date of such purchase to the stated maturity date of such bond or other evidence of indebtedness.

(3) For purposes of paragraph (2), the term "purchase" means any acquisition of a bond or other evidence of indebtedness, but only if the basis of the bond or other evidence of indebtedness is not determined in whole or in part by reference to the adjusted basis of such bond or other evidence of indebtedness in the hands of the person from whom acquired, or under Section 18044 (relating to property acquired from a decedent).

(4) This subdivision shall not apply to any holder who has purchased the bond or other evidence of indebtedness at a premium.

(5) The basis of any bond or other evidence of indebtedness in the hands of the holder thereof shall be increased by the amount included in his gross income pursuant to paragraph (1).

(d) (1) On the sale or exchange of any short-term government obligation, any gain realized which does not exceed an amount equal to the ratable share of the acquisition discount shall be treated as ordinary income. Gain in excess of that amount shall be considered gain from the sale or exchange of a capital asset held less than one year.

(2) For purposes of this subdivision, the term "short-term government obligation" means any obligation of the United States or any of its possessions, or of a state or any political subdivision thereof, or of the District of Columbia which is issued on a discount basis and payable without interest at a fixed maturity date not exceeding one year from the date of issue. That term does not include any obligation

the interest on which is not includable in gross income under Section 103 of the Internal Revenue Code (relating to certain governmental obligations).

(3) For purposes of this subdivision, the term "acquisition discount" means the excess of the stated redemption price at maturity over the taxpayer's basis for the obligation.

(4) For purposes of this subdivision, the ratable share of the acquisition discount is an amount which bears the same ratio to that discount as—

(A) The number of days which the taxpayer held the obligation, bears to

(B) The number of days after the date the taxpayer acquired the obligation and up to (and including) the date of its maturity.

SEC. 27. Section 18190 of the Revenue and Taxation Code is amended to read:

18190. (a) Subdivision (a) of Section 18187 or Section 18189 shall not apply to the gain or loss, respectively, on any quantity of property used to close such short sale which is in excess of the quantity of the substantially identical property referred to in the applicable subdivision.

(b) For purposes of Sections 18187 and 18189—

(1) The term "property" includes only stocks and securities (including stocks and securities dealt with on a "when issued" basis), and commodity futures, which are capital assets in the hands of the taxpayer, but does not include any position to which subdivision (b) of Section 18143 applies;

(2) In the case of futures transactions in any commodity on or subject to the rules of a board of trade or commodity exchange, a commodity future requiring delivery in one calendar month shall not be considered as property substantially identical to another commodity future requiring delivery in a different calendar month; and

(3) In the case of a short sale of property by an individual the term "taxpayer," in the application of this section and Sections 18187 and 18189, shall be read as "taxpayer or his spouse"; but an individual who is legally separated from the taxpayer under a decree of divorce or of separate maintenance shall not be considered as the spouse of the taxpayer.

(c) Where the taxpayer enters into two commodity futures transactions on the same day, one requiring delivery by him in one market and the other requiring delivery to him of the same (or substantially identical) commodity in the same calendar month in a different market, and the taxpayer subsequently closes both such transactions on the same day, Sections 18187 and 18189 shall have no application to so much of the commodity involved in either such transaction as does not exceed in quantity the commodity involved in the other.

(d) (1) In the case of a taxpayer who is a dealer in securities (within the meaning of Section 18196)—

(A) If, on the date of a short sale of stock, substantially identical property which is a capital asset in the hands of the taxpayer has been held for not more than one year, and

(B) If such short sale is closed more than 20 days after the date on which it was made,

subdivision (b) of Section 18187 shall apply in respect of the holding period of such substantially identical property.

(2) For purposes of paragraph (1)—

(A) The last sentence of Section 18187 applies; and

(B) The term "stock" means any share or certificate of stock in a corporation, any bond or other evidence of indebtedness which is convertible into any such share or certificate, or any evidence of an interest in, or right to subscribe to or purchase, any of the foregoing.

SEC. 28. Section 18191.5 is added to the Revenue and Taxation Code, to read:

18191.5. Gain or loss attributable to the cancellation, lapse, expiration, or other termination of a right or obligation with respect to personal property (as defined in paragraph (1) of subdivision (d) of Section 18143) which is (or on acquisition would be) a capital asset in the hands of the taxpayer shall be treated as gain or loss from the sale of a capital asset.

SEC. 29. Section 18196 of the Revenue and Taxation Code is amended to read:

18196. (a) Gain by a dealer in securities from the sale or exchange of any security shall in no event be considered as gain from the sale or exchange of a capital asset unless—

(1) The security was, before the close of the day on which it was acquired (before the close of the following day in the case of an acquisition before January 1, 1982), clearly identified in the dealer's records as a security held for investment or if acquired before March 8, 1953, was so identified before April 8, 1953; and

(2) The security was not, at any time after the close of that day, held by such dealer primarily for sale to customers in the ordinary course of his trade or business.

(b) Loss by a dealer in securities from the sale or exchange of any security shall in no event be considered as loss from the sale or exchange of property which is not a capital asset if at any time after April 8, 1953, the security was clearly identified in the dealer's records as a security held for investment.

(c) For purposes of this section, the term "security" means any share of stock in any corporation, certificate of stock or interest in any corporation, note, bond, debenture, or evidence of indebtedness, or any evidence of an interest in or right to subscribe to or purchase any of the foregoing.

(d) (1) In the case of a floor specialist (but only with respect to acquisitions, in connection with his duties on an exchange, of stock in which the specialist is registered with the exchange), subdivision (a) shall be applied—

(A) By inserting "the 7th business day following" before "the

day" the first place it appears in paragraph (1) and by inserting "7th business" before "day" in paragraph (2), and

(B) By striking the parenthetical phrase in paragraph (1).

(2) The term "floor specialist" means a person who is—

(A) A member of a national securities exchange,

(B) Is registered as a specialist with the exchange, and

(C) Meets the requirements for specialists established by the Securities and Exchange Commission.

SEC. 30. Section 18222 is added to the Revenue and Taxation Code, to read:

18222. (a) For purposes of this part—

(1) Each regulated futures contract held by the taxpayer at the close of the taxable year shall be treated as sold for its fair market value on the last business day of that taxable year (and any gain or loss shall be taken into account for the taxable year).

(2) Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account by reason of paragraph (1).

(3) Any gain or loss with respect to a regulated futures contract shall be treated as—

(A) Capital gain or loss recognized under paragraph (1) of subdivision (a) of Section 18162.5, to the extent of 40 percent of that gain or loss, and

(B) Capital gain or loss recognized under paragraph (3) of subdivision (a) of Section 18162.5, to the extent of 60 percent of that gain or loss, and

(4) If all the offsetting positions making up any straddle consist of regulated futures contracts to which this section applies (and that straddle is not part of a larger straddle), Section 18143 and subdivision (d) of Section 17283 shall not apply with respect to that straddle.

(b) For purposes of this section, the term "regulated futures contract" means a contract—

(1) Which requires delivery of personal property (as defined in paragraph (1) of subdivision (d) of Section 18143) or an interest in that property;

(2) With respect to which the amount required to be deposited and the amount which may be withdrawn depends on a system of marking to market; and

(3) Which is traded on or subject to the rules of a domestic board of trade designated as a contract market by the Commodity Futures Trading Commission or of any board of trade or exchange which the Franchise Tax Board determines has rules adequate to carry out the purposes of this section.

(c) The rules of paragraphs (1), (2), and (3) of subdivision (a) shall also apply to the termination during the taxable year of the taxpayer's obligation with respect to a regulated futures contract by offsetting, by taking or making delivery, or otherwise. For purposes of the preceding sentence, fair market value at the time of the

termination shall be taken into account.

(d) (1) The taxpayer may elect to have this section not to apply to all regulated futures contracts which are part of a mixed straddle.

(2) An election under paragraph (1) shall be made at such time and in such manner as the Franchise Tax Board may by regulations prescribe.

(3) An election under paragraph (1) shall apply to the taxpayer's taxable year for which made and to all subsequent taxable years, unless the Franchise Tax Board consents to a revocation of that election.

(4) For purposes of this subdivision, the term "mixed straddle" means any straddle (as defined in subdivision (c) of Section 18143)—

(A) At least one (but not all) of the positions of which are regulated futures contracts, and

(B) With respect to which each position forming part of that straddle is clearly identified, before the close of the day on which that position is acquired, as being part of that straddle.

(e) (1) Subdivision (a) shall not apply in the case of a hedging transaction.

(2) For purposes of this subdivision, the term "hedging transaction" means any transaction if—

(A) That transaction is entered into by the taxpayer in the normal course of the taxpayer's trade or business primarily—

(i) To reduce risk of price change or currency fluctuations with respect to property which is held or to be held by the taxpayer, or

(ii) To reduce risk of interest rate or price changes or currency fluctuations with respect to borrowings made or to be made, or obligations incurred or to be incurred, by the taxpayer.

(B) The gain or loss on those transactions is treated as ordinary income or loss, and

(C) Before the close of the day on which that transaction was entered into, the taxpayer clearly identifies that transaction as being a hedging transaction.

(3) (A) Notwithstanding paragraph (2), the term "hedging transaction" shall not include any transaction entered into by or for a syndicate.

(B) For purposes of subparagraph (A), the term "syndicate" means any partnership or other entity (other than a corporation which is not an electing small business corporation within the meaning of Section 1371(b) of the Internal Revenue Code) if more than 35 percent of the losses of that entity during the taxable year are allocable to limited partners or limited entrepreneurs (within the meaning of paragraph (2) of subdivision (e) of Section 17599.1)

(C) For purposes of subparagraph (B), an interest in an entity shall not be treated as held by a limited partner or a limited entrepreneur (within the meaning of paragraph (2) of subdivision (e) of Section 17599.1)

(i) For any period if during that period that interest is held by an individual who actively participates at all times during that

period in the management of that entity.

(ii) For any period if during that period that interest is held by the spouse, children, grandchildren, and parents of an individual who actively participates at all times during that period in the management of that entity.

(iii) If that interest is held by an individual who actively participated in the management of that entity for a period of not less than five years.

(iv) If that interest is held by the estate of an individual who actively participated in the management of that entity or is held by the estate of an individual if with respect to that individual that interest was at any time described in clause (ii), or

(v) If the Franchise Tax Board determines that such interest should be treated as held by an individual who actively participates in the management of that entity, and that such entity and such interest are not used (or to be used) for tax avoidance purposes.

For purposes of this subparagraph, a legally adopted child of an individual shall be treated as a child of that individual by blood.

(f) Special rules are as follows:

(1) For purposes of this part, gain from any property shall in no event be considered as gain from the sale or exchange of a capital asset if that property was at any time personal property (as defined in paragraph (1) of subdivision (d) of Section 18143) identified under subdivision (e) (2) (C) by the taxpayer as being part of a hedging transaction.

(2) Paragraph (3) of subdivision (a) shall not apply to any gain or loss which, but for that paragraph, would be ordinary income or loss.

SEC. 31. Section 18681.1 of the Revenue and Taxation Code is amended to read:

18681.1. In the case of each failure—

(a) To file a statement of the aggregate amount of payments to another person required by Section 18802 (relating to information at source), Section 18803 (relating to payments of interest and corporate dividends), or Section 18802.1 (relating to payments of patronage dividends), or

(b) To make a return required by Section 18802.7 (relating to reporting information in connection with certain options) with respect to a transfer of stock or a transfer of legal title to stock, or

(c) To make a return required by Section 18802.5 (relating to reporting payment of wages in the form of group-term life insurance) with respect to a group-term life insurance on the life of an employee, on the date prescribed therefor (determined with regard to any extension of time for filing), or

(d) To make a return and furnish a statement required by Section 18802.8 (relating to reporting requirements of certain fishing boat operators),

unless it is shown that the failure is due to reasonable cause and not to willful neglect, there shall be paid (upon notice and demand by the Franchise Tax Board and in the same manner as the tax), by the

person or employer failing to file a statement referred to in subdivision (a) or a return referred to in subdivision (b) or (c), one dollar ($1) for each failure, but the total amount imposed on the delinquent person or employer for all failures during any calendar year shall not exceed one thousand dollars ($1,000).

The amendments to this section made by the 1981–82 Regular Session of the Legislature shall apply to returns or statements required to be furnished after December 31, 1981.

SEC. 32. Section 18684 of the Revenue and Taxation Code is amended to read:

18684. (a) If any part of any deficiency is due to negligence, or intentional disregard of rules and regulations, but without intent to defraud, 5 percent of the total amount of the deficiency, in addition to the deficiency and other penalties provided in this article, shall be assessed, collected, and paid in the same manner as if it were a deficiency.

(b) There shall be added to the tax (in addition to the amount determined under subdivision (a)) an amount equal to 50 percent of the interest payable under Sections 18686 through 18697—

(1) With respect to the portion of the deficiency described in subdivision (a) which is attributable to the negligence or intentional disregard referred to in subdivision (a), and

(2) For the period beginning on the last date prescribed by law for the payment of that deficiency (determined without regard to any extension) and ending on the date of the assessment of the tax.

(c) The amendments to this section made by the 1981–82 Regular Session of the Legislature shall apply to taxes the last date prescribed for payment of which is after December 31, 1981.

SEC. 33. Section 18699 is added to the Revenue and Taxation Code, to read:

18699. (a) If a taxpayer has an underpayment of the tax imposed by this part for the taxable year which is attributable to a valuation overstatement, then there shall be added to the tax an amount equal to the applicable percentage of the underpayment so attributable.

(b) For purposes of subdivision (a), the applicable percentage shall be determined under the following table:

If the valuation claimed is the following percent of the correct valuation—	The applicable percentage is:
150 percent or more but not more than 200 percent	10
More than 200 percent but not more than 250 percent	20
More than 250 percent	30

(c) (1) For purposes of this section, there is a valuation overstatement if the value of any property, or the adjusted basis of any property, claimed on any return exceeds 150 percent of the

amount determined to be the correct amount of the valuation or adjusted basis (as the case may be).

(2) This section shall not apply to any property which, as of the close of the taxable year for which there is a valuation overstatement, has been held by the taxpayer for more than five years.

(d) This section shall not apply if the underpayment for the taxable year attributable to the valuation overstatement is less than one thousand dollars ($1,000).

(e) The Franchise Tax Board may waive all or any part of the addition to the tax provided by this section on a showing by the taxpayer that there was a reasonable basis for the valuation or adjusted basis claimed on the return and that the claim was made in good faith.

(f) For purposes of this section, "underpayment" has the meaning given to that term by Section 6653(c)(1) of the Internal Revenue Code of 1954.

(g) This section shall apply to returns filed after December 31, 1981.

SEC. 34. Section 18698.5 is added to the Revenue and Taxation Code, to read:

18698.5. If—

(a) A taxpayer fails to make the report required under subparagraph (B) of paragraph (3) of subdivision (a) of Section 18143 in the manner prescribed by that section and that failure is not due to reasonable cause, and

(b) That taxpayer has an underpayment of any tax attributable (in whole or in part) to the denial of a deduction of a loss with respect to any position (within the meaning of paragraph (2) of subdivision (d) of Section 18143),

then that underpayment shall, for purposes of Section 18684, be treated as an underpayment due to negligence or intentional disregard of rules and regulations (but without intent to defraud).

SEC. 35. 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) Every entity making a return under subdivision (a) shall furnish to each person whose name is set forth in the return a written statement showing—

(1) The name, address, and identification number of the entity making the return, and

(2) The aggregate amount of payments to the person shown on the return.

The written statement required under this subdivision shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subdivision (a) was made.

(e) This section shall not apply to tips with respect to which Section 13055 of the Unemployment Insurance Code 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 13055 of the Unemployment Insurance Code. This subdivision shall apply to payments made after December 31, 1978.

(f) The amendments to this section made by the 1981–82 Regular Session of the Legislature shall apply to returns and statements required to be furnished after December 31, 1981.

SEC. 36. Section 18802.7 of the Revenue and Taxation Code is amended to read:

18802.7. (a) Every corporation—

(1) Which in any calendar year transfers a share of stock to any person pursuant to that person's exercise of a qualified stock option, an incentive stock option, or a restricted stock option, or

(2) Which in any calendar year records (or has by its agent recorded) a transfer of the legal title of a share of stock—

(A) Acquired by the transferor pursuant to his or her exercise of an option described in Section 17533(c) (relating to special rule where option price is between 85 percent and 100 percent of value of stock), or

(B) Acquired by the transferor pursuant to his or her exercise of a restricted stock option described in Section 17534(c)(1) (relating to options under which option price is between 85 percent and 95 percent of value of stock),

shall, for that calendar year, make a return at that time and in that manner, and setting forth that information, as the Franchise Tax

Board may by regulations prescribe. For purposes of the preceding sentence, any option which a corporation treats as a qualified stock option, an incentive stock option, a restricted stock option, or an option granted under an employee stock purchase plan, shall be deemed to be such an option. A return is required by reason of a transfer described in paragraph (2) of a share only with respect to the first transfer of that share by the person who exercised the option.

(b) Every corporation making a return under subdivision (a) shall furnish to each person whose name is set forth in the return a written statement setting forth that information which the Franchise Tax Board may by regulations prescribe. The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subdivision (a) was made.

(c) Any corporation which transfers any share of stock pursuant to the exercise of an option described in subsection (a)(2) shall identify that stock in a manner adequate to carry out the purposes of this section.

(d) The amendments made to this section by the act adding this subdivision shall apply with respect to options granted and exercised on or after January 1, 1982.

SEC. 37. Section 19282.5 is added to the Revenue and Taxation Code, to read:

19282.5. Nothing in Section 19282, or in any other provision of law, shall be construed to require the disclosure of standards used or to be used for the selection of returns for examination, or data used or to be used for determining those standards, if the Franchise Tax Board determines that the disclosure will seriously impair assessment, collection, or enforcement under this part.

SEC. 37.5. Section 23186b of the Revenue and Taxation Code is amended and renumbered to read:

23186.2. If it be judicially determined that the rate of tax on any taxpayer is higher than is authorized by law such taxpayer shall be relieved of liability for any tax imposed by this part only to the extent of the excess beyond that legally authorized.

SEC. 37.6. Section 23701a of the Revenue and Taxation Code is amended to read:

23701a. (a) Labor, agricultural, or horticultural organizations other than cooperative organizations described in Section 24404 or 24405 (unless the cooperative organization is determined by the Internal Revenue Service to be an organization described in Section 501(c) (5) of the Internal Revenue Code of 1954, as amended).

For purposes of this section, the term "agricultural" includes the art or science of cultivating land, harvesting crops or aquatic resources, or raising livestock.

(b) The amendments to this section by the act adding this subdivision shall be applied in the computation of taxes for income years beginning on or after January 1, 1983.

SEC. 37.7. Section 23701q is added to the Revenue and Taxation Code, to read:

23701q. An organization or trust created or organized in the United States, the exclusive function of which is to form part of a qualified group legal services plan or plans, within the meaning of Section 17136.6. An organization or trust which receives contributions because of (c) (5) (C) of Section 17136.6 shall not be prevented from qualifying as an organization described in this paragraph merely because it provides legal services or indemnification against the cost of legal services unassociated with a qualified group legal services plan.

SEC. 38. Section 24330 of the Revenue and Taxation Code is amended to read:

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.

The credit under this section shall not apply to an individual unless, before the day on which that individual begins work for the employer, the employer:

(1) Has received a certification from the Employment Development Department, or

(2) Has requested in writing that certification from the Employment Development Department.

(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. With respect to each qualified employee, the aggregate credit under this section shall not exceed six hundred dollars ($600).

(c) The credit under this section shall not apply to wages paid to an individual:

(1) Who bears any of the relationships described in subdivisions (a) through (h), inclusive, of Section 17056 to an individual who owns, directly or indirectly, more than 50 percent in value of the outstanding stock of the taxpayer (as determined pursuant to Section 24429); or

(2) Who an individual described in paragraph (i).

(d) The credit under this section shall not apply to wages paid to an individual if, prior to the hiring date of that individual, that individual had been employed by the employer at any time during which he or she was not certified by the Employment Development Department to meet the requirements of Section 328 of the Unemployment Insurance Code.

(e) If the certification of an employee has been revoked pursuant to subdivision (c) of Section 328 of the Unemployment Insurance Code, the credit under this section shall not apply to wages paid by the employer after the date on which notice of revocation is received

by the employer.

(f) The credit under this section shall be in addition to any deduction under this part to which the taxpayer may be entitled, if any.

(g) The credit provided by this section shall be applied to wages paid to each qualifying employee during the 24-month period beginning on the date such employee begins working for the taxpayer.

This section 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 section shall be operative during such time as the federal Targeted Jobs Tax Credit program, Section 51 of the Internal Revenue Code of 1954, is in effect.

SEC. 38.3. Section 24330 of the Revenue and Taxation Code is amended to read:

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.

The credit under this section shall not apply to an individual unless, before the day on which that individual begins work for the employer, the employer:

(1) Has received a certification from the Employment Development Department, or

(2) Has requested in writing that certification from the Employment Development Department.

(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. With respect to each qualified employee, the aggregate credit under this section shall not exceed six hundred dollars ($600).

(c) The credit under this section shall not apply to wages paid to an individual:

(1) Who bears any of the relationships described in subdivision (a) through (h), inclusive, of Section 17056 to an individual who owns, directly or indirectly, more than 50 percent in value of the outstanding stock of the taxpayer (as determined pursuant to Section 24429); or

(2) Who is an individual described in paragraph (i).

(d) The credit under this section shall not apply to wages paid to an individual if, prior to the hiring date of that individual, that individual had been employed by the employer at any time during which he or she was not certified by the Employment Development

Department to meet the requirements of Section 328 of the Unemployment Insurance Code.

(b) If the certification of an employee has been revoked pursuant to subdivision (c) of Section 328 of the Unemployment Insurance Code, the credit under this section shall not apply to wages paid by the employer after the date on which notice of revocation is received by the employer.

(f) The credit under this section shall be in addition to any deduction under this part to which the taxpayer may be entitled, if any.

(g) The credit provided by this section shall be applied to wages paid to each qualifying employee during the 24-month period beginning on the date such employee begins working for the taxpayer.

This section 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.

SEC. 38.5. Section 24342 is added to the Revenue and Taxation Code, to read:

24342. (a) In the case of any taxpayer, only the following percentages of the gain recognized upon the sale or exchange of small business stock (as defined in Section 18161.5), which is issued and purchased after the effective date of this section and sold or exchanged on or after January 1, 1985, shall be taken into account in computing net income:

(1) One hundred percent if the small business stock has been held for not more than one year.

(2) Sixty-five percent if the small business stock has been held for more than one year but not more than three years.

(3) Zero percent if the small business stock has been held for more than three years, and if at the time of sale, the fair market value (as defined in Section 110) of land owned or controlled by the corporation does not exceed 25 percent of the fair market value of the corporation (as reflected in the price at which the stock was sold).

(b) The provisions of this section shall be applied in the computation of taxes for income years beginning on or after January 1, 1985, but shall have no application to small business stock which is issued or purchased on or after January 1, 1990.

SEC. 39. 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, 1984, 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) Except as provided in paragraph (2), 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) 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) may exceed twenty thousand dollars ($20,000), but shall not exceed forty thousand dollars ($40,000), if the rehabilitation is conducted pursuant to a program certified by the Secretary of Housing and Urban Development, or his or her delegate, or by the government of this state or a political subdivision of the United States, and if any or all of the following occur:

(A) The certification of development costs is required.

(B) The tenants occupy units in the property as their principal residence and the program provides for sale of the units to tenants demonstrating home ownership responsibility.

(C) The leasing and sale of those units are pursuant to a program in which the sum of the taxable income, if any, from leasing of each unit, for the entire period of leasing, and the amount realized from sale or other disposition of a unit, if sold, normally does not exceed the excess of the taxpayer's cost basis for the unit of property, before adjustment under Sections 24916 and 24917 for deductions under Sections 24349 through 24354.4, over the net tax benefits realized by the taxpayer, consisting of the tax benefits from the deductions under Sections 24349 through 24354.4 minus the tax incurred on such taxable income from leasing, if any.

(3) 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 those 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 the term does not include the cost of acquisition of the 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, 1984, and rehabilitation expenditures incurred with respect to low-income rental housing the rehabilitation of which has begun before January 1, 1984, shall be deemed incurred before January 1, 1984.

(d) The amendments to this section made by the 1977–78 Regular Session 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.

(e) The amendment made to this section by the act adding this subdivision shall apply with respect to rehabilitation expenditures incurred after December 31, 1981.

SEC. 39.5. Section 24357.2 of the Revenue and Taxation Code is amended to read:

24357.2. (a) In the case of a contribution (not made by a transfer in trust) of an interest in property which consists of less than the taxpayer's entire interest in such property, a deduction shall be allowed under Section 24357 only to the extent that the value of the interest contributed would be allowable as a deduction under Section 24357 if such interest had been transferred in trust. For purposes of this subdivision, a contribution by a taxpayer of the right to use property shall be treated as a contribution of less than the taxpayer's entire interest in such property.

(b) Subdivision (a) shall not apply to a contribution of—

(1) A remainder interest in a personal residence or farm,

(2) An undivided portion of the taxpayer's entire interest in property,

(3) A qualified conservation contribution (as defined in Section 24357.7).

(c) The amendments made to this section by the 1977–78 Legislature shall apply with respect to contributions of transfers made after December 31, 1976, and before June 14, 1977.

(d) The amendments made to this section by the 1981–82 Regular Session of the Legislature shall apply with respect to contributions or transfers made in income years beginning on and after January 1, 1982.

SEC. 40. Section 24357.8 is added to the Revenue and Taxation Code, to read:

24357.8. (a) Notwithstanding Section 24357.1, in case of a qualified research contribution, the amount otherwise allowed as a deduction under Section 24357 shall be reduced by the sum of:

(1) One-half the amount computed pursuant to Section 24357.1 (computed without regard to this paragraph).

(2) The amount (if any) by which the charitable contribution deduction under this section for any qualified contribution (computed by taking into account the amount determined by paragraph (1), but without regard to this paragraph) exceeds twice the basis of the property.

(b) For purposes of this section, the term "qualified research contribution" means a charitable contribution by a taxpayer of tangible personal property described in paragraph (1) of Section 1221 of the Internal Revenue Code of 1954, but only if all of the following conditions are met:

(1) The contribution is to an educational organization which is described in subsection (b) (1) (A) (ii) of Section 170 of the Internal Revenue Code of 1954 and which is an institution of higher education (as defined in Section 3304 (f) of the Internal Revenue Code of 1954) in California.

(2) The property is constructed by the taxpayer.

(3) The contribution is made not later than two years after the date the construction of the property is substantially completed.

(4) The original use of the property is by the donee.

(5) The property is scientific equipment or apparatus substantially all of the use of which by the donee is for research or experimentation (within the meaning of Sections 24365 to 24368, inclusive), or for research training, in physical or biological sciences.

(6) The property is not transferred by the donee in exchange for money, other property, or services.

(7) The taxpayer receives from the donee a written statement representing that its use and disposition of the property will be in accordance with the provisions of paragraphs (5) and (6).

(c) For purposes of this section, property shall be treated as constructed by the taxpayer only if the cost of the parts used in the construction of the property (other than parts manufactured by the taxpayer or a related person) do not exceed 50 percent of the taxpayers's basis in the property.

(d) For purposes of this section, the term "taxpayer" shall not include a service organization (as defined in Section 414 (m) (3) of the Internal Revenue Code of 1954).

SEC. 41. Section 24445 of the Revenue and Taxation Code is amended 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) 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 which is awarded to an employee by reason of length of service, productivity, or safety achievement, but only to the extent that—

(i) The cost of that item to the taxpayer does not exceed four hundred dollars ($400), or

(ii) That item is a qualified plan award.

(d) For purposes of this section—

(1) The term "qualified plan award" means an item which is awarded as part of a permanent, written plan or program of the taxpayer which does not discriminate in favor of officers, shareholders, or highly compensated employees as to eligibility or benefits.

(2) An item shall not be treated as a qualified plan award for any taxable year if the average cost of all items awarded under all plans described in paragraph (1) of the taxpayer during the taxable year exceeds four hundred dollars ($400).

(3) An item shall not be treated as a qualified plan award under this paragraph to the extent that the cost of that item exceeds one thousand six hundred dollars ($1,600).

SEC. 42. Section 24621 of the Revenue and Taxation Code is amended to read:

24621. If a share of stock is transferred to an individual in a transfer in respect of which the requirements of Section 17532(a), 17532.5(a), 17533(a), or 17534(a) are met—

(a) Except as provided in Section 17532(c)(1), no income shall result at the time of the transfer of the share to the individual upon his or her exercise of the option with respect to the share;

(b) No deduction under Section 24343 (relating to trade or business expenses) shall be allowable at any time to the employer corporation, a parent or subsidiary corporation of such corporation, or a corporation issuing or assuming a stock option in a transaction to which Section 17535(a) applies, with respect to the share so transferred; and

(c) No amount other than the price paid under the option shall be considered as received by any of those corporations for the share so transferred.

(d) The amendments made to this section by the act adding this subdivision shall apply with respect to options granted and exercised on or after January 1, 1982.

SEC. 43. Section 24622 of the Revenue and Taxation Code is amended to read:

24622. (a) If the transfer of a share of stock to an individual pursuant to his or her exercise of an option would otherwise meet the requirements of Section 17532(a), 17532.5(a), 17533(a), or 17534(a), except that there is a failure to meet any of the holding period requirements of Section 17532(a)(1), 17532.5(a)(1), 17533(a)(1), or

17534(a)(1), then any deduction from the income of the employer corporation for the income year in which the exercise occurred attributable to that disposition, shall be treated as a deduction from income in the income year of the employer corporation in which that disposition occurred.

(b) If an individual who has acquired a share of stock by the exercise of a qualified stock option or an incentive stock option makes a disposition of the share within the three-year period described in Section 17532(a)(1) or the two-year period described in Section 17532.5(a)(1), and the disposition is a sale or exchange with respect to which a loss (if sustained) would be recognized to the individual, then the amount which is deductible from the income of the employer corporation, shall not exceed the excess (if any) of the amount realized on the sale or exchange over the adjusted basis of the share.

(c) The amendments made to this section by the act adding this subdivision shall apply with respect to options granted and exercised on or after January 1, 1982.

SEC. 44. Section 25934 of the Revenue and Taxation Code is amended to read:

25934. (a) If any part of any deficiency is due to negligence, or intentional disregard of rules and regulations, but without intent to defraud, 5 percent of the total amount of the deficiency, in addition to such deficiency and other additions provided in this chapter, shall be assessed, collected and paid in the same manner as if it were a deficiency.

(b) There shall be added to the tax (in addition to the amount determined under subdivision (a)) an amount equal to 50 percent of the interest payable under Sections 25901 through 25905—

(1) With respect to the portion of the deficiency described in subdivision (a) which is attributable to the negligence or intentional disregard referred to in subdivision (a), and

(2) For the period beginning on the last date prescribed by law for the payment of that deficiency (determined without regard to any extension) and ending on the date of the assessment of the tax.

(c) The amendments to this section made by the 1981–82 Regular Session of the Legislature shall apply to taxes the last date prescribed for payment of which is after December 31, 1981.

SEC. 46. Section 26451.5 is added to the Revenue and Taxation Code, to read:

26451.5. Nothing in Section 26451 or in any other provision of law, shall be construed to require the disclosure of standards used or to be used for the selection of returns for examination, or data used or to be used for determining those standards, if the Franchise Tax Board determines that the disclosure will seriously impair assessment, collection, or enforcement under this part.

SEC. 47. Section 328 of the Unemployment Insurance Code is amended 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.

(c) If an individual has been certified as meeting any of the criteria in subdivision (b) and that certification is incorrect because it was based on false information provided by that individual, the certification shall be revoked, and the department shall immediately notify the applicant who requests the certification of the revocation.

SEC. 48. Section 13051 of the Unemployment Insurance Code is amended to read:

13051. (a) If a person or employer fails to file a statement of the aggregate amount of payments to another person required by subdivision (c) of Section 13050, unless the failure is due to reasonable cause and not to willful neglect, the person or employer shall pay one dollar ($1) for each failure but the total amount imposed on the delinquent person or employer for all failures during any calendar year shall not exceed one thousand dollars ($1,000). The penalty shall be assessed and collected in the same manner as the tax.

(b) The amendments to this section made by the 1981–82 Regular Session of the Legislature shall apply to statements required to be furnished after December 31, 1981.

SEC. 49. Section 13100 of the Unemployment Insurance Code is

amended to read:

13100. (a) Any individual required to supply information to his or her employer under Section 13040, 13041, or 13042, who willfully supplies false or fraudulent information, or who willfully fails to supply information thereunder which would require an increase in the tax to be withheld under Section 13020, shall, in lieu of any penalty otherwise provided (except the penalty provided by Section 13101), upon conviction thereof, be fined not more than one thousand dollars ($1,000), or imprisoned not more than one year, or both.

(b) The amendments to this section made by the 1981–82 Regular Session of the Legislature shall apply to acts and failures to act after December 31, 1981.

SEC. 50. Section 13101 is added to the Unemployment Insurance Code, to read:

13101. (a) In addition to any criminal penalty provided by law if—

(1) Any individual makes a statement under Section 13040, 13041, or 13042 which results in a decrease in the amounts deducted and withheld under this division,

(2) As of the time statement was made, there was no reasonable basis for the statement, the individual shall pay a penalty of five hundred dollars ($500) for the statement.

(b) The department may waive (in whole or in part) the penalty imposed under subdivision (a) if the taxes imposed with respect to the individual under Part 10 (commencing with Section 17001) of Division 2 of the Revenue and Taxation Code for the taxable year are equal to or less than the sum of—

(1) The credits against those taxes allowed by Sections 17052.2 through 17053.7 and Section 18551.1, and

(2) The payments of estimated tax which are considered payments on account of those taxes.

(c) Article 11 (commencing with Section 1221) of Chapter 4 of Part 1 of the Unemployment Insurance Code (relating to administrative appellate review) shall not apply to the assessment or collection of any penalty imposed by subdivision (a).

(d) This section shall apply to acts and failures to act after December 31, 1981.

SEC. 51. Sections 11, 25, 26, 27, 28, 30, and 34 of this act shall apply to property acquired and positions established by the taxpayer after December 31, 1981 in taxable years beginning after December 31, 1981. Section 29 of this act shall apply to property acquired after December 31, 1981 in taxable years beginning after December 31, 1981. If the taxpayer so elects (at such time and in such manner as the Franchise Tax Board shall prescribe) with respect to all regulated futures contracts or positions held by the taxpayer on January 1, 1982, the amendments made by this act shall apply to all those contracts and positions, effective for periods after that date in taxable years beginning after December 31, 1981. For purposes of the

preceding sentence, the term "regulated futures contract" has the meaning given to that term by subdivision (b) of Section 18222 of the Revenue and Taxation Code and the term "position" has the meaning given to that term by paragraph (2) of subdivision (d) of Section 18143 of the Revenue and Taxation Code.

SEC. 52. It is the intent of the Legislature, if this bill and Senate Bill 1520 are both chaptered and become effective on or before January 1, 1983, both bills amend Sections 17053.7 and 24330 of the Revenue and Taxation Code, and this bill is chaptered after Senate Bill 1520, that Sections 17053.7 and 24330 of the Revenue and Taxation Code, as amended by Sections 1 and 2, respectively, of Senate Bill 1520, be further amended on the effective date of this act in the form set forth in Sections 1.5 and 38.3, respectively, of this act to incorporate the changes in Sections 17053.7 and 24330 proposed by this bill. Therefore, if this bill and Senate Bill 1520 are both chaptered and become effective on or before January 1, 1983, and Senate Bill 1520 is chaptered before this bill and amends Sections 17053.7 and 24330, Sections 1.5 and 38.3 of this act shall become operative on the effective date of this act and Sections 1 and 38 of this act shall not become operative.

SEC. 53. It is the intent of the Legislature, if this bill and Assembly Bill 2528 are both chaptered and become effective on or before January 1, 1983, both bills amend Section 17283 of the Revenue and Taxation Code, and this bill is chaptered after Assembly Bill 2528, that Section 17283 of the Revenue and Taxation Code, as amended by Section 7 of Assembly Bill 2528, be further amended on the effective date of this act in the form set forth in Section 11.5 of this act to incorporate the changes in Section 17283 proposed by this bill. Therefore, if this bill and Assembly Bill 2528 are both chaptered and become effective on or before January 1, 1983, and Assembly Bill 2528 is chaptered before this bill and amends Section 17283, Section 11.5 of this act shall become operative on the effective date of this act and Section 11 of this act shall not become operative.

SEC. 54. 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 with respect to the computation of inheritance taxes shall apply, unless otherwise specifically provided, only to the estates of decedents dying on and after the effective date of this act; the provisions of this act with respect to the computation of personal income taxes shall apply, unless otherwise specifically provided, to taxable years beginning on and after January 1, 1982; and the provisions of this act with respect to the computation of the bank and corporation taxes shall apply, unless otherwise specifically provided, to income years beginning on and after January 1, 1982.

CHAPTER 1559

An act to add Sections 23603, 24357.8, 24358.1, and 24359.1 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 29, 1982. Filed with Secretary of State September 30, 1982]

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

SECTION 1. Section 23603 is added to the Revenue and Taxation Code, to read:

23603. (a) There shall be allowed as a credit against the taxes imposed by this part (except the minimum franchise tax and the tax on preference income) an amount equal to 25 percent of the fair market value of qualified charitable contributions, not to exceed the basis of the property contributed.

(b) For purposes of this section, "qualified charitable contribution" means a charitable contribution of tangible personal property described in paragraph (1) of Section 1221 of the Internal Revenue Code of 1954, but only if all of the following conditions are met:

(1) The contribution is to an educational organization which is described in subsection (b) (1) (A) (ii) of Section 170 of the Internal Revenue Code of 1954 and which is not an institution of higher education (as defined in Section 3304(f) of the Internal Revenue Code of 1954) in California.

(2) The contribution is made not later than one year after the date the construction of the property is substantially completed.

(3) The original use of the property is by the donee.

(4) The property is a computer, scientific equipment, or apparatus all of the use of which by the donee is directly in the education of students of the State of California.

(5) The property is not transferred by the donee in exchange for money, other property, or services.

(6) The taxpayer receives from the donee a written statement representing that its use and disposition of the property will be in accordance with these provisions.

(7) The property has the approval of the donee.

(8) The contribution is made on or after January 1, 1983, and on or before June 30, 1984.

(c) The credit shall be in lieu of any deduction under this part to which the taxpayer otherwise may be entitled, if any.

(d) In the case of a taxpayer whose credits exceed its tax liability computed under this part (except the minimum franchise tax and the tax on preference income) for the income year, the taxpayer shall be allowed a credit to the extent of that tax liability. At the election of the taxpayer, that portion of the credit which exceeds the

taxes imposed by this part (except the minimum franchise tax and the tax on preference income) may be carried over to the taxes imposed by this part (except the minimum franchise tax and the tax on preference income) in succeeding income years, with respect to which this section shall remain in effect for purposes of carrying over excess credit, until the credit is used. The credit shall be applied first to the earliest income years possible.

(e) The credit shall be claimed on tax returns filed on or after July 1, 1983.

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

SEC. 2. Section 24357.8 is added to the Revenue and Taxation Code, to read:

24357.8. (a) In the case of a qualified research contribution, the amount otherwise allowed as a deduction under Section 24357, shall be reduced by that amount of the reduction provided by Section 24357.1 which is no greater than the sum of the following:

(1) One-half of the amount computed pursuant to Section 24357.1 (computed without regard to this paragraph).

(2) The amount (if any) by which the charitable contribution deduction under this section for any qualified research contribution (computed by taking into account the amount determined by paragraph (1), but without regard to this pararaph) exceeds twice the basis of the property.

(b) For purposes of this section, "qualified research contribution" means a charitable contribution by a taxpayer of tangible personal property described in paragraph (1) of Section 1221 of the Internal Revenue Code of 1954, but only if all of the following conditions are met:

(1) The contribution is to an educational organization which is described in subsection (b) (1) (A) (ii) of Section 170 of the Internal Revenue Code of 1954 and which is an institution of higher education (as defined in Section 3304 (f) of the Internal Revenue Code of 1954) in California.

(2) The contribution is made not later than two years after the date the construction of the property is substantially completed.

(3) The original use of the property is by the donee.

(4) The property is scientific equipment or apparatus substantially all of the use of which by the donee is for research or experimentation (within the meaning of Sections 24365 to 24368, inclusive), or for research training, in physical or biological sciences.

(5) The property is not transferred by the donee in exchange for money, other property, or services.

(6) The taxpayer receives from the donee a written statement representing that its use and disposition of the property will be in accordance with the provisions of paragraphs (5) and (6).

(c) For purposes of this section, property shall be treated as constructed by the taxpayer only if the cost of the parts used in the construction of the property (other than parts manufactured by the

taxpayer or a related person) do not exceed 50 percent of the taxpayers's basis in the property.

(d) For purposes of this section, the term "taxpayer" shall not include a service organization (as defined in Section 414(m)(3) of the Internal Revenue Code of 1954).

SEC. 3. Section 24358.1 is added to the Revenue and Taxation Code, to read:

24358.1. (a) In the case of a qualified contribution of technological equipment, the amount otherwise allowed as a deduction under Section 24357 shall be reduced by that amount of the reduction provided by Section 24357.1 which is no greater than the sum of the following:

(1) One-half of the amount computed pursuant to Section 24357.1 (computed without regard to this paragraph).

(2) The amount (if any) by which the charitable contribution deduction under this section for any qualified contribution (computed by taking into account the amount determined by paragraph (1), but without regard to this paragraph) exceeds twice the basis of the property.

(b) For purposes of this section, "qualified contribution of technological property" means a charitable contribution by a corporation of tangible personal property described in paragraph (1) of Section 1221 of the Internal Revenue Code of 1954, but only if all of the following conditions are met:

(1) The contribution is to an educational organization which is described in subsection (b)(1)(A)(ii) of Section 170 of the Internal Revenue Code of 1954 and which is not an institution of higher education (as defined in Section 3304(f) of the Internal Revenue Code of 1954).

(2) The contribution is made not later than one year after the date the construction of the property is substantially completed.

(3) The original use of the property is by the donee.

(4) The property is a computer (or other sophisticated technological equipment or apparatus) all of the use of which by the donee is directly in the education of students of the State of California.

(5) The property is not transferred by the donee in exchange for money, other property, or services.

(6) The taxpayer receives from the donee a written statement representing that its use and disposition of the property will be in accordance with the provisions of paragraphs (4) and (5).

(7) The contribution is made on or after January 1, 1983, and on or before June 30, 1984.

(c) The limitation of Section 24358 shall be increased by the aggregate amount (determined after the application of the subdivision) of the qualified contributions of technological property made by the taxpayer during the income year; except that the limitation shall not be increased to an amount greater than 30 percent of the taxpayer's net income as shown on tax returns filed

on or after July 1, 1983.

(d) For purposes of this section, the term "taxpayer" shall not include a service organization (as defined in Section 414(m)(3) of the Internal Revenue Code of 1954).

SEC. 3.5. Section 24359.1 is added to the Revenue and Taxation Code, to read:

24359.1. Notwithstanding any other provision of law, any credit or deduction allowed by Section 23603, 24357.8, or 24358.1 shall not be disallowed on the basis that the contribution is made for the primary or incidental purpose of benefiting the donor in any of the following ways:

(a) Encouraging institutions to interest and train students to use a computer, scientific equipment, or apparatus, thereby enlarging the future potential market by developing prospective purchases.

(b) Developing and maintaining a favorable public image.

SEC. 4. Section 1 of this act shall become operative only if H.R. 5573 of the Second Session of the 97th Congress does not become law. Section 3 of this act shall become operative only if H.R. 5573 of the Second Session of the 97th Congress becomes law.

SEC. 4.5. Notwithstanding any other provision of law, the tax credits and deductions provided by this act shall not be taken into account in computing estimated taxes for purposes of any provision requiring declarations of estimated tax.

SEC. 5. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, Section 2 of this act shall be applied to income years beginning on and after July 1, 1983.

CHAPTER 1560

An act to amend Section 5007.1 of the Public Resources Code, and to amend and supplement the Budget Act of 1981 by amending Items 379-301-036 to 379-301-742, inclusive, and provisions applicable thereto, relating to public resources, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 5007.1 of the Public Resources Code is amended 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 into 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 those agreements. Any facility to be developed on those lands shall only be constructed in accordance with a development plan approved by the director. Subsequent to the approval of a development plan for the Seccombe Park project, a citizens' advisory committee appointed by the chief executive officer of the City of San Bernardino may, from time to time, make recommendations to the director regarding administration of the unit.

SEC. 2. Items 379-301-036 to 379-301-742, inclusive, of the Budget Act of 1981 (Chapter 99 of the Statutes of 1981, as amended by Chapter 473 of the Statutes of 1982) and the provisions applicable thereto are amended to read:

379-301-036—For capital outlay, Department of Parks and Recreation, payable from the Special Account for Capital Outlay		214,452
(a) Climate control study (Hearst Castle)	60,000	
(b) Artifact restoration (Hearst Castle)	83,000	
(c) Artifact appraisal (Hearst Castle)	10,000	
(d) Hearst Visitor Center--working drawings	61,452	
379-301-189—For capital outlay, Department of Parks and Recreation, payable from the Energy Account, Energy and Resources Fund		584,686
Schedule:		
(a) Project planning and design	160,044	
(b) Minor projects	424,642	
379-301-190—For capital outlay, Department of Parks and Recreation, payable from the Resources Account, Energy and Resources Fund		2,532,950
(a) Anderson Marsh-acquisition	2,000,000	
(b) Durham Ferry SRA-working drawings and construction	300,000	
(c) Seacliff SB-construction	232,950	
379-301-263—For capital outlay, Department of Parks and Recreation, payable from the Off-Highway Vehicle Fund		9,426,650
Schedule:		
(a) Hollister Hills SVRA—working drawings for facilities improvements	308,350	
(d) Ocotillo Wells SVRA—acquisition	8,500,000	
(f) Minor projects	618,300	
379-301-392—For capital outlay, Department of Parks and Recreation, payable from the State Parks and		

Recreation Fund		14,226,900
Schedule:		
(a) Big Basin SP—working drawings and construction for sewer	713,400	
(b) Torrey Pines SR—construction for erosion control	301,450	
(c) Silverstrand SB—working drawings and construction for storm damage repair	1,122,150	
(g) Hearst San Simeon SHM—working drawings for water system	59,600	
(h) Hearst San Simeon SHM—rehabilitation and repair	572,550	
(i) Hearst San Simeon SHM—road repair	650,900	
(j) Columbia SHP—construction of theater and saloon	499,050	
(k) Old Town San Diego SHP—working drawings for reconstruction	99,000	
(*l*) Old Sacramento SHP—working drawings for '49er scene	80,000	
(m) Bale Grist Mill—construction of access road and parking lot	471,000	
(n) Minor projects	2,300,000	
(o) Chino Hills—acquisition	500,000	
(p) Inholding purchases	500,000	
(q) Opportunity purchases	350,000	
(r) Acquisition costs	150,000	
(s) Prebudget appraisal costs	180,000	
(t) Angel Island SP—working drawings and partial construction of pier	685,700	
(u) Preliminary planning	150,000	
(v) Julia Pfeiffer Burns SP—acquisition	60,000	
(w) Wilder Ranch SP—acquisition	770,000	
(x) Millerton Lake SRA—working drawings and construction of water treatment plant	537,100	
(z) Railtown—acquisition, working drawings, and construction	1,500,000	
(aa) Relocation expenses	475,000	
(bb) Old Town San Diego—acquisition of Bazaar del Mundo concession contract	500,000	
(cc) Seccombe Lake State Urban Recreation Area—working drawings and construction	1,000,000	

PARKLANDS ACQUISITION AND DEVELOPMENT PROGRAM

379-301-721—For capital outlay, Department of Parks and Recreation, payable from the Parklands Fund of 1980 36,133,438

(a) Irvine Coast Project—acquisition		500,000
(b) Humboldt Lagoons—acquisition ..		5,152,790
(c) Sinkyone Wilderness SP—preliminary planning and construction ..		170,100
(d) Project feasibility studies		90,000
(e) Design and construction planning		749,949
(f) Minor projects		1,020,000
(1) Environmental campsites	300,000	
(2) Handicapped retrofit	200,000	
(3) Volunteer projects	500,000	
(4) Point Arena hostel	20,000	
(g) Reimbursements		−2,576,395
(h) Multi-Cultural Park-feasibility study and working drawings		400,000
(i) Salt Point SP—construction		2,327,400
(j) Chino Hills Project—acquisition		10,800,000
(k) Wilder Ranch SP—acquisition		2,000,000
(*l*) Mount Diablo—acquisition		2,000,000
(m) Verdugo Hills—acquisition		1,285,000
(n) Sinkyone Wilderness SP—acquisition		3,200,000
(o) Crystal Cove SB—preliminary plans, working drawings, construction		2,000,000
(p) Folsom Lake SRA—Construction of day facilities at Beales Point		2,949,775
(q) Malibu Creek SP—Construction of day use facilities		1,850,830
(r) Angel Island SP—Construction of day use facilities		1,213,989
(t) Candlestick SRA—construction		1,000,000

RECREATION AND FISH AND WILDLIFE ENHANCEMENT FUND

379-301-728—For capital outlay, Department of Parks and Recreation, payable from the Recreation and Fish and Wildlife Enhancement Fund 405,571

Schedule:

(a) Project planning and design	8,071

(b) Lake Perris SRA—working drawings for day use facility 397,500

STATE BEACH, PARK, RECREATIONAL, AND HISTORICAL FACILITIES BOND ACT OF 1964 PROGRAM

379-301-732—For capital outlay, project planning and design, Department of Parks and Recreation, payable from the State Beach, Park, Recreational, and Historical Facilities Fund of 1964 13,669

STATE BEACH, PARK, RECREATIONAL, HISTORICAL FACILITIES BOND ACT OF 1974 PROGRAM

379-301-733—For capital outlay, project planning and design, Department of Parks and Recreation, payable from the State Beach, Park, Recreational and Historical Facilities Fund of 1974 1,096,392

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

379-301-742—For capital outlay, Department of Parks and Recreation, payable from the State Urban and Coastal Park Fund..... 11,007,586
Schedule:
(a) Project planning and design..... 541,686
(b) Pyramid Reservoir—construction of camping and day use facilities 4,465,900
(c) Santa Monica Mountains Backbone Trail, Saddle Creek Ranch and White Properties—acquisition 5,975,000
(d) Santa Monica Mountains Malibu Canyon and Creek—study the feasibility of acquiring a connecting trail link from Backbone Trail to Malibu Lagoon through Malibu Creek Canyon 25,000

Provisions applicable to Items 379-301-036 through 379-301-742—for capital outlay, Department of Parks and Recreation:

1. Provided the minor capital outlay projects funded by the Energy Account, Energy and Resources Fund, Item 379-301-189, are for solar retrofitting and energy conservation.
2. Provided further, that none of the funds appropriated for acquisition of parklands in Items 379-

301-189 to 379-301-742, inclusive, shall be expended on the purchase of real property until the State Public Works Board has determined that the procedures and criteria established by the Attorney General relating to implied dedication and public prescriptive rights or claims have been complied with in the investigations and appraisals of the Department of General Services. All material relating to implied dedication and public prescriptive rights or claims shall be retained in the files of the Department of General Services and shall be available for postaudit on a selective basis by the Attorney General.

3. Provided, that no funds appropriated in Item 379-301-392 shall be encumbered for acquisition of land for Julia Pfeiffer Burns State Park, Wilder Ranch State Park, or the Humboldt Lagoons Project in Item 379-301-721 for acquisition of land unless and until the Save-the-Redwoods League has in each instance made a cash donation to the state equal to one-half the appraised value for such acquisition or otherwise enables the state to purchase such properties for an expenditure not to exceed one-half of the appraised value.
4. Provided, that funds appropriated for category (z) of Item 379-301-392 shall not be encumbered for the acquisition of "Railtown 1897" in Tuolumne County, which consists of 24 acres of land, several historic buildings and yard trackage, unless (1) the state has first received a donation of railroad rolling stock, locomotives, and equipment, as identified in a report to the Legislature from the Sierra Railroad Company entitled "Inventory of Railroad Company", dated July 15, 1980, and (2) the owner of the connecting railine between Oakdale and Sonora grants the state the perpetual use of the right-of-way free of charge for scheduled excursion trains, charter trains, and special trains until abandonment and grants to the state, at no cost to the state, a minimum of six miles of railroad track and right-of-way, including track between milepost 35 and 41, to occur upon that abandonment, and grants to the state an option to purchase the remaining track and right-of-way at fair market value, to be exercised within six months of that abandonment; and (3) any instruments making

or otherwise effecting the grants required under clause (2) provide that the grants are binding on any and all successors and assigns of the grantor and are recorded in the official records of the County of Tuolumne.

Provided further, that the department shall make every effort to contract with a concessionaire to operate excursion trains from "Railtown 1897" to Sonora and Oakdale in the event the excursion business is continued.

5. Provided, that no funds appropriated in Item 379-301-721(h) may be expended for working drawings until a final study is complete and a lease agreement is executed with the Sixth District Agricultural Association.
6. Provided, that no funds appropriated in Item 379-301-721(*l*) may be expended until an appraisal has been completed.

Provided further, that the funds appropriated in Item 379-301-721(*l*) shall be expended for acquisition of parcels on the north-east perimeter of Mount Diablo as determined by the Department of Parks and Recreation, and that highest priority for acquisition shall be given to the Schwartz Holdings of approximately 337 acres.

7. Provided, that the funds available for expenditure pursuant to the appropriation in Item 379-301-721(m) for Verdugo Hills acquisition shall not exceed the total amount of funds available for this project from nonstate sources in conformance with policy adopted by the State Parks and Recreation Commission.
8. Funds available to complete any land exchange relating to the Sinkyone Wilderness approved by the State Parks and Recreation Commission pursuant to subdivision (a) of Section 6 of Chapter 1234, Statutes of 1980, shall be used to acquire critical areas described in paragraph 2 of subdivision (c) of that section.
9. No funds appropriated for Seccombe Lake State Urban Recreation Area shall be encumbered unless and until the Director of Parks and Recreation determines that expenditures therefor will be for improvements which will further the self-sufficiency of this park unit.
10. All prior approvals obtained for Candlestick State Recreation Area under category (y) of Item 379-301-392 shall apply to category (t) of Item 379-301-721. Nothing herein is intended to

delay construction at Candlestick State Recreation Area.

SEC. 3. (a) The sum of four million dollars ($4,000,000) is hereby appropriated from the General Fund to the State Coastal Conservancy as a loan for the sole purpose of enabling the conservancy to acquire land necessary to implement the Los Cerritos restoration plan approved by the State Coastal Conservancy on March 12, 1981. This sum shall be repaid by the conservancy to the General Fund not later than 120 days after the close of the joint escrow account specified in this subdivision, but in no case later than June 30, 1984. The loan shall bear interest at the rate of 12 percent per annum. At any time the State Coastal Conservancy determines that implementation of project funding by this loan is infeasible, the State Coastal Conservancy shall inform the Department of Finance and the Chairperson of the Joint Legislative Budget Committee that the loan will not be required, and the funds appropriated by this act shall immediately be reverted by the State Controller to the unappropriated surplus of the General Fund. Any loan funds shall only be expended through a joint escrow account which includes both the required loan purchase documents and contract for sale of the property necessary to repay the loan.

(b) This section shall become operative only if and at such time as the Controller determines, on or before June 30, 1984, that an aggregate of four million dollars ($4,000,000) has accrued as a result of Williamson Act cancellations pursuant to Section 51282.1 of the Government Code and has been deposited in the General Fund pursuant to subdivision (d) of Section 51283 of the Government Code.

SEC. 4. Section 2 of this act shall become operative only if and at such time as the Controller determines that there are sufficient funds available in the Parklands Fund of 1980 pursuant to subdivision (b) or category (1) of subdivision (c), or both, of Section 5096.151 of the Public Resources Code, or pursuant to Section 5096.205 of the Public Resources Code, to fund the appropriation made by category (t) of Item 379-301-721 of the Budget Act of 1981, as added to that item by Section 2 of this act.

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

The State Coastal Conservancy must move immediately to acquire offered lands to implement its recently adopted plan for restoration of wetlands in the City of Long Beach and the County of Los Angeles, and to enable the city and the California Coastal Commission to complete and certify the Long Beach local coastal program. Additionally, it is necessary to make changes, at the earliest possible time, in the funding of state park system projects provided for in the Budget Act of 1981. Therefore, it is necessary that this act take effect

immediately.

CHAPTER 1561

An act to amend Section 51115 of the Government Code, and to amend Sections 4516, 4582.6, and 4604 of, and to add Section 4516.5 to, the Public Resources Code, relating to forest practices.

[Approved by Governor September 30, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 51115 of the Government Code is amended to read:

51115. Parcels zoned as timberland preserve shall be zoned so as to restrict their use to growing and harvesting timber and to compatible uses and shall be entered as a timber preserve element of the county general plan. The growing and harvesting of timber on those parcels shall be regulated solely pursuant to state statutes and regulations.

SEC. 2. Section 4516 of the Public Resources Code is amended to read:

4516. Notwithstanding any provision of this chapter, the California Tahoe Regional Planning Agency shall have the right, within the reasonable exercise of its powers, to adopt rules and regulations by ordinance or resolution which are stricter than those provided under this chapter and regulations adopted pursuant to this chapter. The agency's rules and regulations may include, but are not limited to, matters relating to soil erosion control, protection of stream character and water quality, flood control, stand density control, reforestation methods, mass soil movements, submission of timber harvesting plans, location and grade of roads and skid trails, excavation and fill requirements, slash and debris disposal, haul routes and schedules, hours and dates of logging, and performance bond requirements.

Whenever state funds are not expended for the support of the California Tahoe Regional Planning Agency, as provided in Section 67131 of the Government Code, the Tahoe Regional Planning Agency shall have the right to adopt rules and regulations pursuant to this section.

SEC. 3. Section 4516.5 is added to the Public Resources Code, to read:

4516.5. (a) Individual counties may recommend that the board adopt additional rules and regulations for the content of timber harvesting plans and the conduct of timber operations to take account of local needs. For purposes of this section, "timber operations" includes, but is not limited to, soil erosion control,

protection of stream character and water quality, water distribution systems, flood control, stand density control, reforestation methods, mass soil movements, location and grade of roads and skid trails, excavation and fill requirements, slash and debris disposal, haul routes and schedules, hours and dates of logging, and performance bond requirements.

(b) The board shall, in conformance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code and within 180 days after receiving recommended rules and regulations from a county, adopt rules and regulations for the content of timber harvesting plans and the conduct of timber operations consistent with the recommended rules and regulations, subject to Section 4551.5, if the board finds the recommended rules and regulations are both of the following:

(1) Consistent with the intent and purposes of this chapter.

(2) Necessary to protect needs and conditions of the county recommending them.

(c) The rules and regulations, if adopted by the board, shall apply only to the conduct of timber operations within the recommending county and shall be enforced and implemented by the department in the same manner as other rules and regulations adopted by the board.

(d) Individual counties shall not otherwise regulate the conduct of timber operations, as defined by this chapter, or require the issuance of any permit or license for those operations.

(e) Notwithstanding this section or any other provision of state law, any county which regulated the growing or harvesting of timber or the conduct of timber harvesting operations pursuant to an ordinance, rule, or regulation in effect on January 1, 1982, may continue fully to enforce the ordinance, rule or regulation until July 1, 1983. On and after that date, all such local ordinances, rules and regulations, unless adopted pursuant to this section, shall be null, void, and have no force or effect.

(f) This section does not apply to timber operations on any land area of less than three acres and which is not zoned timberland preserve.

SEC. 4. Section 4582.6 of the Public Resources Code is amended to read:

4582.6. (a) Upon receipt of the timber harvesting plan, the department shall place it, or a true copy thereof, in a file available for public inspection in the county in which timber operations are proposed under the plan, and, for the purpose of interdisciplinary review, shall transmit a copy to the Department of Fish and Game, the appropriate California regional water quality control board, county planning agency, and, if the area is within its jurisdiction, the California Tahoe Regional Planning Agency or the Tahoe Regional Planning Agency, as the case may be. The department shall invite, consider, and respond in writing to comments received from public agencies to which the plan has been transmitted and shall consult

with those agencies at their request.

(b) On and after July 1, 1983, the board of supervisors or planning commission of any county for which rules have been adopted pursuant to Section 4516.5 may request a public hearing on any timber harvesting plan submitted for lands within the county, and the department shall hold a hearing for the purpose of public comment, if requested, prior to taking any action on the timber harvesting plan pursuant to Section 4582.7. The hearing shall be held in the county in which the proposed harvest is located at a time and place convenient to the public. The hearing shall be held in county offices if made available by the county for that purpose. The chairman of the hearing shall be a representative of the department, shall receive both oral and written testimony from members of the public, local government officials, persons submitting the plans, and others, and shall provide for the hearing to be electronically recorded. The department shall prepare and make available written responses to significant issues raised at the hearing. The requirements of this subdivision shall not be construed as extending the time within which any action is required to be taken pursuant to Section 4582.7.

SEC. 5. Section 4604 of the Public Resources Code is amended to read:

4604. The department shall provide for an initial inspection of the area in which timber operations are to be conducted within 10 days from the date of filing of the timber harvesting plan, or a longer period as may be mutually agreed upon by the department and the person submitting the plan, except that the inspection need not be made if the department determines that it would not add substantive information deemed necessary to enforce the provisions of this chapter. In any event, the department shall provide for inspections, as needed, as follows:

(a) During the period of commencement of timber operations.

(b) When timber operations are well underway.

(c) Following completion of timber operations.

(d) At any other times as deemed necessary to enforce the provisions of this chapter.

CHAPTER 1562

An act to add Sections 20203.2 and 20757.2 to the Government Code, relating to the Public Employees' Retirement System.

[Approved by Governor September 30, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 20203.2 is added to the Government Code, to read:

20203.2. Notwithstanding any other provision of law, funds in the reserve against deficiencies shall not be used to pay any employers' contribution required by this chapter to be paid by the state, any school employer, or any contracting agency.

SEC. 2. Section 20757.2 is added to the Government Code, to read:

20757.2. Notwithstanding any other provision of law, neither the state, any school employer, nor any contracting agency shall fail or refuse to pay the employers' contribution required by this chapter or to pay the employers' contributions required by this chapter within the applicable time limitations.

SEC. 3. This act shall become operative on July 1, 1983.

CHAPTER 1563

An act to amend Sections 5300, 5301, 5304, and 5305 of, and to add Sections 5300.5, 5306.5, 5307, 5308, and 5309 to, the Welfare and Institutions Code, relating to mental health.

[Approved by Governor September 30, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 5300 of the Welfare and Institutions Code is amended to read:

5300. At the expiration of the 14-day period of intensive treatment, a person may be confined for further treatment pursuant to the provisions of this article for an additional period, not to exceed 180 days if he or she:

(a) Has attempted, inflicted, or made a substantial threat of physical harm upon the person of another after having been taken into custody, and while in custody, for evaluation and treatment, and who, as a result of mental disorder, presents a demonstrated danger of substantial physical harm to others, or

(b) Had attempted, or inflicted physical harm upon the person of another, that act having resulted in his or her being taken into custody and who presents, as a result of mental disorder, a demonstrated danger of substantial physical harm to others.

Any commitment to a licensed health facility under this article places an affirmative obligation on the facility to provide treatment for the underlying causes of the person's mental disorder.

Amenability to treatment is not required for a finding that any person is a person as described in subdivisions (a) and (b).

Treatment programs need only be made available to these persons. Treatment does not mean that the treatment be successful or potentially successful, and it does not mean that the person must recognize his or her problem and willingly participate in the treatment program.

SEC. 2. Section 5300.5 is added to the Welfare and Institutions Code, to read:

5300.5. For purposes of this article:

(a) "Custody" shall be construed to mean involuntary detainment under the provisions of this part uninterrupted by any period of unconditioned release from a licensed health facility providing involuntary care and treatment.

(b) Conviction of a crime is not necessary for commitment under this article.

(c) Demonstrated danger may be based on assessment of present mental condition, which is based upon a consideration of past behavior of the person and other relevant evidence.

SEC. 3. Section 5301 of the Welfare and Institutions Code is amended to read:

5301. At any time during the 14-day intensive treatment period the professional person in charge of the licensed health facility, or his or her designee, may ask the public officer required by Section 5114 to present evidence at proceedings under this article to petition the superior court in the county in which the licensed health facility providing treatment is located for an order requiring such person to undergo an additional period of treatment on the grounds set forth in Section 5300. Such petition shall summarize the facts which support the contention that the person falls within the standard set forth in Section 5300. The petition shall be supported by affidavits describing in detail the behavior which indicates that the person falls within the standard set forth in Section 5300.

Copies of the petition for postcertification treatment and the affidavits in support thereof shall be served upon the person named in the petition on the same day as they are filed with the clerk of the superior court.

The petition shall be in the following form:

Petition for Postcertification Treatment of a Dangerous Person

I, _____, (the professional person in charge of the _____ intensive treatment facility) (the designee of _____ the professional person in charge of the _____, treatment facility) in which _____ has been under treatment pursuant to the certification by _____ and _____, hereby petition the court for an order requiring _____ to undergo an additional period of treatment, not to exceed 180 days, pursuant to the provisions of Article 6 (commencing with Section 5300) of Chapter 2 of Part 1 of Division 5 of the Welfare and Institutions Code. Such petition is based upon my allegation that (a) _____ has attempted, inflicted,

or made a substantial threat of physical harm upon the person of another after having been taken into custody, and while in custody, for evaluation, and that, by reason of mental disorder, presents a demonstrated danger of substantial physical harm to others, or that (b) _____ had attempted or inflicted physical harm upon the person of another, that act having resulted in his or her being taken into custody, and that he or she presents, as a result of mental disorder, a demonstrated danger of substantial physical harm to others.

My allegation is based upon the following facts:

_____

_____

_____

_____

_____

_____

_____

This allegation is supported by the accompanying affidavits signed by _____.

Signed _____

The courts may receive the affidavits in evidence and may allow the affidavits to be read to the jury and the contents thereof considered in rendering a verdict, unless counsel for the person named in the petition subpoenas the treating professional person. If such treating professional person is subpoenaed to testify, the public officer, pursuant to Section 5114, shall be entitled to a continuance of the hearing or trial.

SEC. 4. Section 5304 of the Welfare and Institutions Code is amended to read:

5304. If the court or jury finds that the person named in the petition for postcertification treatment has (a) attempted, inflicted, or made a substantial threat of physical harm upon the person of another after having been taken into custody, and while in custody, for evaluation and treatment, and, as a result of mental disorder, presents a demonstrated danger of substantial physical harm to others, or (b) had attempted, or inflicted physical harm upon the person of another, that act having resulted in his or her being taken into custody and who, as a result of mental disorder, presents a demonstrated danger of substantial physical harm to others, the court shall remand him or her to the custody of the State Department of Mental Health or to a licensed health facility designated by the county of residence for a further period of intensive treatment not to exceed 180 days from the date of court judgment. The person shall be released from involuntary treatment at the expiration of 180 days unless the public officer, pursuant to Section 5114, files a new petition for postcertification treatment on the grounds that he or she has attempted, inflicted, or made a substantial threat of physical harm to another during his or her

period of postcertification treatment, and he or she is a person who, by reason of mental disorder, presents a demonstrated danger of substantial physical harm to others. Such new petition for postcertification treatment shall be filed in the superior court wherein the original petition for postcertification treatment was filed.

The county from which the person is remanded shall bear any transportation costs incurred pursuant to this section.

SEC. 5. Section 5305 of the Welfare and Institutions Code is amended to read:

5305. (a) Any person committed pursuant to Section 5300 may be placed on outpatient status if all of the following conditions are satisfied:

(1) In the evaluation of the superintendent or professional person in charge of the licensed health facility, the person named in the petition will no longer be a danger to the health and safety of others while on outpatient status and will benefit from outpatient status.

(2) The county mental health director advises the court that the person named in the petition will benefit from outpatient status and identifies an appropriate program of supervision and treatment.

(b) After actual notice to the public officer, pursuant to Section 5114, and to counsel of the person named in the petition, to the court and to the county mental health director, the plan for outpatient treatment shall become effective within five judicial days unless a court hearing on that action is requested by any of the aforementioned parties, in which case the release on outpatient status shall not take effect until approved by the court after a hearing. This hearing shall be held within five judicial days of the actual notice required by this subdivision.

(c) The county mental health director shall be the outpatient supervisor of persons placed on outpatient status under provisions of this section. The county mental health director may delegate such outpatient supervision responsibility to a designee.

(d) The outpatient treatment supervisor shall, where the person is placed on outpatient status at least three months, submit at 90-day intervals to the court, the public officer, pursuant to Section 5114, and counsel of the person named in the petition and to the supervisor or professional person in charge of the licensed health facility, where appropriate, a report setting forth the status and progress of the person named in the petition. Notwithstanding the length of the outpatient status, a final report shall be submitted by the outpatient treatment supervisor at the conclusion of the 180-day commitment setting forth the status and progress of the person.

SEC. 6. Section 5306.5 is added to the Welfare and Institutions Code, to read:

5306.5. If at any time during the outpatient period, the outpatient treatment supervisor is of the opinion that the person receiving treatment requires extended inpatient treatment or refuses to accept further outpatient treatment and supervision, the county

mental health director shall notify the superior court in either the county which approved outpatient status or in the county where outpatient treatment is being provided of such opinion by means of a written request for revocation of outpatient status. The county mental health director shall furnish a copy of this request to the counsel of the person named in the request for revocation and to the public officer, pursuant to Section 5114, in both counties if the request is made in the county of treatment, rather than the county of commitment.

Within 15 judicial days, the court where the request was filed shall hold a hearing and shall either approve or disapprove the request for revocation of outpatient status. If the court approves the request for revocation, the court shall order that the person be confined in a state hospital or other treatment facility approved by the county mental health director. The court shall transmit a copy of its order to the county mental health director or a designee and to the Director of Mental Health. Where the county of treatment and the county of commitment differ and revocation occurs in the county of treatment, the court shall enter the name of the committing county and its case number on the order of revocation and shall send a copy of the order to the committing court and the public officer, pursuant to Section 5114, and counsel of the person named in the request for revocation in the county of commitment.

SEC. 7. Section 5307 is added to the Welfare and Institutions Code, to read:

5307. If at any time during the outpatient period the public officer, pursuant to Section 5114, is of the opinion that the person is a danger to the health and safety of others while on outpatient status, the public officer, pursuant to Section 5114, may petition the court for a hearing to determine whether the person shall be continued on outpatient status. Upon receipt of the petition, the court shall calendar the case for further proceedings within 15 judicial days and the clerk shall notify the person, the county mental health director, and the attorney of record for the person of the hearing date. Upon failure of the person to appear as noticed, if a proper affidavit of service and advisement has been filed with the court, the court may issue a body attachment for such person. If, after a hearing in court the judge determines that the person is a danger to the health and safety of others, the court shall order that the person be confined in a state hospital or other treatment facility which has been approved by the county mental health director.

SEC. 8. Section 5308 is added to the Welfare and Institutions Code, to read:

5308. Upon the filing of a request for revocation of outpatient status under Section 5306.5 or 5307 and pending the court's decision on revocation, the person subject to revocation may be confined in a state hospital or other treatment facility by the county mental health director when it is the opinion of that director that the person will now be a danger to self or to another while on outpatient status

and that to delay hospitalization until the revocation hearing would pose a demonstrated danger of harm to the person or to another. Upon the request of the county mental health director or a designee, a peace officer shall take, or cause to be taken, the person into custody and transport the person to a treatment facility for hospitalization under this section. The county mental health director shall notify the court in writing of the admission of the person to inpatient status and of the factual basis for the opinion that such immediate return to inpatient treatment was necessary. The court shall supply a copy of these documents to the public officer, pursuant to Section 5114, and counsel of the person subject to revocation.

A person hospitalized under this section shall have the right to judicial review of the detention in the manner prescribed in Article 5 (commencing with Section 5275) of Chapter 2 and to an explanation of rights in the manner prescribed in Section 5252.1.

Nothing in this section shall prevent hospitalization pursuant to the provisions of Section 5150, 5250, 5350, or 5353.

A person whose confinement in a treatment facility under Section 5306.5 or 5307 is approved by the court shall not be released again to outpatient status unless court approval is obtained under Section 5305.

SEC. 9. Section 5309 is added to the Welfare and Institutions Code, to read:

5309. Nothing in this article shall prohibit the superintendent or professional person in charge of the hospital in which the person is being involuntarily treated from releasing him or her from treatment prior to the expiration of the commitment period when, in the opinion of the superintendent or professional person in charge, the person being involuntarily treated no longer constitutes a demonstrated danger of substantial physical harm to others.

After actual notice to the public officer, pursuant to Section 5114, and to counsel of the person named in the petition, to the court, and to the county mental health director, the plan for unconditional release shall become effective within five judicial days unless a court hearing on that action is requested by any of the aforementioned parties, in which case the unconditional release shall not take effect until approved by the court after a hearing. This hearing shall be held within five judicial days of the actual notice required by this subdivision.

SEC. 10. The State Department of Mental Health shall submit a report to the Legislature two years after the effective date of this act on its findings related to this act with its recommendations concerning whether the same should be continued, including, but not limited to, all of the following:

(a) The number of petitions that were granted for the extended detention of Penal Code offenders at the conclusion of a determinate sentence.

(b) The number of petitions that were denied for the extended detention of Penal Code offenders at the conclusion of a determinate

sentence.

(c) The number of non-Penal Code offenders detained for longer than one year.

(d) The number of persons placed on outpatient status pursuant to Section 5305 of the Welfare and Institutions Code.

(e) The number of Penal Code offenders and non-Penal Code offenders released prior to one year.

(f) The number of detained persons released pursuant to the rehearing procedure under Section 5304 of the Welfare and Institutions Code.

(g) The number of requests for revocation of outpatient status by treatment supervisor and by public officer pursuant to Section 5114.

(h) The number of revocation requests granted.

(i) The number of persons who offended while on outpatient status.

SEC. 11. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 12. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 1564

An act to add Section 177.5 to the Code of Civil Procedure, relating to judicial officers.

[Approved by Governor September 30, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 177.5 is added to the Code of Civil Procedure, to read:

177.5. A judicial officer shall have the power to impose reasonable money sanctions, not to exceed fifteen hundred dollars ($1,500), notwithstanding any other provision of law, payable to the county in which the judicial officer is located, for any violation of a lawful court order by a person, done without good cause or substantial justification. This power shall not apply to advocacy of counsel before the court. For the purposes of this section, the term "person" includes a witness, a party, a party's attorney, or both.

Sanctions pursuant to this section shall not be imposed except on notice contained in a party's moving or responding papers; or on the court's own motion, after notice and opportunity to be heard. An order imposing sanctions shall be in writing and shall recite in detail the conduct or circumstances justifying the order.

CHAPTER 1565

An act to amend Section 51 of, and to add and repeal Section 611.1 of, the Elections Code, relating to elections.

[Approved by Governor September 30, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 51 of the Elections Code is amended to read:

51. The county clerk in each county shall compile and make available to the Legislature or any appropriate committee of the Legislature such information and statistics as may be necessary for use in connection with the reapportionment of legislative districts, including, but not limited to, precinct maps indicating the boundaries of municipalities, school districts, judicial districts, Assembly districts, senatorial districts and congressional districts, and lists showing the election returns for each precinct in the county at the last four statewide elections held prior to reapportionment. If the county clerk stores the information and statistics in data-processing files, he or she shall make the files available, along with whatever documentation shall be necessary in order to allow the use of the files by the appropriate committee of the Legislature and shall retain these files for the four statewide elections held prior to reapportionment. The files shall be retained until reapportionment has been completed.

Each precinct shall be identified according to the census tract or enumeration district in which it is located. In the case of any precinct that is divided among two or more census tracts or enumeration districts, the county clerk shall include an estimate of the proportion of the precinct's registered voters in each census tract or enumeration district. If the United States Bureau of the Census divides or alters any census tract or enumeration district between the time of an election and the census upon which the reapportionment is based, the county clerk shall provide whatever corrections or additional information may be necessary to reflect those changes.

SEC. 2. Section 611.1 is added to the Elections Code, to read:

611.1. The county clerk shall compile an index, list, or file of all persons who voted in the previous statewide general election. This information shall be compiled in conjunction with the purge of voter

registration files conducted pursuant to Article 5 (commencing with Section 700) or Article 6 (commencing with Section 800).

Information compiled pursuant to this section shall include that information which is required to appear in the index as set forth in Section 600.

Any person, candidate, or committee who is entitled to obtain a copy of any information contained in this article shall, upon written request to the clerk, be entitled to obtain the index, list, or file compiled pursuant to this section. The clerk may require the payment of a fee not to exceed the cost of duplicating the information or providing the tape as a condition to furnishing the information contained in this section.

If the county clerk uses data-processing equipment, he or she shall make the index available on a data-processing tape file on request. The county clerk shall be required to retain this file until the next November general election in an even-numbered year has been conducted.

This section shall remain in effect only until January 1, 1988, and as of that date is repealed.

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

CHAPTER 1566

An act to add and repeal Section 742 of the Public Utilities Code, relating to electricity.

[Approved by Governor September 30, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. The Legislature finds and declares all of the following:

(a) Producers of steel products in the State of California pay electrical energy rates far in excess of rates paid by their competitors in other states.

(b) These producers have not been able to pass on electrical rate increases in the form of higher steel prices because of the strong competition in the California steel market.

(c) The nature of the operations of California steel producers is such that public utilities furnishing electric service incur relatively

lower costs per kilowatt hour in serving steel producers than in serving most other customers.

(d) To preserve steel production in California, it is necessary that rates charged for electricity used in that production reflect the costs of supplying that electricity.

SEC. 2. Section 742 is added to the Public Utilities Code, to read:

742. (a) As used in this section, "steel producer" means a producer of steel products in California which in 1981 or any subsequent year produced at least 75,000 tons of rolled and finished steel and which has a maximum demand for electricity of 10,000 kilowatts or more at one plant location.

(b) As used in this section, "system average rate" means total jurisdictional revenues of the electrical corporation divided by total jurisdictional sales.

(c) Every electrical corporation furnishing electricity to a steel producer shall, in addition to its regular service, prepare and file tariffs providing for an optional alternative interruptible service to the steel producer providing for interruption of service upon reasonable notice to the steel producer consistent with safety of operations by the steel producer and providing for limits upon the frequency and duration of such interruption of service which the commission finds are reasonable in relation to the needs of the electrical corporation for reductions in load to meet system peak requirements and the burdens imposed upon the steel producer of reducing its operations during periods of such interruption of electrical service.

(d) The rate charged for such interruptible service shall consist of a charge per kilowatt hour equal to 55 percent of the system average rate.

(e) The rate charged by an electrical corporation for regular, noninterruptible service to a steel producer shall include only a charge per kilowatt hour equal to 70 percent of the system average rate.

(f) Steel producers shall be offered electrical service tariffs based on their choice of either or a combination of both of the rates established pursuant to subdivisions (c) and (d).

(g) Any steel producer operating under a tariff established for interruptible electrical service on January 1, 1983, may elect to receive electrical service pursuant to this section, notwithstanding such tariff.

(h) The commission shall establish rates for service to steel producers in accordance with this section to be effective no later than February 1, 1983.

(i) The commission shall require that any costs associated with the implementation of this section shall be borne by nonresidential electrical service customer classes other than public agencies through a method to be determined by the commission.

The commission shall report to the Legislature and the Governor on or before September 30, 1985, on the overall impact of this section,

including the effect on rates charged for the production of steel and on rates charged other customers, and recommend whether or not this section should be extended beyond January 1, 1986.

This section shall remain in effect only until January 1, 1986, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1986, deletes or extends that date.

CHAPTER 1567

An act to add Article 17.5 (commencing with Section 31894.1) to Chapter 3 of Part 3 of Division 3 of Title 3 of the Government Code, relating to county retirement.

[Approved by Governor September 30, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Article 17.5 (commencing with Section 31894.1) is added to Chapter 3 of Part 3 of Division 3 of Title 3 of the Government Code, to read:

Article 17.5. Termination of Social Security in Counties with a Population Exceeding 6,000,000

31894.1. This article shall apply only in a county with a population exceeding 6,000,000 and shall apply in that county only if the board of supervisors has provided notice of intent to terminate benefits under federal social security.

31894.2. Any county which has provided the notice specified in Section 31894.1 shall provide a vote of the affected members, the results of which shall be advisory to the board of supervisors. The board of supervisors may, following the advisory vote, cancel their notice of intent to withdraw from social security at least 30 days prior to the effective date of termination of coverage under the federal system.

Nothing in this section shall be construed to waive any rights that employees may have to secure by appropriate judicial proceeding new benefits comparable to those provided under the federal social security system.

31894.3. The board of supervisors shall, by resolution, certify to the Board of Administration of the Public Employees' Retirement System that the provisions of Section 31894.2 have been complied with. In the event that the board of supervisors cannot certify compliance with the provisions of Section 31894.2, the board of supervisors shall cancel their notice of intent to withdraw from social security at least 30 days prior to the effective date of termination of coverage under the federal system.

SEC. 2. If any provision of this act or the application thereof to any person or circumstances is held invalid, that 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. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the Legislature finds and declares that there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs.

CHAPTER 1568

An act to add and repeal Section 3212.1 of the Labor Code, relating to workers' compensation.

[Approved by Governor September 30, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 3212.1 is added to the Labor Code, to read:

3212.1. In the case of active firefighting members of fire departments of cities, counties, cities and counties, districts, or other public or municipal corporations or political subdivisions, and active fire fighting members of the fire departments of the University of California, whether these members are volunteers, partly paid, or fully paid, and in the case of active firefighting members of the Department of Forestry, or of any county forestry or firefighting department or unit, whether volunteers, partly paid, or fully paid, the term "injury" as used in this division includes cancer which develops or manifests itself during a period while the member is in the service of the department or unit, provided that the member demonstrates that he or she was exposed, while in the service of the department or unit, to a known carcinogen as defined by the International Agency for Research on Cancer, or as defined by the director, and that the carcinogen is reasonably linked to the disabling cancer.

The compensation which is awarded for cancer shall include full hospital, surgical, medical treatment, disability indemnity, and death benefits, as provided by the provisions of this division.

The cancer so developing or manifesting itself in these cases shall be presumed to arise out of and in the course of the employment. This presumption is disputable and may be controverted by other evidence, but unless so controverted, the appeals board is bound to find in accordance with it. This presumption shall be extended to a member following termination of service for a period of three

calendar months for each full year of the requisite service, but not to exceed 60 months in any circumstance, commencing with the last date actually worked in the specified capacity.

This section shall remain in effect only until January 1, 1989, and as of this date is repealed, unless a later enacted statute, which is chaptered before January 1, 1989, deletes or extends this date.

SEC. 2. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code. However, notwithstanding any other provision of law to the contrary, all reimbursements to a local agency or school district or any state agency pursuant to this act shall be paid from the appropriation to the Department of Industrial Relations for the payment of additional compensation for subsequent injury, as provided in Article 5 (commencing with Section 4750) of Chapter 2 of Part 2 of Division 4 of the Labor Code.

CHAPTER 1569

An act to add Section 15453.5 to the Government Code, relating to the financing of health care facilities, and making an appropriation therefor.

[Approved by Governor September 30, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 15453.5 is added to the Government Code, to read:

15453.5. Notwithstanding Section 15453, the total amount of bonds which may be outstanding at any one time is hereby increased by an amount not exceeding seven hundred sixty-seven million dollars ($767,000,000).

CHAPTER 1570

An act to amend Sections 14654, 31109, 31702, 31704, 31705, 31706, 31707, 31708, and 31713 of, to amend and renumber Sections 31047, 31048, 31049, 31050, and 31051 of, and to add Sections 362.5, 703.5, 1803.5, 1857.5, 31152.5, 31551.5, and 31706.5 to, the Financial Code, relating to financial institutions.

[Approved by Governor September 30, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 362.5 is added to the Financial Code, to read:

362.5. (a) In this section:

(1) "Control" has the meaning set forth in Section 700.

(2) "Officer" has the meaning set forth in Section 33057.

(b) For purposes of Section 362, the superintendent may find:

(1) That a proposed officer or director of a proposed bank or trust company does not have sufficient standing to afford reasonable promise of successful operation if such person has been convicted of, or has pleaded nolo contendere to, any crime involving fraud or dishonesty.

(2) That the establishment of a proposed bank or trust company will not promote the public convenience and advantage if any person who is proposed to control the proposed bank or trust company or any director or officer of such person has been convicted of, or has pleaded nolo contendere to, any crime involving fraud or dishonesty.

(c) Subdivision (b) shall not be deemed to be the only grounds upon which the superintendent may find, for purposes of Section 362, that a proposed officer or director of a proposed bank or trust company does not have sufficient standing to afford reasonable promise of successful operation or that the establishment of a proposed bank or trust company will not promote the public convenience and advantage.

SEC. 2. Section 703.5 is added to the Financial Code, to read:

703.5. (a) In this section, "officer" has the meaning set forth in Section 33057.

(b) For purposes of Section 703, the superintendent may find:

(1) That the integrity of an acquiring person indicates that it would not be in the interest of the depositors, creditors, or shareholders of a bank or controlling person or in the interest of the public to permit the acquiring person to control the bank or controlling person if the acquiring person or any director or officer of the acquiring person has been convicted of, or has pleaded nolo contendere to, any crime involving fraud or dishonesty.

(2) That a plan to make a major change in the management of a bank or controlling person is not fair and reasonable to the depositors, creditors, or shareholders of the bank or controlling person if the plan provides for a person who has been convicted of, or has pleaded nolo contendere to, any crime involving fraud or dishonesty to become a director or officer of the bank or controlling person.

(c) Subdivision (b) shall not be deemed to be the only grounds upon which the superintendent may find, for purposes of Section 703,

that the integrity of an acquiring person indicates that it would not be in the interest of the depositors, creditors, or shareholders of a bank or controlling person or in the interest of the public to permit the acquiring person to control the bank or controlling person or that a plan to make a major change in the management of a bank or controlling person is not fair and reasonable to the depositors, creditors, or shareholders of the bank or controlling person.

SEC. 3. Section 1803.5 is added to the Financial Code, to read:

1803.5. (a) In this section:

(1) "Control" has the meaning set forth in Section 700.

(2) "Officer" has the meaning set forth in Section 33057.

(b) For purposes of Section 1803, the superintendent may find that an applicant is lacking in integrity if the applicant, any person who controls the applicant, or any director or officer of the applicant or of any person who controls the applicant has been convicted of, or has pleaded nolo contendere to, any crime involving fraud or dishonesty.

(c) Subdivision (b) shall not be deemed to be the only grounds upon which the superintendent may find, for purposes of Section 1803, that an applicant is lacking in integrity.

SEC. 4. Section 1857.5 is added to the Financial Code, to read:

1857.5. (a) In this section:

(1) "Control" has the meaning set forth in Section 700.

(2) "Officer" has the meaning set forth in Section 33057.

(b) For purposes of Section 1857, the superintendent may find that an applicant is lacking in integrity if the applicant, any person who controls the applicant, or any director or officer of the applicant or of any person who controls the applicant has been convicted of, or has pleaded nolo contendere to, any crime involving fraud or dishonesty.

(c) Subdivision (b) shall not be deemed to be the only grounds upon which the superintendent may find, for purposes of Section 1803, that an applicant is lacking in integrity.

SEC. 4.5. Section 14654 of the Financial Code is amended to read:

14654. Credit unions may purchase from the vendor or lessor of any personal property, conditional sale contracts or vehicle lease agreements covering the sale or lease of that property or vehicle to its members. The credit union may hold and retain any such conditional sale contract or vehicle lease agreement as an investment.

SEC. 5. Section 31047 of the Financial Code is amended and renumbered to read:

31049. "Principal shareholder", when used with respect to a corporation, means any person who owns, directly or indirectly, of record or beneficially, securities representing 10 percent or more of the voting power of such corporation.

SEC. 6. Section 31048 of the Financial Code is amended and renumbered to read:

31050. To "provide financing assistance" to a person includes:

(a) To lend money or otherwise extend credit to such person;

(b) To purchase securities issued by such person, either directly or indirectly through an underwriter; and

(c) To lease property to such person.

SEC. 7. Section 31049 of the Financial Code is amended and renumbered to read:

31051. To "provide management assistance" to a person includes:

(a) To provide management or technical advice to such person; and

(b) To provide management or technical services to such person.

SEC. 8. Section 31050 of the Financial Code is amended and renumbered to read:

31047. "Order" means any approval, consent, authorization, exemption, denial, prohibition, or requirement applicable to a specific case issued by the superintendent. "Order" includes any condition of a license and any agreement made by any person with the superintendent under this division.

SEC. 9. Section 31051 of the Financial Code is amended and renumbered to read:

31048. "Person" means any natural person, proprietorship, joint venture, partnership, trust, business trust, syndicate, association, joint stock company, corporation, government, agency of any government, or any other organization; provided, however, that "person", when used with respect to acquiring control of or controlling a specified person, includes any combination of two or more persons acting in concert.

SEC. 10. Section 31109 of the Financial Code is amended to read:

31109. The superintendent may honor applications from interested persons for interpretive opinions regarding any provision of this division or of any regulation or order issued under this division.

SEC. 11. Section 31152.5 is added to the Financial Code, to read:

31152.5. (a) For purposes of Section 31152, the superintendent may find:

(1) That a director, officer, or controlling person of an applicant is not of good character if the director, officer, or controlling person or any director or officer of the controlling person has been convicted of, or has pleaded nolo contendere to, a crime involving fraud or dishonesty.

(2) That it is not reasonable to believe that an applicant, if licensed, will comply with all applicable provisions of this division and of any regulation or order issued under this division if the applicant has been convicted of, or has pleaded nolo contendere to, a crime involving fraud or dishonesty.

(b) Subdivision (a) shall not be deemed to be the only grounds upon which the superintendent may find, for purposes of Section 31152, that a director, officer, or controlling person of an applicant is not of good character or that it is not reasonable to believe that an applicant, if licensed, will comply with all applicable provisions of

this division and of any regulation or order issued under this division.

SEC. 12. Section 31551.5 is added to the Financial Code, to read:

31551.5. (a) For purposes of Section 31551, the superintendent may find:

(1) That an applicant or a director or officer of an applicant is not of good character if such person has been convicted of, or has pleaded nolo contendere to, a crime involving fraud or dishonesty.

(2) That an applicant's plan to make a major change in the management of a licensee is detrimental to the safety and soundness of the licensee and to the public convenience and advantage if the plan provides for a person who has been convicted of, or has pleaded nolo contendere to, a crime involving fraud or dishonesty to become a director or officer of the licensee.

(b) Subdivision (a) shall not be deemed to be the only grounds upon which the superintendent may find, for purposes of Section 31551, that an applicant or a director or officer of an applicant is not of good character or that an applicant's plan to make a major change in the management of a licensee is detrimental to the safety and soundness of a licensee or to the public convenience and advantage.

SEC. 13. Section 31702 of the Financial Code is amended to read:

31702. (a) If the superintendent finds that any person has violated, or that there is reasonable cause to believe that any person is about to violate, Section 31150, the superintendent may order the person to cease and desist from such violation unless and until the person is issued a license.

(b) (1) Within 30 days after an order is issued pursuant to subdivision (a), the person to whom the order is directed may file with the superintendent an application for a hearing on the order. If the superintendent fails to commence a hearing within 15 business days after such application is filed with him (or within such longer period to which the person consents), the order shall be deemed rescinded. Upon such hearing, the superintendent shall affirm, modify, or rescind the order.

(2) The right of any person to whom an order is issued under subdivision (a) to petition for judicial review of the order shall not be affected by the failure of the person to apply to the superintendent for a hearing on the order pursuant to paragraph (1).

SEC. 14. Section 31704 of the Financial Code is amended to read:

31704. (a) If the superintendent finds:

(1) That any of the factors set forth in Section 31703 is true with respect to any licensee or any subject person of a licensee; and

(2) That such action or violation is likely to cause the insolvency of, or substantial dissipation of the assets or earnings of, the licensee, or is likely to seriously weaken the condition of the licensee or otherwise to seriously prejudice the interests of the licensee, prior to the completion of proceedings conducted pursuant to Section 31703; the superintendent may order the licensee or the subject person to cease and desist from such action or violation. The order may require the licensee or the subject person to take affirmative action to

correct any condition resulting from such action or violation.

(b) (1) Within 30 days after an order is issued pursuant to subdivision (a), any licensee or subject person of a licensee to whom the order is directed may file with the superintendent an application for a hearing on the order. If the superintendent fails to commence a hearing within 15 business days after the application is filed with him (or within such longer period to which the licensee or subject person consents), the order shall be deemed rescinded. Upon such hearing, the superintendent shall affirm, modify, or rescind the order.

(2) The right of any licensee or subject person of a licensee to whom an order is issued under subdivision (a) to petition for judicial review of the order shall not be affected by the failure of the licensee or subject person to apply to the superintendent for a hearing on the order pursuant to paragraph (1).

SEC. 15. Section 31705 of the Financial Code is amended to read:

31705. If, after notice and a hearing, the superintendent finds:

(a) (1) That any subject person of a licensee has violated a provision of this division or of any regulation or order issued under this division or any provision of any other applicable law;

(2) That any subject person of a licensee has engaged or participated in any unsafe or unsound act with respect to the business of such licensee; or

(3) That any subject person of a licensee has engaged or participated in any act which constitutes a breach of his fiduciary duty as a subject person; and

(b) (1) That such act, violation, or breach of fiduciary duty has caused or is likely to cause substantial financial loss or other damage to such licensee; or

(2) That the act, violation, or breach of fiduciary duty has seriously prejudiced or is likely to seriously prejudice the interests of the licensee; or

(3) That the subject person has received financial gain by reason of the act, violation, or breach of fiduciary duty; and

(c) That such act, violation, or breach of fiduciary duty either involves dishonesty on the part of the subject person or demonstrates the subject person's gross negligence with respect to the business of the licensee or a willful disregard for the safety and soundness of the licensee;

the superintendent may issue an order removing the subject person from his office, if any, with the licensee and prohibiting him from further participating in any manner in the conduct of the business of the licensee.

SEC. 16. Section 31706 of the Financial Code is amended to read:

31706. If, after notice and a hearing, the superintendent finds that any subject person of a licensee has, by engaging or participating in any act with respect to any financial or other business institution which resulted in substantial financial loss or other damage, demonstrated:

(a) (1) Dishonesty; or

(2) Willful or continuing disregard for the safety and soundness of such financial institution; and

(b) Unfitness to continue as a subject person of the licensee or participate in the conduct of the business of the licensee; the superintendent may issue an order removing the subject person from his or her office, if any, with the licensee and prohibiting him or her from further participating in any manner in the conduct of the business of the licensee, except with the prior consent of the superintendent.

SEC. 17. Section 31706.5 is added to the Financial Code, to read:

31706.5. (a) If the superintendent finds:

(1) That the factors set forth in subdivisions (a), (b), and (c) of Section 31705 or the factors set forth in subdivisions (a) and (b) of Section 31706 are true with respect to any subject person of a licensee; and

(2) That it is necessary for the protection of the interests of the licensee or for the protection of the public interest that the superintendent immediately suspend the subject person from his or her office, if any, with the licensee and prohibit him or her from further participating in any manner in the conduct of the business of the licensee; the superintendent may issue an order suspending the subject person from his or her office, if any, with the licensee and prohibiting him or her from further participating in any manner in the conduct of the business of the licensee, except with the consent of the superintendent.

(b) (1) Within 30 days after an order is issued pursuant to subdivision (a), any subject person of a licensee to whom the order is directed may file with the superintendent an application for a hearing on the order. If the superintendent fails to begin a hearing within 15 business days after the application is filed with him (or within such longer period to which the subject person consents), the order shall be deemed rescinded. Upon the hearing, the superintendent shall affirm, modify, or rescind the order.

(2) The right of any subject person of a licensee to whom an order is issued under subdivision (a) to petition for judicial review of the order shall not be affected by the failure of the subject person to apply to the superintendent for a hearing on the order pursuant to paragraph (1).

SEC. 18. Section 31707 of the Financial Code is amended to read:

31707. (a) If the superintendent finds:

(1) That any subject person of a licensee has been indicted by a grand jury for, or held to answer by a magistrate for, a crime involving dishonesty or breach of trust; and

(2) That the fact that the person continues to be a subject person of the licensee may threaten the interests of the licensee or may threaten to impair public confidence in the licensee; the superintendent may issue an order suspending the subject person from his or her office, if any, with the licensee and prohibiting him

or her from further participating in any manner in the conduct of the business of the licensee, except with the consent of the superintendent.

(b) If the superintendent finds:

(1) That any subject person or former subject person of a licensee to whom an order was issued pursuant to subdivision (a) or any other subject person of a licensee has been finally convicted of a crime which is punishable by imprisonment for a term exceeding one year and which involves dishonesty or breach of trust; and

(2) That the fact that the person continues to be or will resume to be a subject person of the licensee may threaten the interests of the licensee or may threaten to impair public confidence in the licensee; the superintendent may issue an order suspending or removing the subject person or former subject person from his or her office, if any, with the licensee and prohibiting him or her from further participating in any manner in the conduct of the business of the licensee, except with the prior consent of the superintendent.

(c) (1) Within 30 days after an order is issued pursuant to subdivision (a) or (b), any subject person of a licensee to whom the order is directed may file with the superintendent an application for a hearing on the order. If the superintendent fails to commence a hearing within 15 business days after the application is filed with him (or within such longer period to which the subject person consents), the order shall be deemed rescinded. Upon such hearing, the superintendent shall affirm, modify, or rescind the order.

(2) The right of any subject person or former subject person of a licensee to whom an order is issued under subdivision (a) or (b) to petition for judicial review of the order shall not be affected by the failure of the person to apply to the superintendent for a hearing on the order pursuant to paragraph (1).

(d) The fact that any subject person of a licensee charged with a crime involving dishonesty or breach of trust is not finally convicted of the crime shall not preclude the superintendent from issuing an order to the subject person pursuant to any other section of this division.

SEC. 19. Section 31708 of the Financial Code is amended to read:

31708. Any person to whom an order is issued under Section 31705, 31706, 31706.5, or 31707 may apply to the superintendent to modify or rescind the order. The superintendent shall not grant the application unless he finds that it is in the public interest to do so and that it is reasonable to believe that the person will, if and when he becomes a subject person of a licensee, comply with all applicable provisions of this division and of any regulation or order issued under this division.

SEC. 20. Section 31713 of the Financial Code is amended to read:

31713. (a) If the superintendent finds that any of the factors set forth in Section 31709 is true with respect to any licensee and that it is necessary for the protection of the interests of the licensee or for the protection of the public interest that he take immediate

possession of the property and business of the licensee, the superintendent may forthwith take possession of the property and business of the licensee and retain possession until the licensee resumes business or is finally liquidated. The licensee may, with the consent of the superintendent, resume business upon such conditions as he may prescribe.

(b) Whenever the superintendent takes possession of the property and business of a licensee pursuant to subdivision (a), the licensee may apply within 10 days to the superior court in the county in which the head office of the licensee is located to enjoin further proceedings. The court, after citing the superintendent to show cause why further proceedings should not be enjoined and after a hearing, may dismiss the application or enjoin the superintendent from further proceedings and order him to surrender the property and business of the licensee to the licensee or make such further order as may be just.

(c) An appeal may be taken from the judgment of the superior court by the superintendent or by the licensee in the manner provided by law for appeals from the judgment of a superior court. An appeal from the judgment of the superior court shall operate as a stay of the judgment. No bond need be given if the appeal is taken by the superintendent, but if the appeal is taken by the licensee, a bond shall be given as required by the Code of Civil Procedure.

(d) Whenever the superintendent takes possession of the property and business of a licensee pursuant to subdivision (a), he shall conserve or liquidate the property and business of the licensee pursuant to Article 1 (commencing with Section 3100), Chapter 17, Division 1, and the provisions of that article (except Sections 3100, 3101, and 3102) shall apply as if the licensee were a bank.

CHAPTER 1571

An act to amend Sections 9960 and 9962 of, and to add Sections 9964, 9965, and 29101.5 to, the Public Resources Code, relating to the Suisun Marsh.

[Approved by Governor September 30, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 9960 of the Public Resources Code is amended to read:

9960. The following definitions shall govern the interpretation of this chapter:

(a) "Suisun Marsh" means the Suisun Marsh as defined in Section 29101.

(b) "Primary management area" means the primary

management area as defined in Section 29102.

(c) "Suisun Marsh Protection Plan" means the plan identified and defined in Section 29113.

(d) "District" means the Suisun Resource Conservation District.

(e) "Board" means the board of directors of the district.

(f) "Individual ownership" means a separate privately owned parcel of land within the primary management area. Contiguous parcels of land owned by the same legal entity comprise a single individual ownership.

(g) "Department" means the Department of Fish and Game.

SEC. 2. Section 9962 of the Public Resources Code is amended to read:

9962. (a) The district shall have primary local responsibility for regulating and improving water management practices on privately owned lands within the primary management area of the Suisun Marsh in conformity with Division 19 (commencing with Section 29000) and the Suisun Marsh Protection Plan.

(b) The district shall issue regulations requiring compliance with any water management plan or program for privately owned lands within the primary management area if the plan or program has been prepared by the district and approved and certified by the San Francisco Bay Conservation and Development Commission as a component of the local protection program required by Chapter 6 (commencing with Section 29500) of Division 19.

(c) Following certification of the district's component of the local protection program by the San Francisco Bay Conservation and Development Commission, the board or its employees may, after approval by a vote of four-fifths of the membership of the board, obtain an inspection warrant pursuant to Title 13 (commencing with Section 1822.50) of Part 3 of the Code of Civil Procedure and enter onto privately owned lands within the primary management area for the purpose of determining whether or not the landowner is complying with the regulations of the district. Following a determination that a landowner is violating the regulations, and after written notice to the landowner, the board may request the District Attorney of the County of Solano to take appropriate action.

(d) The first violation by any person of any district regulation adopted pursuant to subdivision (b) shall be subject to a civil penalty not to exceed five hundred dollars ($500). A subsequent violation of the same district regulation by the same person shall be subject to a civil penalty not to exceed five thousand dollars ($5,000).

(e) The civil penalties prescribed in this section shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the District Attorney of the County of Solano. Such an action shall take precedence over all other civil matters on the calendar, except those matters to which equal precedence on the calendar is granted by law. Any penalty collected under this section shall be paid to the Treasurer of the County of Solano and shall be credited one-half to the county general fund and

one-half to the district.

SEC. 3. Section 9964 is added to the Public Resources Code, to read:

9964. The district may, with the consent of the owner, levy special assessments on the lands of the consenting owner within the district pursuant to the Municipal Improvement Act of 1913 (Division 12 (commencing with Section 10000) of the Streets and Highways Code) or the Improvement Act of 1911 (Division 7 (commencing with Section 5000) of the Streets and Highways Code) and issue bonds to represent unpaid assessments pursuant to the Improvement Act of 1911 or the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code) to finance the construction of improvements on those lands as provided by Section 9409.

Notwithstanding any provisions of Division 7 (commencing with Section 5000) or Division 12 (commencing with Section 10000) of the Streets and Highways Code, the district may contract for the construction of these improvements without inviting public bids therefor.

SEC. 4. Section 9965 is added to the Public Resources Code, to read:

9965. (a) The Legislature finds that compliance with the mandated regulations of the district will produce public benefits by improving wildlife habitat in the primary management area and that providing public funds to partially offset the costs of complying with those regulations would serve a valid public purpose. Assistance under this section shall not be treated as taxable income to a private landowner.

(b) Each year the district shall submit to the department an estimate of an amount sufficient to reimburse the private landowners in the primary management area for 50 percent of the operation and maintenance costs which it anticipates they will incur the following fiscal year in carrying out this chapter and Division 19 (commencing with Section 29000). Funds for this purpose shall not exceed five thousand dollars ($5,000) per individual ownership. The funds shall be included in the budget of the department payable from the Wildlife Conservation Fund and shall be available to the department for disbursement to the private landowners in accordance with subdivision (c).

(c) Each fiscal year, any private landowner in the primary management area who desires to qualify for the assistance provided by this section shall, by December 31, submit to the district a claim for those costs incurred that calendar year in carrying out the operation and maintenance activities specified in that landowner's individual ownership management program. Each claim shall be accompanied by substantiating documents, as determined by the district. The district shall review each claim to determine its appropriateness by, including, but not limited to, an onsite inspection to establish that the physical improvements or

management procedures for which a claim is submitted have been satisfactorily completed. The district shall submit the individual ownership claims to the department for review and approval for payment equal to 50 percent of each claim. However, no payment shall exceed five thousand dollars ($5,000). In any fiscal year in which the funds appropriated for purposes of this section are insufficient to pay 50 percent of each claim, the department shall pay all approved claims on a pro rata basis. In any fiscal year in which no funds are appropriated for purposes of this section, the department shall pay no claims.

SEC. 5. Section 29101.5 is added to the Public Resources Code, to read:

29101.5. Notwithstanding Section 29101, "Suisun Marsh" does not include the real property described as follows:

Beginning at a point in the easterly line of Section 32, T5N R1W, M.D.B. & M., said point being the northeast corner of the lands now or formerly of J.B. Lemon; thence along the north line of said lands of Lemon S 88° 15' W 840 feet to the north line of the Pacific Gas and Electric Company Tower Line; thence along said Tower Line N 38° 10' W 350 feet to an angle point; thence S 83° 00' W 2,020 feet; thence leaving said Tower Line N 42° W 450 feet; thence N 55° W 700 feet; thence N 75° W 540 feet; thence S 73° W 910 feet to the easterly line of Section 31, T5N, R1W, M.D.B. & M.; thence along said line N 1° 30' W 1,060 feet to a point 915.00 feet, measured at right angles, south of the south right-of-way line of State Highway Route 12; thence parallel with said State Highway N 89° 30' W 3,840 feet to the easterly line of Grizzly Island Road; thence along said easterly line N 2° 30' W 981 feet to the northerly right-of-way line of State Highway Route 12; thence along said line S 89° 30' E 3,825 feet to said easterly line of Section 31; thence continuing along said northerly line in an easterly and southeasterly direction to said easterly line of said Section 32; thence along said easterly line southerly to the point of beginning.

SEC. 6. Section 5 of this act shall become operative only if all of the following events occur:

(a) All private rights, title, and interest in the real property consisting of Solano County Assessor's parcels 046-130-010, 046-130-020, 046-130-030, 173-280-120, 173-280-130, and 173-280-140 is conveyed by the owner or owners of that property in fee to the Department of Fish and Game of the State of California, at no cost to the state, and that conveyance is recorded in the office of the Solano County Recorder. Any right, title, or interest of the State of California in these parcels held by virtue of its sovereignty in and to all tide and submerged lands shall not be affected by this conveyance and shall continue under the jurisdiction of the State Lands Commission.

(b) The owner or owners of the real property described in Section 29101.5 of the Public Resources Code, as proposed to be added by Section 5 of this act, records in the office of the Solano County

Recorder an agreement with the State of California, acting by and through the Department of Fish and Game, to do all of the following:

(1) Complete hydrological and engineering studies necessary to design and construct proposed flood control channels, siltation basins and other water control structures affecting the local watershed. Complete and implement a plan for the design and operation of those facilities, including the tidal slough specified in paragraph (2). The design of the tidal slough shall provide for approved flood flows, permanent retention of trees, brush and grasses from the toe to the top of the channel banks, adequate water circulation, sufficient water depth at low tides, and traps for sedimentation, and shall protect water quality, circulation, and flow directions in Hill Slough and any channels constructed by the state to bring higher quality water into Suisun Marsh. The owner or any subsequent entity responsible for the operation and maintenance of these facilities shall repair or replace, at no cost to the state, any damage to existing or future levees, water control structures or other property included within the Hill Slough Management Plan Area occurring as a result of the construction or operation of these facilities. The owner shall provide for the operation and maintenance of these facilities either by the owner, a special assessment district, or other local government entities. The plan, including the level of flood flow, design, operation, and maintenance of the facilities shall be as reviewed and approved in writing by the Director of Fish and Game. At least 45 days prior to approving the plan, the Director of Fish and Game shall submit the plan to the San Francisco Bay Conservation and Development Commission, the Department of Water Resources, and the State Department of Health Services for review and comment. Upon approval of the plan by the Director of Fish and Game, no further state permits or approvals need be obtained to construct the facilities in the approved plan.

(2) Construct, at no cost to the state, a permanent tidal slough connected to Hill Slough of sufficient depth and width to both retain water during periods of any daily low tide and to act as an effective barrier against trespass between that property and the contiguous lands of the Suisun Marsh. The design and construction of the tidal slough shall conform to the specifications detailed in the plan required by paragraph (1).

(3) Complete and implement a plan, approved by the Director of Fish and Game, which describes other measures associated with the barrier, including, but not limited to, such features as the installation of water control structures, the placement of public and service roads, the establishment of trees and other vegetation, fencing, and maintenance procedures, consistent with the Department of Fish and Game's management plan for the lands described in subdivision (a).

(4) Contribute to the Department of Fish and Game for the construction by the department of an interpretive center to be located in the marsh, upon approval of the project by the State Public

Works Board, the sum of two hundred fifty thousand dollars ($250,000), adjusted annually from January 1, 1983, until approval of the project by the State Public Works Board by the percentage change in the U.S. Department of Commerce Composite Construction Cost Index for the preceding 12 months, except that the contribution shall be made only if the project is approved by the State Public Works Board on or before December 31, 1988. If the approval is not made before that date, the contribution need not be made and the landowner shall be released of all responsibility under this paragraph. The landowner shall obtain a cash bond in favor of the state, at no cost to the state, to secure its obligations under this paragraph.

SEC. 7. The land conveyed to the Department of Fish and Game pursuant to subdivision (a) of Section 6 of this act is for protection and improvement of fish and wildlife habitat pursuant to a management plan developed and implemented by the department.

SEC. 8. Nothing in this act exempts any person from any provision of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

SEC. 9. The Legislature hereby finds and declares that the boundary adjustment provided for in Section 5 of this act is justified by the unique conditions stated in Section 6 of this act and, if carried out strictly in accordance with those conditions, will not harm the habitat value of the Suisun Marsh. The Legislature further finds and declares that this adjustment is not intended to set a precedent for further changes, and that the integrity of the remainder of the primary and secondary management areas is essential for protection of the marsh.

SEC. 10. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

CHAPTER 1572

An act to amend Sections 3512, 3513, and 3515 of, and to add Sections 3515.7 and 3515.8 to, the Government Code, relating to state employer-employee relations.

[Approved by Governor September 30, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 3512 of the Government Code is amended to read:

3512. It is the purpose of this chapter to promote full communication between the state and its employees by providing a reasonable method of resolving disputes regarding wages, hours, and other terms and conditions of employment between the state and public employee organizations. It is also the purpose of this chapter to promote the improvement of personnel management and employer-employee relations within the State of California by providing a uniform basis for recognizing the right of state employees to join organizations of their own choosing and be represented by those organizations in their employment relations with the state. It is further the purpose of this chapter, in order to foster peaceful employer-employee relations, to allow state employees to select one employee organization as the exclusive representative of the employees in an appropriate unit, and to permit the exclusive representative to receive financial support from those employees who receive the benefits of this representation.

Nothing in this chapter shall be construed to contravene the spirit or intent of the merit principle in state employment, nor to limit the entitlements of state civil service employees, including those designated as managerial and confidential, provided by Article VII of the California Constitution or by laws or rules enacted pursuant thereto.

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 or her designated representatives.

(j) "Fair share fee" means the fee deducted by the state employer from the salary or wages of a state employee in an appropriate unit who does not become a member of and financially support the recognized employee organization. The fair share fee shall be used to defray the costs incurred by the recognized employee organization in fulfilling its duty to represent the employees in their employment relations with the state, and shall not exceed the standard initiation fee, membership dues, and general assessments of the recognized employee organization.

SEC. 2.3. 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 these 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 Department of Personnel Administration, 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 or her designated representatives.

(j) "Fair share fee" means the fee deducted by the state employer from the salary or wages of a state employee in an appropriate unit who does not become a member of and financially support the recognized employee organization. The fair share fee shall be used to defray the costs incurred by the recognized employee

organization in fulfilling its duty to represent the employees in their employment relations with the state, and shall not exceed the standard initiation fee, membership dues, and general assessments of the recognized employee organization.

SEC. 2.5. 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 these 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.

(i) "State employer," or "employer," for the purposes of bargaining or meeting and conferring in good faith, means the Governor or his or her designated representatives.

(j) "Fair share fee" means the fee deducted by the state employer from the salary or wages of a state employee in an appropriate unit who does not become a member of and financially support the recognized employee organization. The fair share fee shall be used to defray the costs incurred by the recognized employee organization in fulfilling its duty to represent the employees in their employment relations with the state, and shall not exceed the standard initiation fee, membership dues, and general assessments of the recognized employee organization.

SEC. 2.7. 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 these 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 Department of Personnel Administration, 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.

(i) "State employer," or "employer," for the purposes of bargaining or meeting and conferring in good faith, means the Governor or his or her designated representatives.

(j) "Fair share fee" means the fee deducted by the state employer from the salary or wages of a state employee in an appropriate unit who does not become a member of and financially support the recognized employee organization. The fair share fee shall be used to defray the costs incurred by the recognized employee organization in fulfilling its duty to represent the employees in their employment relations with the state, and shall not exceed the standard initiation fee, membership dues, and general assessments of the recognized employee organization.

SEC. 3. Section 3515 of the Government Code is amended to read:

3515. Except as otherwise provided by the Legislature, state employees shall have the right to form, join, and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations. State employees also shall have the right to refuse to join or participate in the activities of employee organizations, except that nothing shall preclude the parties from agreeing to a maintenance of membership provision, as defined in subdivision (h) of Section 3513, or a fair share fee provision, as defined in subdivision (j) of Section 3513, pursuant to a memorandum of understanding. In any event, state employees shall have the right to represent themselves individually in their employment relations with the state.

SEC. 4. Section 3515.7 is added to the Government Code, to read:

3515.7. (a) Once an employee organization is recognized as the exclusive representative of an appropriate unit it may enter into an agreement with the state employer providing for organizational

security in the form of maintenance of membership or fair share fee deduction.

(b) The state employer shall furnish the recognized employee organization with sufficient employment data to allow the organization to calculate membership fees and the appropriate fair share fees, and shall deduct the amount specified by the recognized employee organization from the salary or wages of every employee for the membership fee or the fair share fee. These fees shall be remitted monthly to the recognized employee organization along with an adequate itemized record of the deductions, including, if required by the recognized employee organization, machine readable data. Fair share fee deductions shall continue for the duration of the agreement, or a period of three years from the effective date of the agreement, whichever comes first. The Controller shall retain, from the fair share fee deduction, an amount equal to the cost of administering the provisions of this section. The state employer shall not be liable in any action by a state employee seeking recovery of, or damages for, improper use or calculation of fair share fees.

(c) Notwithstanding subdivision (b), any employee who is a member of a religious body whose traditional tenets or teachings include objections to joining or financially supporting employee organizations shall not be required to financially support the recognized employee organization. That employee, in lieu of a membership fee or a fair share fee deduction, shall instruct the employer to deduct and pay sums equal to the fair share fee to a nonreligious, nonlabor organization, charitable fund approved by the State Board of Control for receipt of charitable contributions by payroll deductions.

(d) A fair share fee provision in a memorandum of understanding which is in effect may be rescinded by a majority vote of all the employees in the unit covered by the memorandum of understanding, provided that: (1) a request for such a vote is supported by a petition containing the signatures of at least 30 percent of the employees in the unit; (2) the vote is by secret ballot; (3) the vote may be taken at anytime during the term of the memorandum of understanding, but in no event shall there be more than one vote taken during the term. If the board determines that the appropriate number of signatures have been collected, it shall conduct the vote in a manner which it shall prescribe. Notwithstanding this subdivision, the state employer and the recognized employee organization may negotiate, and by mutual agreement provide for, an alternative procedure or procedures regarding a vote on a fair share fee provision.

(e) Every recognized employee organization which has agreed to a fair share fee provision shall keep an adequate itemized record of its financial transactions and shall make available annually, to the board and to the employees in the unit, within 90 days after the end of its fiscal year, a detailed written financial report thereof in the

form of a balance sheet and an operating statement, certified as to accuracy by its president and treasurer or comparable officers. In the event of failure of compliance with this section, any employee in the unit may petition the board for an order compelling this compliance, or the board may issue a compliance order on its own motion.

(f) If an employee who holds conscientious objections pursuant to subdivison (c) requests individual representation in a grievance, arbitration, or administrative hearing from the recognized employee organization, the recognized employee organization is authorized to charge the employee for the reasonable cost of the representation.

(g) An employee who pays a fair share fee shall be entitled to fair and impartial representation by the recognized employee organization. A breach of this duty shall be deemed to have occurred if the employee organization's conduct in representation is arbitrary, discriminatory, or in bad faith.

SEC. 5. Section 3515.8 is added to the Government Code, to read:

3515.8. Any state employee who pays a fair share fee shall have the right to demand and receive from the recognized employee organization, under procedures established by the recognized employee organization, a return of any part of that fee paid by him or her which represents the employee's additional pro rata share of expenditures by the recognized employee organization that is either in aid of activities or causes of a partisan political or ideological nature only incidentally related to the terms and conditions of employment, or applied towards the cost of any other benefits available only to members of the recognized employee organization. The pro rata share subject to refund shall not reflect, however, the costs of support of lobbying activities designed to foster policy goals and collective negotiations and contract administration, or to secure for the employees represented advantages in wages, hours, and other conditions of employment in addition to those secured through meeting and conferring with the state employer. The board may compel the recognized employee organization to return that portion of a fair share fee which the board may determine to be subject to refund under the provisions of this section.

SEC. 6. It is the intent of the Legislature that if this bill and Assembly Bill 3055 or Assembly Bill 3313, or both, are chaptered and become effective January 1, 1983, each of the bills amend Section 3513 of the Government Code, and this bill is chaptered last, that amendments proposed by each of the bills which are chaptered be given effect as follows:

(1) If this bill and Assembly Bill 3055 are both chaptered and become effective January 1, 1983, both bills amend Section 3513 of the Government Code, but Assembly Bill 3313 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Assembly Bill 3055, the amendments proposed by both bills shall be given effect and incorporated in Section 3513 in the form set forth in Section 2.3 of this act. Therefore, if this bill and Assembly Bill 3055 are both chaptered and become effective January 1, 1983, both

bills amend Section 3513, this bill is chaptered after Assembly Bill 3055, and Assembly Bill 3313 is not chaptered or as chaptered does not amend that section, Section 2.3 of this act shall be operative and Sections 2, 2.5, and 2.7 of this act shall not become operative.

(2) If this bill and Assembly Bill 3313 are both chaptered and become effective January 1, 1983, both bills amend Section 3513 of the Government Code, but Assembly Bill 3055 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Assembly Bill 3313, the amendments proposed by both bills shall be given effect and incorporated in Section 3513 in the form set forth in Section 2.5 of this act. Therefore, if this bill and Assembly Bill 3313 are both chaptered and become effective January 1, 1983, both bills amend Section 3513, this bill is chaptered after Assembly Bill 3313, and Assembly Bill 3055 is not chaptered or as chaptered does not amend that section, Section 2.5 of this act shall be operative and Sections 2, 2.3, and 2.7 of this act shall not become operative.

(3) If this bill and Assembly Bill 3055 and Assembly Bill 3313 are all chaptered and become effective January 1, 1983, all three bills amend Section 3513 of the Government Code, and this bill is chaptered after Assembly Bill 3055 and Assembly Bill 3313, the amendments proposed by all three bills shall be given effect and incorporated in Section 3513 in the form set forth in Section 2.7 of this act. Therefore, if this bill and Assembly Bill 3055 and Assembly Bill 3313 are all chaptered and become effective January 1, 1983, all three bills amend Section 3513 of the Government Code, and this bill is chaptered after Assembly Bill 3055 and Assembly Bill 3313, Section 2.7 of this act shall be operative and Sections 2, 2.3, and 2.5 of this act shall not become operative.

CHAPTER 1573

An act to amend Sections 11344.6, 11346.1, 11346.7, 11349, 11349.1, 11349.2, 11349.4, 11349.6, 11349.7, and 11350 of, and to add Section 11350.3 to, the Government Code, relating to the Office of Administrative Law.

[Approved by Governor September 30, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 11344.6 of the Government Code is amended to read:

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

SEC. 2. Section 11346.1 of the Government Code, as amended by Chapter 86 of the Statutes of 1982, is amended to read:

11346.1. (a) The provisions of this article shall not apply to any

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

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

Any finding of an emergency shall include a written statement which contains the information required by paragraphs (2) to (6), inclusive, of subdivision (a) of Section 11346.5 and a description of the specific facts showing the need for immediate action. The enactment of an urgency statute shall not, in and of itself, constitute a need for immediate action.

The statement and the regulation or order of repeal shall be filed immediately with the Office of Administrative Law. The statement or order of repeal shall be published in the next issue of the California Administrative Notice Register, which shall be delivered to each Member of the Legislature and to each standing committee. The regulation shall be published in the next issue of the California Administrative Code Supplement.

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

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

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

(e) No regulation adopted as an emergency regulation shall remain in effect more than 120 days unless the adopting agency has complied with Sections 11346.4 to 11346.8, inclusive, prior to the adoption of the emergency regulation, or has, within the 120-day period, completed the regulation adoption process by formally adopting the emergency regulation or any amendments thereto, pursuant to the provisions of this chapter. The adopting agency, prior to the expiration of the 120-day period, shall transmit to the office for

filing with the Secretary of State the adopted regulation, the rulemaking file, and a certification that either Sections 11346.4 to 11346.8, inclusive, were complied with prior to adoption, or that there was compliance with the provisions of this section within the 120-day period.

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

(g) In the event a regulation is originally adopted and filed as an emergency and the adopting agency fails to comply with subdivision (e) as provided above, such failure shall constitute a repeal thereof and after notice to the adopting agency by the Office of Administrative Law, shall be deleted.

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

SEC. 3. Section 11346.7 of the Government Code, as amended by Chapter 327 of the Statutes of 1982, is amended to read:

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

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

(1) A description of the public problem, administrative requirement, or other condition or circumstance the regulation is intended to address.

(2) A statement of the specific purpose of the regulation and the factual basis for the determination by the agency that the regulation is reasonably necessary to carry out the purpose for which it is proposed.

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

(b) Prepare and submit to the office with the adopted regulation a final statement of reasons which shall include all of the following:

(1) An update of the information contained in the initial statement of reasons.

(2) A determination as to whether the regulation imposes a mandate on local agencies or school districts. If the determination is

that the regulation does contain a local mandate, the agency shall state whether the mandate is reimbursable pursuant to Section 2231 of the Revenue and Taxation Code. If the agency finds that the mandate is not reimbursable it shall state the reasons for that finding.

(3) A summary of each objection or comment made regarding the regulation, together with an explanation of how the proposed regulation has been amended to accommodate each objection or comment, or the reasons for rejecting each objection or comment.

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

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

SEC. 3.5. Section 11346.7 of the Government Code, as amended by Chapter 327 of the Statutes of 1982, is amended to read:

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

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

(1) A description of the public problem, administrative requirement, or other condition or circumstance the regulation is intended to address.

(2) A statement of the specific purpose of the regulation and the factual basis for the determination by the agency that the regulation is reasonably necessary to carry out the purpose for which it is proposed.

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

(4) A description of any alternatives the agency has identified that

would lessen any adverse impact on small businesses. It is not the intent of this subdivision to require the agency to artificially construct alternatives or to justify why it has not identified alternatives.

(b) Prepare and submit to the office with the adopted regulation a final statement of reasons which shall include all of the following:

(1) An update of the information contained in the initial statement of reasons.

(2) A determination as to whether the regulation imposes a mandate on local agencies or school districts. If the determination is that the regulation does contain a local mandate, the agency shall state whether the mandate is reimbursable pursuant to Section 2231 of the Revenue and Taxation Code. If the agency finds that the mandate is not reimbursable it shall state the reasons for that finding.

(3) A summary of each objection or comment made regarding the regulation, together with an explanation of how the proposed regulation has been amended to accommodate each objection or comment, or the reasons for rejecting each objection or comment.

(4) An explanation setting forth the reasons for rejecting any proposed alternatives that would lessen the adverse economic impact on small businesses.

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

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

SEC. 4. Section 11349 of the Government Code is amended to read:

11349. The following definitions shall govern the interpretation of this chapter:

(a) "Necessity" means the record of the rulemaking proceeding demonstrates by substantial evidence the need for a regulation.

(b) "Authority" means the provision of law which permits or obligates the agency to adopt, amend or repeal a regulation.

(c) "Clarity" means written or displayed so that the meaning of regulations will be easily understood by those persons directly affected by them.

(d) "Consistency" means being in harmony with, and not in conflict with or contradictory to, existing statutes, court decisions, or other provisions of law.

(e) "Reference" means the statute, court decision or other provision of law which the agency implements, interprets or makes specific by adopting, amending or repealing a regulation.

(f) "Nonduplication" means that a regulation does not serve the same purpose as another state statute or regulation. This standard requires that an agency proposing to adopt any new regulation must identify any other state statute or regulation which is overlapped or duplicated by the proposed regulation and justify any overlap or duplication.

SEC. 5. Section 11349.1 of the Government Code, as amended by Chapter 327 of the Statutes of 1982, is amended to read:

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

(1) Necessity.
(2) Authority.
(3) Clarity.
(4) Consistency.
(5) Reference.
(6) Nonduplication.

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 and with the provisions of this chapter.

(b) The Office of Administrative Law shall adopt regulations governing the procedures it uses in reviewing regulations submitted to it. The regulations shall provide for an orderly review and shall specify the methods, standards, presumptions and principles the office uses, and the limitations it observes, in reviewing regulations to establish compliance with the standards specified in subdivision (a). The regulations adopted by the office shall ensure that it does not substitute its judgment for that of the rulemaking agency as expressed in the substantive content of adopted regulations.

(c) The Office of Administrative Law shall return any regulation subject to the provisions of this chapter to the adopting agency if any of the following occur:

(1) The adopting agency has not prepared the estimate required by paragraph (6) of subdivision (a) of Section 11346.5 and has not included the data used and calculations made and the summary

report of the estimate in the file of the rulemaking.

(2) The adopting agency has prepared the estimate required by paragraph (6) of subdivision (a) of Section 11346.5, the estimate indicates that the regulation will result in a cost to local agencies or school districts that is required to be reimbursed under Section 2231 of the Revenue and Taxation Code, and the adopting agency fails to:

(A) Cite an item in the Budget Act for the fiscal year in which the regulation will go into effect as the source from which the Controller may pay the claims of local agencies or school districts; or

(B) Cite an accompanying bill appropriating funds as the source from which the Controller may pay the claims of local agencies or school districts; or

(C) Attach a letter or other documentation from the Department of Finance which states that the Department of Finance has approved a request by the agency that funds be included in the Budget Bill for the next following fiscal year to reimburse local agencies or school districts for the costs mandated by the regulation; or

(D) Attach a letter or other documentation from the Department of Finance which states that the Department of Finance has authorized the augmentation of the amount available for expenditure under the agency's appropriation in the Budget Act which is for reimbursement pursuant to Section 2231 of the Revenue and Taxation Code to local agencies or school districts from the unencumbered balances of other appropriations in the Budget Act and that this augmentation is sufficient to reimburse local agencies or school districts for their costs mandated by the regulation.

(d) The Office of Administrative Law shall notify the Department of Finance of all regulations returned pursuant to subdivision (c).

SEC. 6. Section 11349.2 of the Government Code is amended to read:

11349.2. This article shall not apply to the repeal of any regulation by a state agency, except that the office shall disapprove any repeal of a regulation which has not complied with the procedures specified in Article 5 (commencing with Section 11346).

SEC. 7. Section 11349.4 of the Government Code is amended to read:

11349.4. A regulation returned to an agency because of failure to meet the standards of Section 11349.1, or because of an agency's failure to comply with the provisions of this chapter, may be rewritten and resubmitted without complying with the notice and public hearing requirements of Sections 11346.4, 11346.5 and 11346.8 unless the substantive provisions of the regulation have been significantly changed. If the regulation has been significantly changed, the agency shall comply with the provisions of Article 5 (commencing with Section 11346) of this chapter prior to readopting the regulation.

The office shall expedite the review of a regulation submitted without significant substantive change.

SEC. 8. Section 11349.6 of the Government Code is amended to read:

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

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

SEC. 9. Section 11349.7 of the Government Code, as amended by Chapter 86 of the Statutes of 1982, is amended to read:

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

(a) On or before December 31, 1980, each agency shall transmit to the Office of Administrative Law a plan for the review of all regulations it is administering. The plan shall be prepared in the manner prescribed by the office and shall include the estimated annual cost of implementing the plan, time schedules for the orderly review of regulations, personnel required to evaluate all regulations, and such other information required by the office.

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

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

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

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

The office shall periodically publish in the California

Administrative Notice Register a schedule for the review of existing bodies of regulations by each agency.

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

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

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

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

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

(h) In the event it determines that an existing regulation does not meet the standards set forth in Section 11349.1, or that an agency has failed to meet the provisions of this chapter, the Office of Administrative Law shall order the adopting agency to show cause why the regulation should not be repealed. In issuing such an order, the Office of Administrative Law shall specify in writing the reasons for its determination that the regulation does not meet the standards set forth in Section 11349.1, or the reasons for its determination that the agency failed to meet the provisions of this chapter. The reasons for its determination shall be made available to the public. The office shall also publish its order and the reasons therefor in the California Administrative Notice Register. 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 and consider all information available to it, including information submitted by the public as well as 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. During the period of review and consideration, the information available to the office relating to each regulation for which the office has issued an order to show cause shall be made available to the public. The office shall notify the adopting agency within two working days of the receipt of information submitted by the public regarding a regulation for which an order to show cause has been issued. 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 office has delivered the statement specifying the reasons for its determination to repeal, as required by subdivision (j), may overrule the decision of the office ordering the repeal of a regulation. The regulation shall then remain in full force and effect. Notice of the Governor's action and the reasons therefor shall be published in the California Administrative Notice Register.

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

(*l*) In the event that the office orders the repeal of a regulation, it shall publish the order and the reasons therefor in the California Administrative Notice Register.

(m) Notwithstanding any other subdivision of this section, the Office of Administrative Law, at the request of any standing, select, or joint committee of the Legislature, shall initiate a priority review of any regulation, group of regulations, or series of regulations which the committee believes does not meet the standards set forth in Section 11349.1. A review pursuant to this subdivision may be made at any time and shall be made without regard to the master plan review schedule in subdivision (d), or to the sequence for reviewing

individual titles of the California Administrative Code as required by Section 11349.8.

The Office of Administrative Law shall notify interested persons and shall publish in the California Administrative Notice Register that a priority review has been requested, shall consider the written comments submitted by interested persons, and shall complete each priority review made pursuant to this subdivision within 60 calendar days of the receipt of the committee's written request. During the period of any priority review made pursuant to this subdivision, all information available to the office relating to the priority review shall be made available to the public. In the event that the Office of Administrative Law determines that a regulation does not meet the standards set forth in Section 11349.1, it shall order the adopting agency to show cause why the regulation should not be repealed and shall proceed to seek repeal of the regulation as provided by this section.

(n) The power of a court to invalidate a regulation shall not be altered or barred by the fact that the office has not ordered the repeal of a regulation pursuant to this section. The procedure adopted by this section allowing the office to order the repeal of a regulation shall not be considered an exhaustible administrative remedy.

SEC. 10. Section 11350 of the Government Code is amended to read:

11350. (a) Any interested person may obtain a judicial declaration as to the validity of any regulation by bringing an action for declaratory relief in the superior court in accordance with the provisions of the Code of Civil Procedure. The right to judicial determination shall not be affected by the failure either to petition or to seek reconsideration of a petition filed pursuant to Section 11347.1 before the agency promulgating the regulations. The regulation may be declared to be invalid for a substantial failure to comply with the provisions of this chapter, or, in the case of an emergency regulation or order to repeal, upon the ground that the facts recited in the statement do not constitute an emergency within the provisions of Section 11346.1.

(b) In addition to any other ground which may exist, a regulation may be declared invalid if the agency's determination that the regulation is reasonably necessary to effectuate the purpose of the statute, court decision, or other provision of law which is being implemented, interpreted, or made specific by the regulation is not supported by substantial evidence.

For purposes of this section, the record shall be deemed to consist of all material maintained in the file of the rulemaking proceeding as defined in Section 11347.3.

(c) The approval of a regulation by the office or the Governor's overruling of a decision of the office disapproving a regulation shall not be considered by a court in any action for declaratory relief brought with respect to a regulation.

SEC. 11. Section 11350.3 is added to the Government Code, to read:

11350.3. Any interested person may obtain a judicial declaration as to the validity of a regulation which the office has disapproved or ordered repealed pursuant to Section 11349.3, 11349.6, or 11349.7 by bringing an action for declaratory relief in the superior court in accordance with the provisions of the Code of Civil Procedure. The court may declare the regulation valid if it determines that the regulation meets the standards set forth in Section 11349.1 and that the agency has complied with the provisions of this chapter. If the court so determines, it may order the office to immediately file the regulation with the Secretary of State.

SEC. 12. It is the intent of the Legislature, if this bill and Assembly Bill 2305 are both chaptered and become effective January 1, 1983, both bills amend Section 11346.7 of the Government Code, and this bill is chaptered after Assembly Bill 2305, that the amendments to Section 11346.7 proposed by both bills be given effect and incorporated in Section 11346.7 in the form set forth in Section 3.5 of this act. Therefore, Section 3.5 of this act shall become operative and shall prevail over Assembly Bill 2305 only if this bill and Assembly Bill 2305 are both chaptered and become effective January 1, 1983, both amend Section 11346.7, and this bill is chaptered after Assembly Bill 2305, in which case Section 3 of this act shall not become operative.

CHAPTER 1574

An act to amend Section 69594 of the Government Code, relating to courts.

[Approved by Governor September 30, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 69594 of the Government Code is amended to read:

69594. In the County of San Bernardino there shall be 21 judges of the superior court; provided that at such time as the Board of Supervisors of San Bernardino County finds there are sufficient funds for one, two, or three additional judges and adopts a resolution or resolutions to that effect, there shall be 22, 23, or 24 judges of the superior court, respectively.

SEC. 2. Notwithstanding any other provision of law, money disbursed or to be disbursed by the Controller as a block grant for local assistance for payment to counties for the annual cost of superior court judgeships created subsequent to January 1, 1973, shall not be disbursed on account of the additional superior court

judgeships created by this act.

SEC. 3. No appropriation is made by this act to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act. Furthermore, this act does not create any present or future obligation to reimburse the agency or district for any costs incurred because of this act.

CHAPTER 1575

An act to amend Section 69585 of the Government Code, relating to courts.

[Approved by Governor September 30, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 69585 of the Government Code is amended to read:

69585. In the County of Kern there shall be 13 judges of the superior court.

SEC. 2. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act. Furthermore, this act does not create any present or future obligation to reimburse the agency or district for any costs incurred because of this act.

SEC. 3. Notwithstanding any other provision of law, money disbursed or to be disbursed by the Controller as a block grant for local assistance for payment to counties for the annual cost of superior court judgeships created subsequent to January 1, 1973, shall not be disbursed on account of the additional superior court judgeships created by this act.

SEC. 4. This act shall become operative on July 1, 1983.

CHAPTER 1576

An act to amend Section 69599.5 of the Government Code, relating to courts.

[Approved by Governor September 30, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 69599.5 of the Government Code is amended to read:

69599.5. (a) In the County of Santa Barbara there shall be 10 judges of the superior court.

(b) Notwithstanding Section 247 of the Welfare and Institutions Code, no juvenile court referee or referees may be appointed in the County of Santa Barbara.

SEC. 2. Notwithstanding any other provision of law, money disbursed or to be disbursed by the Controller as a block grant for local assistance for payment to counties for the annual cost of superior court judgeships created subsequent to January 1, 1973, shall not be disbursed on account of the additional superior court judgeship created by this act.

SEC. 3. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act. Furthermore, this act does not create any present or future obligation to reimburse the agency or district for any costs incurred because of this act.

SEC. 4. This act shall become operative on July 1, 1983.

CHAPTER 1577

An act to amend Sections 24011, 73662, 73663, 73665, 73666, 73667, 73772, 73773, and 74708 of, and to add Sections 69585.7 and 70142.12 to, the Government Code, relating to government.

[Approved by Governor September 30, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 24011 of the Government Code is amended to read:

24011. Notwithstanding the provisions of Section 24009:

(a) The board of supervisors of Mendocino County may, by ordinance, provide that the public administrator shall be appointed by the board.

(b) The Board of Supervisors of Mendocino County may appoint the same person to the offices of public administrator, veteran service officer, and public guardian.

(c) The Board of Supervisors of Mendocino County may separate

the consolidated offices of district attorney and public administrator at any time in order to make the appointments permitted by this section. Upon approval by the board of supervisors, the officer elected to these offices at any time may resign, or decline to qualify for, the office of public administrator without resigning from, or declining to qualify for, the office of district attorney.

SEC. 2. Section 69585.7 is added to the Government Code, to read:

69585.7. In Lake County there shall be two judges.

SEC. 3. Section 70142.12 is added to the Government Code, to read:

70142.12. (a) In Sonoma County, the judges of the superior court, by majority vote, may appoint a court commissioner. The superior court may provide that the commissioner, in addition to the powers and duties specified in Section 259 of the Code of Civil Procedure, shall perform the duties of a probate commissioner appointed pursuant to Section 69897 and, if appointed by the presiding judge of the juvenile court, shall perform the duties of a juvenile court referee as specified in Section 247 of the Welfare and Institutions Code.

(b) Any commissioner appointed pursuant to this section shall have been admitted to practice law in California for not less than five years, shall hold office at the pleasure of the superior court, and shall not engage in the private practice of law.

(c) The salary of the commissioner for all duties performed pursuant to this section shall be equal to 78 percent of the annual salary of a judge of a superior court. The commissioner shall be a member of the Sonoma County Retirement System and shall receive vacation, sick leave and fringe benefits identical to those provided members of the Sonoma County Employees' Professional-Technical Representation Unit.

SEC. 4. Section 73662 of the Government Code is amended to read:

73662. There shall be one clerk of the municipal court.

SEC. 5. Section 73663 of the Government Code is amended to read:

73663. The clerk of the municipal court may appoint, with the approval of the judge, one chief deputy clerk, three court clerks II, four court clerks I, and four clerk-typists.

SEC. 6. Section 73665 of the Government Code is amended to read:

73665. The marshal may appoint, with the approval of the judge and the concurrence of the board of supervisors, one chief deputy marshal, three deputy marshals, one senior marshal's clerk and one marshal's clerk.

SEC. 7. Section 73666 of the Government Code is amended to read:

73666. The monthly salaries for the following positions shall be according to, and shall be increased in accordance with, the following

salary schedule:

Salary Schedule

	Step A	Step B	Step C	Step D	Step E
Clerk of the municipal court	$1,714.31	$1,801.98	$1,894.13	$1,991.00	$2,092.82
Chief deputy clerk	970.87	1,020.52	1,072.71	1,127.57	1,185.23
Court clerk II	928.26	975.73	1,025.63	1,078.07	1,133.21
Court clerk I	807.27	848.55	891.95	937.56	985.51
Clerk typist II	752.83	791.33	831.79	874.33	919.04
Marshal	2,199.85				
Chief deputy marshal	1,309.56	1,376.53	1,446.92	1,520.92	1,598.69
Deputy marshal	1,221.24	1,283.69	1,349.34	1,418.34	1,490.87
Senior marshal's clerk	883.10	928.26	975.73	1,025.63	1,078.07
Marshal's clerk	807.27	848.55	891.95	937.56	985.51

SEC. 8. Section 73667 of the Government Code is amended to read:

73667. The positions enumerated in Section 73666 are deemed to be equivalent in job and salary level to certain positions in the classified service of the merit system of the County of Humboldt, or in some instances, to such positions with a range adjustment on the salary range schedule of the County of Humboldt. The following table sets forth the court classifications with the equivalent county classifications and appropriate range adjustment, if any, shown opposite thereto:

Court classification	County classification
Clerk of the municipal court	Supervising clerk plus 119 ranges
Chief deputy clerk	Clerk III plus 28 ranges
Court clerk II	Clerk III plus 19 ranges
Court clerk I	Account clerk I
Clerk typist II	Clerk typist II

Court classification	County classification
Marshal	Sheriff's lieutenant plus 15 ranges
Chief deputy marshal	Deputy sheriff II plus 14 ranges
Deputy marshal	Deputy sheriff II
Senior marshal's clerk	Clerk typist III plus 9 ranges
Marshal's clerk	Clerk typist II plus 14 ranges

In the event that the salary for any county classification which is shown above is adjusted, then the salary for the equivalent court classification shall be automatically adjusted to the same amount, with an additional upward range adjustment on the salary range schedule of the County of Humboldt when such range adjustment is indicated in the above table. If the salary for any county classification which is shown above is adjusted prior to the effective date of this section, the resulting salary adjustment for the appropriate court classification shall become applicable on the effective date of this section. Any salary adjustment for a court classification which results from this section shall be effective only until January 1, 1981.

SEC. 9. 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, 1983, 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. 10. 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, 16 deputy clerks grade IV, 17 deputy clerks grade III, 14 deputy clerks grade II, 10 deputy clerks grade I, one secretary, two CRT/KEY input operators, and eight 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, 1983, 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. 11. 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 commissioner.

(2) One court administrative officer-jury commissioner.

(3) One clerk.

(4) One court reporter.

(5) Two municipal court secretaries.

(b) The court administrative officer-jury commissioner may appoint:

(1) One administrative assistant.

(2) One municipal court services supervisor.

(3) One accountant I.

(4) Eleven municipal court clerks IV.

(5) One deputy jury commissioner.

(6) One account clerk III.

(7) Eighteen municipal court clerks III.

(8) Two account clerks II.

(9) Twenty municipal court clerks II/I alternate.

SEC. 12. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

SEC. 12.5. It is the intention of the Legislature not to provide a block grant appropriation in augmentation of Item 0440-101-001 of the Budget Act of 1982 for reimbursement of local costs incurred pursuant to this act.

SEC. 13. Section 2 of this act shall become operative on July 1, 1983.

CHAPTER 1578

An act to amend Section 72602.2 of the Government Code, relating to courts.

[Approved by Governor September 30, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 72602.2 of the Government Code is amended to read:

72602.2. In addition to the number of judges prescribed by Section 72602, there shall be two judges for the Downey Municipal Court District. However, at such time as the Los Angeles County Board of Supervisors finds there are sufficient funds for one additional judge for the Downey Municipal Court District and adopts a resolution to that effect, there shall be three judges for the Downey Municipal Court District in addition to the number prescribed by Section 72602.

CHAPTER 1579

An act to amend Sections 73484, 73487, 73489, 73706, 73710, 73713, 74801, 74803, 74804, 74807, and 74808 of, to add Sections 73492, 73716.2, and 74809.5 to, and to repeal Sections 73487.1, 73488, 73707, 73711, 73712, 73716, and 74807.1 of, the Government Code, relating to courts.

[Approved by Governor September 30, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 73484 of the Government Code is amended to read:

73484. There shall be one marshal who shall receive the biweekly salary specified in range 57.75 as set forth in the biweekly salary schedule contained in Section 73486.

Whenever the salary of a related class, or classes, of San Joaquin

County employees is adjusted, the salary of the marshal may be adjusted by a percentage not to exceed the percentage of the adjustment applicable to such related class or classes. Any adjustment shall be effective only until January 1 of the second year following the year in which the adjustment is made, unless ratified by the Legislature.

SEC. 2. Section 73487 of the Government Code is amended to read:

73487. Persons employed in any of the positions authorized by this article shall be paid the salary assigned to the following ranges as set forth in the biweekly salary schedule contained in Section 73486, except that if the range shown opposite the title of the position includes a fraction, then the person employed in such position shall be paid a salary equal to that shown opposite said fractional range in the salary ordinance of the County of San Joaquin:

Position	Range
(a) Deputy clerk I	39.50
(b) Deputy clerk II	41.50
(c) Deputy clerk III	43.50
(d) Deputy clerk IV	46.75
(e) Chief deputy clerk	51.00
(f) Clerk	51.75
(g) Clerk-typist II	39.50
(h) Deputy marshal	50.75

Subject to the provisions of the salary ordinance of the County of San Joaquin, each person employed in the clerk's office or marshal's office may receive an annual increase in salary of one step on his assigned range, until the employee reaches the maximum step on the range assigned for his position. Thereafter no additional step increase shall be granted.

SEC. 3. Section 73487.1 of the Government Code is repealed.

SEC. 4. Section 73488 of the Government Code is repealed.

SEC. 5. Section 73489 of the Government Code is amended to read:

73489. Whenever the salary of a related class, or classes, of San Joaquin County employees is adjusted, the salary of the following classes may be adjusted by a percentage not to exceed the percentage of adjustment granted to the class, or classes, deemed by the board of supervisors to be related:

(a) Deputy clerk I
(b) Deputy clerk II
(c) Deputy clerk III
(d) Deputy clerk IV
(e) Chief deputy clerk
(f) Clerk
(g) Clerk-typist II
(h) Deputy marshal

All adjustments to the salaries of the above-named classes shall be effective as of the same date as the adjustment for the class or classes deemed to be related, and shall be effective only until January 1 of the second year following the year in which the adjustment is made, unless ratified by the Legislature.

SEC. 6. Section 73492 is added to the Government Code, to read:

73492. In the event of an increase in the business of the court or any other emergency that requires a greater number of employees than the number otherwise authorized by law, or a change in a classification, the clerk, with the approval of the majority of the judges, and the approval of the board of supervisors, may appoint as many additional deputies as are needed within any classification approved by the board of supervisors. The additional deputies shall be appointed at the entrance level of the classification, shall be selected in the same manner as those for whom express provision is made by law, and shall receive compensation on the basis of the hourly rate of pay as provided in the county salary ordinances. An employee may continue in any position so established no longer than 90 days after the adjournment of the 1983–84 Regular Session of the Legislature.

SEC. 7. Section 73706 of the Government Code is amended to read:

73706. There shall be one marshal who shall receive the biweekly salary specified in range 57.75 as set forth in the biweekly salary schedule contained in Section 73709. Whenever the salary of a related class, or classes, of San Joaquin County employees is adjusted, the salary of the marshal may be adjusted by a percentage not to exceed the percentage of the adjustment applicable to such related class or classes. Any adjustment shall be effective only until January 1 of the second year following the year in which the adjustment is made, unless ratified by the Legislature.

SEC. 8. Section 73707 of the Government Code is repealed.

SEC. 9. Section 73710 of the Government Code is amended to read:

73710. Persons employed in any of the positions authorized by this article shall be paid the salary assigned to the following ranges as set forth in the biweekly salary schedule contained in Section 73709, except that if the range shown opposite the title of the position includes a fraction then the person employed in such position shall be paid a salary equal to that opposite said fractional range in the salary ordinance of the County of San Joaquin.

Position	Range
(a) Deputy clerk I	39.50
(b) Deputy clerk II	41.50
(c) Deputy clerk III	43.50
(d) Chief deputy clerk	51.00
(e) Clerk	51.75
(f) Clerk-typist II	39.50

(g) Senior deputy marshal	53.00
(h) Deputy marshal	50.75

Subject to the provisions of the salary ordinance of the County of San Joaquin, each person employed in the clerk's office or the marshal's office may receive an annual increase in salary of one step on his assigned range, until the employee reaches the maximum step on the range assigned for his position. Thereafter, no additional step increase shall be granted.

SEC. 10. Section 73711 of the Government Code is repealed.

SEC. 11. Section 73712 of the Government Code is repealed.

SEC. 12. Section 73713 of the Government Code is amended to read:

73713. Whenever the salary of a related class, or classes, of San Joaquin County employees is adjusted, the salary of the following classes may be adjusted by a percentage not to exceed the percentage of adjustment granted to the class, or classes, deemed by the board of supervisors to be related:

(a) Deputy clerk I
(b) Deputy clerk II
(c) Deputy clerk III
(d) Chief deputy clerk
(e) Clerk
(f) Clerk-typist II
(g) Senior deputy marshal
(h) Deputy marshal

All adjustments to the salaries of the above-named classes shall be effective as of the same date as the adjustment for the class, or classes, deemed to be related, and shall be effective only until January 1 of the second year following the year in which the adjustment is made, unless ratified by the Legislature.

SEC. 13. Section 73716 of the Government Code is repealed.

SEC. 14. Section 74803 of the Government Code is amended to read:

74803. The clerk may appoint:

(a) One (1) chief deputy clerk who shall be assistant administrative officer and chief deputy.
(b) Eleven (11) deputy clerks IV.
(c) Three (3) deputy clerks III.
(d) One (1) deputy clerk III (stenographer).
(e) Seven (7) deputy clerks II.
(f) Twenty-nine (29) deputy clerks I.

SEC. 15. Section 73716.2 is added to the Government Code, to read:

73716.2. In the event of an increase in the business of the court or any other emergency that requires a greater number of employees than the number otherwise authorized by law, or a change in a classification, the clerk, with the approval of the majority of the judges, and with the approval of the board of supervisors, may

appoint as many additional deputies as are needed within any classification approved by the board of supervisors. The additional deputies shall be appointed at the entrance level of the classification, shall be selected in the same manner as those for whom express provision is made by law, and shall receive compensation on the basis of the hourly rate of pay as provided in the county salary ordinances. An employee may continue in a position so established no longer than 90 days after the adjournment of the 1983–84 Regular Session of the Legislature.

SEC. 16. Section 74804 of the Government Code is amended to read:

74804. There shall be one marshal who shall receive the biweekly salary specified in range 56.25 as set forth in the biweekly salary schedule contained in Section 74806.

Whenever the salary of a related class, or classes, of San Joaquin County employees is adjusted, the salary of the marshal may be adjusted by a percentage not to exceed the percentage of the adjustment applicable to such related class or classes. Any adjustment shall be effective only until January 1 of the second year following the year in which the adjustment is made, unless ratified by the Legislature.

SEC. 17. Section 74807 of the Government Code is amended to read:

74807. Persons employed in any of the positions authorized by this article shall be paid the salary assigned to the following ranges as set forth in the biweekly salary schedule contained in Section 74806, except that if the range shown opposite the title of the position includes a fraction then the person employed in such position shall be paid a salary equal to that shown opposite said fractional range in the salary ordinance of the County of San Joaquin.

Position	Range
(a) Deputy clerk I	39.50
(b) Deputy clerk II	41.50
(c) Deputy clerk III	43.50
(d) Deputy clerk III (stenographer)	44.00
(e) Deputy clerk IV	46.75
(f) Chief deputy clerk	51.00
(g) Clerk	59.75
(h) Deputy marshal	50.75
(i) Senior deputy marshal	53.00

Subject to the provisions of the salary ordinance of the County of San Joaquin, each person employed in the clerk's office or the marshal's office may receive an annual increase in salary of one step on his assigned range until the employee reaches the maximum step on the range assigned for his position. Thereafter no additional step increase shall be granted.

SEC. 18. Section 74807.1 of the Government Code is repealed..

SEC. 19. Section 74808 of the Government Code is amended to read:

74808. Whenever the salary of a related class, or classes, of San Joaquin County employees is adjusted, the salary of the following classes may be adjusted by a percentage not to exceed the percentage of adjustment granted to the class, or classes, deemed by the board of supervisors to be related:

(a) Deputy clerk I
(b) Deputy clerk II
(c) Deputy clerk III
(d) Deputy clerk III (stenographer)
(e) Deputy clerk IV
(f) Chief deputy clerk
(g) Clerk

Whenever the salary of the class of deputy sheriff I is adjusted, the class of deputy marshal and senior deputy marshal shall be adjusted an equal number of ranges on the salary schedule.

All adjustments to the salaries of the above-named classes shall be effective as of the same date as the adjustment for the class, or classes, deemed to be related, and shall be effective only until January 1 of the second year following the year in which the adjustment is made, unless ratified by the Legislature.

SEC. 20. Section 74801 of the Government Code is amended to read:

74801. (a) There shall be five judges.

(b) There shall be six judges upon the adoption of a resolution by a four-fifths vote of the board of supervisors stating that court quarters are available for the additional judge. The board shall notify the Governor of the adoption of such a resolution either personally or by registered mail.

SEC. 21. Section 74809.5 is added to the Government Code, to read:

74809.5. In the event of an increase in the business of the court or any other emergency that requires a greater number of employees than the number otherwise authorized by law, or a change in a classification, the clerk, with the approval of the majority of the judges, and with the approval of the board of supervisors, may appoint as many additional deputies as are needed within any classification approved by the board of supervisors. The additional deputies shall be appointed at the entrance level of the classification, shall be selected in the same manner as those for whom express provision is made by law, and they shall receive compensation on the basis of the hourly rate of pay as provided in the county salary ordinances. An employee may continue in a position so established no longer than 90 days after the adjournment of the 1983–84 Regular Session of the Legislature.

SEC. 22. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and

Taxation Code because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

CHAPTER 1580

An act to add Section 69510 to, and to amend Sections 74001 and 74001.5 of, the Government Code, relating to courts.

[Approved by Governor September 30, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 69510 is added to the Government Code, to read:

69510. A majority of the judges of a superior court may order sessions of the court to be held at any place where a municipal court holds sessions within the county. The order shall be filed with the county clerk and published as the judges may prescribe.

SEC. 2. Section 74001 of the Government Code is amended to read:

74001. There shall be the following number of judges: in the North Orange County Municipal Court, 12; in the Central Orange County Municipal Court, 13; in the West Orange County Municipal Court, nine, provided, that at such time as the Orange County Board of Supervisors finds there are sufficient funds for 10 judges and adopts a resolution to that effect, there shall be 10 judges; in the Orange County Harbor Municipal Court, seven; and in the South Orange County Municipal Court, four.

SEC. 3. Section 74001.5 of the Government Code is amended to read:

74001.5. The judges of the West Orange County Judicial District may appoint two court commissioners, who shall have the additional powers and duties prescribed by Section 259a of the Code of Civil Procedure, insofar as they are applicable to the municipal court, and the judges of the South Orange County Judicial District, the Central Orange County Judicial District, and the Orange County Harbor Judicial District may appoint one court commissioner for each district.

Such an appointment of a second court commissioner by the judges of the West Orange County Judicial District, by the judges of the South Orange County Judicial District, or of a court commissioner by the judges of the Orange County Harbor Judicial District, may only be made in lieu of appointing a traffic trial commissioner pursuant to Section 72450. The commissioners shall possess the same qualifications as the law requires of a judge of the municipal court. The commissioners shall hold office at the pleasure

of the judges and shall receive a monthly salary in the same sum as is paid a commissioner of the Los Angeles Municipal Court District. The commissioners shall be ex officio deputy clerks of the court and shall be members of any retirement system which includes the attachés of the court and shall receive the same fringe benefits as granted to such attachés. The commissioners shall not engage in the private practice of law.

SEC. 4. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

CHAPTER 1581

An act to add Article 2 (commencing with Section 90) to Chapter 5 of Title 1 of Part 1 of, and to add Section 1823.15 to, the Code of Civil Procedure, and to amend Sections 72602.1 and 74641 of the Government Code, relating to courts.

[Approved by Governor September 30, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Article 2 (commencing with Section 90) is added to Chapter 5 of Title 1 of Part 1 of the Code of Civil Procedure, to read:

Article 2. Economic Litigation for Municipal and Justice Courts

90. Except where changed by the provisions of this Article and Part 3.5 (commencing with Section 1823), all provisions of law applicable to civil actions generally apply to actions subject to this article.

91. (a) Except as otherwise provided in this section, the provisions of this article apply to every civil action, including cases entering arbitration, pending in the municipal and justice courts, on or after July 1, 1983, in which the amount in controversy does not exceed $15,000. "Amount in controversy" means the amount of the demand, or the recovery sought, or the value of the property, or the amount of the lien, which is in controversy in the action, exclusive of attorney fees, interest, and costs. These provisions also apply to any action transferred to such a court by reason of lack of jurisdiction in the court in which it was filed.

(b) The provisions of this article do not apply to any action under Chapter 5A (commencing with Section 116) or any proceeding under Part 3 (commencing with Section 1063).

(c) Any action may, upon noticed motion, be withdrawn from the provisions of this article, upon a showing that it is impractical to prosecute or defend the action within the limitations of these provisions.

(d) Special demurrers, motions to strike, and requests for discovery, pending or determined prior to July 1, 1983, shall be subject to the law in effect on June 30, 1983.

92. (a) The pleadings allowed are complaints, answers, cross-complaints, answers to cross-complaints and general demurrers.

(b) The answer need not be verified, even if the complaint or cross-complaint is verified.

(c) Special demurrers are not allowed.

(d) Motions to strike under Section 453 are not allowed.

(e) Motions to strike under Section 435 are allowed only on the ground that the damages or relief sought are not supported by the allegations of the complaint.

(f) Except as limited by this section, all other motions are permitted.

93. (a) The plantiff has the option to serve case questionnaires with the complaint, using forms approved by the Judicial Council. The questionnaires served shall include a completed copy of the plaintiff's completed case questionnaire, and a blank copy of the defendant's case questionnaire.

(b) Any defendant upon whom a case questionnaire is served shall serve a completed defendant's case questionnaire upon the requesting plaintiff with the answer.

(c) The case questionnaire shall be designed to elicit fundamental information about each party's case, including names and addresses of all witnesses with knowledge of any relevant facts, a list of all documents relevant to the case, a statement of the nature and amount of damages, and information covering insurance coverages, injuries and treating physicians. The Judicial Council shall design and develop forms for case questionnaires.

(d) Approved forms shall be made available by the clerk of the court.

(e) A party may move to compel compliance with the requirements of subdivision (a) or (b) in accordance with Section 2034.

94. Discovery is permitted only to the extent provided by this section and Section 95. As to each adverse party, a party may use the following forms of discovery:

(a) Any combination of 35 of the following:

(1) Interrogatories (with no subparts) pursuant to Section 2030.

(2) Requests to identify or produce documents or things pursuant to Section 2031.

(3) Requests for admission (with no subparts) pursuant to Section 2033.

(b) One deposition pursuant to Sections 2016 to 2025 inclusive.

(c) Any party may serve on any person a subpoena duces tecum requiring the person served to mail copies of documents, books or records to the party's counsel at a specified address, along with an affidavit complying with Section 1561 of the Evidence Code.

The law pertaining to depositions on oral examinations governs what may be sought, notice to other parties, and orders for the protection of parties and of the person served.

The party who issued the subpoena shall mail a copy of the response to any other party who tenders the reasonable cost of copying it.

(d) Examinations pursuant to Section 2032.

(e) The identity of expert witnesses pursuant to Section 2037.

95. (a) The court may, on noticed motion and subject to such terms and conditions as are just, authorize a party to conduct additional discovery, but only upon a showing that the moving party will be unable to prosecute or defend the action effectively without the additional discovery. In making a determination under this section, the court shall take into account whether the moving party has used all applicable discovery in good faith, and whether the party has attempted to secure the additional discovery by stipulation or by means other than formal discovery.

(b) The parties may stipulate to additional discovery.

96. (a) Any party may serve on any other party a request in substantially the following form:

TO: _____ ,

attorney for _____ :

You are requested to serve on the undersigned, within 20 days, a statement of: the names and addresses of witnesses (OTHER THAN A PARTY WHO IS AN INDIVIDUAL) you intend to call at trial; a description of physical evidence you intend to offer; and a description and copies of documentary evidence you intend to offer or, if the documents are not available to you, a description of them. Witnesses and evidence that will be used only for impeachment need not be included. YOU WILL NOT BE PERMITTED TO CALL ANY WITNESS, OR INTRODUCE ANY EVIDENCE, NOT INCLUDED IN THE STATEMENT SERVED IN RESPONSE TO THIS REQUEST, EXCEPT AS OTHERWISE PROVIDED BY LAW.

(b) The request shall be served no more than 45 days or less than 30 days prior to the date first set for trial, unless otherwise ordered.

(c) A statement responding to the request shall be served within 20 days from the service of the request.

(d) No additonal, amended or late statement is permitted except by written stipulation or unless ordered for good cause on noticed motion.

(e) No request or statement served under this section shall be filed, unless otherwise ordered.

(f) The clerk shall furnish forms for requests under this rule.

(g) The time for performing acts required under this section shall be computed as provided by law, including Section 1013.

97. (a) Except as provided in this section, upon objection of a party who served a statement in compliance with subdivision (c) of Section 96, no party required to serve a statement may call a witness or introduce evidence, except for purposes of impeachment, against the objecting party unless the witness or evidence was included in the statement served.

(b) The exceptions to subdivision (a) are:

(1) A person who, in his or her individual capacity, is a party to the litigation and who calls himself or herself as a witness.

(2) An adverse party.

(3) Witnesses and evidence used solely for purposes of impeachment.

(4) Documents obtained by discovery authorized by this chapter.

(5) The court may, upon such terms as may be just (including, but not limited to, continuing the trial for a reasonable period of time and awarding costs and litigation expenses), permit a party to call a witness or introduce evidence which is required to be, but is not included in such party's statement so long as the court finds that such party has made a good faith effort to comply with subdivision (c) of Section 96 or that the failure to comply was the result of his or her mistake, inadvertence, surprise or excusable neglect as provided in Section 473.

(c) Nothing in this article limits the introduction of evidence in any hearing pursuant to Section 585.

98. A party may, in lieu of presenting direct testimony, offer the prepared testimony of revelant witnesses in the form of affidavits or declarations under penalty of perjury. The prepared testimony may include, but need not be limited to, the opinions of expert witnesses, and testimony which authenticates documentary evidence. To the extent the contents of the prepared testimony would have been admissible were the witness to testify orally thereto, the prepared testimony shall be received as evidence in the case, provided that either of the following applies:

(a) A copy, together with the current address of the affiant, has been served on the party against whom it is offered at least 30 days prior to the trial, and the affiant is available for service of process at a place designated by the proponent, within 150 miles of the place of trial, at least 20 days prior to trial.

(b) The statement is in the form of all or part of a deposition in the case, and the party against whom it is offered had an opportunity to participate in the deposition.

The court shall determine whether the affidavit or declaration shall be read into the record in lieu of oral testimony or admitted as a documentary exhibit.

99. A judgment or final order, in respect to the matter directly adjudged, is conclusive between the parties and their successors in interest but does not operate as collateral estoppel of a party or a successor in interest to a party in other litigation with a person who was not a party or a successor in interest to a party to the action in

which the judgment or order is rendered.

100. Any party shall have the right to appeal any judgment or final order consistent with the law governing appeals.

SEC. 2. Section 1823.15 is added to the Code of Civil Procedure, to read:

1823.15. Notwithstanding the provisions of Section 1823.1, the pilot project conducted in municipal courts pursuant to this title shall continue until July 1, 1983.

SEC. 3. Section 72602.1 of the Government Code is amended to read:

72602.1. In addition to the number of judges prescribed by Section 72602, there shall be two additional judges for the Long Beach Municipal Court District; provided, that at such time as the Los Angeles County Board of Supervisors finds there are sufficient funds for a total of five additional judges for the Long Beach Municipal Court District and adopts a resolution to that effect, there shall be a total of five additional judges for the Long Beach Municipal Court District.

SEC. 4. Section 74641 of the Government Code is amended to read:

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

Santa Barbara-Goleta	4
Santa Maria	2
Lompoc	1

SEC. 5. The Legislature finds and declares that the costs of civil litigation have risen sharply in recent years. This increase in litigation costs makes it more difficult to enforce smaller claims even though the claim is valid or makes it economically disadvantageous to defend against an invalid claim.

The Legislature further finds and declares that there is a compelling state interest in the development of pleading, pretrial and trial procedures which will reduce the expense of litigation to the litigants in cases involving less than $15,000. Therefore, the provisions of Article 2 (commencing with Section 90) are added to Chapter 5 of Title 1 of Part 1 of the Code of Civil Procedure.

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

CHAPTER 1582

An act to amend Sections 26603, 31470.3, 71264, 73642, 73643, 73648, 73952, 73953, 73958, 74341, 74342, 74343, 74343.1, 74343.4, 74350, 74352, 74357, 74671, 74742, 74743, and 74746 of, to repeal Section 74749 of, and to repeal and add Article 25.5 (commencing with Section 74361) of Chapter 10 of Title 8 of, the Government Code, and to amend Section 830.4 of the Penal Code, relating to courts.

[Approved by Governor September 30, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 26603 of the Government Code is amended to read:

26603. Except as otherwise provided by law, whenever required, the sheriff shall attend all superior courts held within his county provided, however, that a sheriff shall attend a civil action only if the presiding judge or his designee makes a determination that the attendance of the sheriff at such action is necessary for reasons of public safety. The sheriff shall obey all lawful orders and directions of all courts held within his county.

SEC. 2. Section 31470.3 of the Government Code is amended to read:

31470.3. Clerks, bookkeepers, stenographers, court service officers, and other employees who may have been appointed as deputies sheriff or deputies marshal but who do not perform the duties of any peace officers enumerated and honorary deputies sheriff or other persons holding appointments as deputies sheriff who receive no compensation therefor who do not regularly perform official duties and those whose principal duties clearly do not fall within the scope of active law enforcement, 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 are ineligible.

SEC. 3. Section 71264 of the Government Code is amended to read:

71264. Whenever required, marshals and constables shall attend the municipal and justice courts of the district in which they are appointed or elected to act; provided, however, that a marshal or constable shall attend a civil action only if the presiding judge or his designee makes a determination that the attendance of the marshal or constable at such action is necessary for reasons of public safety. Within their counties they shall execute, serve, and return all writs, processes, and notices directed or delivered to them by municipal and justice courts or by other competent authority. A constable of a justice court, or a marshal of a municipal court who is authorized by law to appoint not more than four deputies, shall not be required to

travel outside of his district to serve any civil process or notice. With respect to proceedings in the municipal or justice court, the marshal or constable of the court has all the powers and duties imposed by law upon the sheriff with respect to proceedings in the superior court. In a county of the third class, the marshal shall attend all superior courts held within the county, subject to the restrictions of this section or Section 26603.

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

73642. There shall be one court administrator who shall serve as clerk of the court, and who shall be appointed by the judges of the court. The salary of the court administrator shall be 33 percent higher than that specified for the classification of assistant court administrator of the El Cajon Judicial District. Appointment to such position shall be at step C of the range unless the appointee is entitled to a higher step under the provisions of subdivision (c) of Section 74350.

SEC. 5. Section 73643 of the Government Code is amended to read:

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

(a) One assistant court administrator. The assistant court administrator shall serve as the assistant clerk of the court and shall receive a biweekly salary at a rate 17 percent below that specified for assistant court administrator of the San Diego Judicial District.

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

(c) Two chief deputy clerks each of whom shall receive a biweekly salary at a rate 10 percent higher than that specified for assistant chief deputy clerk of the San Diego Judicial District.

(d) Two assistant chief deputy clerks each of whom shall receive a biweekly salary at a rate 10 percent higher than that specified for supervising deputy clerk.

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

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

(g) Fifty deputy clerks III, II or I, as the case may be. Each of the

deputy clerks III shall receive a biweekly salary at a rate 17 percent below that specified for deputy clerk IV. Each of the deputy clerks II shall receive a biweekly salary at a rate 16 percent below that specified for deputy clerk III. Each of the deputy clerks I shall receive a biweekly salary at a rate equal to that specified for the classification of intermediate clerk-typist in the classified service of San Diego County. At the discretion of the court administrator, appointments to the deputy clerk I classification may be at any step within the salary range.

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

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

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

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

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

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

(n) The provisions of Section 74343.1, except as provided herein, shall apply to the attachés appointed pursuant to this section and Section 73642.

SEC. 6. Section 73648 of the Government Code is amended to read:

73648. (a) All persons holding positions on the effective date of any amendments to this article shall continue in their respective positions without further examination or qualification and at the added compensation provided in this article, including increments

for continuous prior service in such positions in the court. Any person whose title is changed as a result of any amendments to this article shall receive credit for continued service to which he or she would be entitled under his or her previous position and shall receive compensation at the step covering such length of service. Thereafter, any increments earned by additional service in grade shall take effect upon the first day of the pay period following completion of such required service.

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

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

(d) Notwithstanding the provisions of Section 71183, a person appointed by the court administrator from an eligible list certified by the Civil Service Commission of the County of San Diego to fill a

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

SEC. 7. Section 73952 of the Government Code is amended to read:

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

SEC. 8. Section 73953 of the Government Code is amended to read:

73953. The court administrator shall appoint:

(a) One assistant clerk at the direction of a majority of the judges of the court, who shall serve at the pleasure of the judges. The salary of the assistant clerk shall be 17 percent below that specified for assistant clerk-administrative officer of the San Diego Judicial District.

(b) Two deputy clerks who shall be chief clerks and who shall receive a biweekly salary at a rate 10 percent higher than that specified for assistant chief clerk. Upon the occurrence of the first vacancy in one of the positions of deputy clerk, one of the positions of chief clerk shall cease to exist; provided, however, that there shall be a concurring increase of one position in the grade of supervising deputy clerk.

(c) Two deputy clerks who shall be assistant chief clerks and who shall receive a biweekly salary at a rate 10 percent higher than that specified for supervising deputy clerk. Upon occurrence of the first vacancy in one of the positions of deputy clerk, one of the positions of assistant chief clerk shall cease to exist; provided, however, that there shall be a concurring increase of one position in the grade of supervising deputy clerk.

(d) Two supervising deputy clerks who shall receive the biweekly salary at a rate 11 percent higher than that specified for deputy clerk IV.

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

(f) Sixty-eight deputy clerks III, II, or I, as the case may be. Each deputy clerk III shall receive the biweekly salary at a rate 17 percent

below that specified for deputy clerk IV. Each deputy clerk II shall receive the biweekly salary at a rate 16 percent below that specified for deputy clerk III. Each deputy clerk I shall receive the biweekly salary equal to that specified for the classification of intermediate clerk-typist in the classified service of San Diego County. At the discretion of the court administrator, appointments to the deputy clerk I classification may be at any step within the salary range.

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

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

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

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

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

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

(m) Not to exceed 10 deputy clerk-court workers may be appointed by the court administrator. Such appointments shall be

subject to the provisions and requirements of subdivision (g) of Section 74343.

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

SEC. 9. Section 73958 of the Government Code is amended to read:

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

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

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

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

SEC. 10. Section 74341 of the Government Code is amended to read:

74341. There shall be 22 judges; provided, that at such time as the Board of Supervisors of San Diego County finds there are sufficient funds available for an additional judge and adopts a resolution to that effect, there shall be 23 judges.

SEC. 11. Section 74342 of the Government Code is amended to read:

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

SEC. 12. Section 74343 of the Government Code is amended to read:

74343. The court administrator may appoint:

(a) One assistant court administrator, with the consent of a majority of the judges of the court, who shall be empowered to act in the place and stead of the court administrator in the event that the court administrator is absent or unavailable for any reason and who shall receive a biweekly salary at a rate 44 percent higher than that specified for the position of chief clerk.

(b) Five deputy clerks each of whom shall be chief clerks and who shall receive a biweekly salary at a rate 10 percent higher than that specified for assistant chief clerk.

(c) Five deputy clerks each of whom shall be assistant chief clerks

and who shall receive a biweekly salary at a rate 10 percent higher than that specified for supervising deputy clerk.

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

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

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

(g) One hundred seventy-two deputy clerks III, II or I, as the case may be. Each deputy clerk III shall receive a biweekly salary at a rate 17 percent below that specified for deputy clerk IV. Each deputy clerk II shall receive a biweekly salary at a rate 16 percent below that specified for a deputy clerk III. Each of the deputy clerks I shall receive a biweekly salary equal to that specified for the classification of intermediate clerk-typist in the classified service of the County of San Diego. Appointments to the deputy clerk I classification may be at any step within the salary range at the discretion of the court administrator.

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

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

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

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

secretary I in the classified service of the County of San Diego.

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

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

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

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

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

(g) Up to 10 deputy clerk-court workers. The class of deputy clerk-court worker provides for temporary appointments to positions for which no specific classifications have been established pending a review and evaluation of the duties of such positions by the court administrator, and the establishment of specific classifications. The rate of pay for each individual employed in this class shall be within the designated range at a rate determined by the court administrator In all cases, the application of the rules contained in this article as they relate to appointments to deputy clerk-court worker shall be governed by the application of this article as it applies to the duties of the class that is pending establishment. Appointments shall be temporary and shall not exceed 18 months. The salary range for persons employed pursuant to this section shall be three hundred ninety-seven dollars and sixty cents ($397.60) to one thousand five hundred eight dollars and eighty cents ($1,508.80) biweekly, or four dollars and ninety-seven cents ($4.97) to eighteen dollars and eighty-six cents ($18.86) hourly. Employee benefits, if applicable, shall be equal to those granted to the class in the classified service of San Diego County to which the pending classification will be tied for benefit purposes. While deputy clerk-court workers will not be eligible for automatic step increases provided in Section 74343.1, paid service as a deputy clerk-court worker may be counted toward step increases in the employee's permanent position which immediately follows the deputy clerk-court worker position.

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

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

SEC. 13. Section 74343.1 of the Government Code is amended to read:

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

(a) In no event shall the salary of the clerk or any deputy clerk who occupied his or her position on the day prior to the effective date of this section be less than his or her salary on such day. The salaries and percentages prescribed herein shall be calculated using the hourly rate of the highest step common to both classes involved in such calculation, and the resulting hourly rate shall be rounded to

the nearest cent. In the event the County of San Diego has adopted a classification and salary schedule utilizing numerically, rather than alphabetically, designated pay steps, A, B, C, D and E referred to in this article shall for all purposes be considered to be steps 1, 2, 3, 4 and 5, respectively, and shall reflect hourly and biweekly rates at approximate 5 percent increments between steps.

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

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

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

(d) Officers and attachés may be voluntarily transferred from a position in the service of a court in one judicial district to a position in the service of a court in another judicial district within the County of San Diego, from a position in the service of the County of San Diego to a position in the service of a court, from a position in the service of a court to a position in the service of the County of San Diego, or between the offices of court administrator and marshal in the same manner that classified employees of the County of San Diego may be transferred between departments of the county. In

determining the step of the salary schedule at which such transferred employee shall be paid, the employee may be given credit for continuous prior service in the service of the court or the County of San Diego from which he or she was transferred.

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

(f) The hereinafter enumerated classes of positions in the court are deemed to be comparable in job level to certain classifications in the civil service of San Diego County and whenever the salaries of such classifications in the service of San Diego County are adjusted by the board of supervisors, the salaries of the comparable classifications in the office of the court administrator shall be adjusted a commensurate percentage in the salary schedule. Such adjustment shall not be more than 20 percent higher or 20 percent lower than the salary schedule specified in this article. Such adjustments shall be effective on the same date as the effective date of the action by the board of supervisors as it applies to the county classifications. In the event that the salary of any of the San Diego County classifications listed in this section is adjusted by the board of supervisors on any day prior to the effective date of any amendments to this article enacted by the Legislature at the 1981–82 Regular Session of the Legislature, commensurate adjustments shall be applied to the salaries of the comparable classifications in the court administrator's office, such adjustment to take effect on the effective date of any amendments to this article enacted at the 1981–82 Regular Session of the Legislature. The comparable classifications are as follows:

Municipal court classification	County classification
Deputy clerk, chief clerk	Superior court clerk
Deputy clerk, assistant chief clerk	Superior court clerk
Deputy clerk I	Intermediate clerk
Deputy clerk II	Superior court clerk
Deputy clerk III	Superior court clerk
Deputy clerk IV	Superior court clerk
Supervising deputy clerk	Superior court clerk
Deputy clerk data entry supervisor	Data entry supervisor
Deputy clerk data entry operator	Data entry operator
Deputy clerk interpreter	Superior court clerk
Deputy clerk-administrative secretary III	Administrative secretary III
Deputy clerk-administrative secretary	

II	Administrative secretary II
Deputy clerk-administrative secretary I	Administrative secretary I
Deputy clerk-administrative secretary IV	Administrative secretary IV
Deputy clerk-chief administrative services	Chief, administrative services
Deputy clerk-administrative assistant III	Administrative assistant III
Deputy clerk-administrative assistant II	Administrative assistant II
Deputy clerk-administrative assistant I	Administrative assistant I
Deputy clerk-senior systems analyst	Senior systems analyst
Deputy clerk-associate systems analyst	Associate systems analyst
Deputy clerk-assistant systems analyst	Assistant systems analyst
Deputy clerk-printer	Publications supervisor

(g) The court administrator and the assistant court administrator shall be eligible for the variable incentive compensation plan applicable to the executive service in the County of San Diego. Any initial step changes required by such plan shall be effective January 1, 1983. Any incentive adjustments hereafter granted shall be prospective only, and are subject to prior approval of the court, in the case of the court administrator, and of the court administrator in the case of the assistant court administrator. The court and the court administrator respectively shall promulgate specific job-related criteria to measure such performance, and must provide all affected attachés with criteria within one month after the commencement of the period of eligibility.

(h) All persons holding positions as chief, administrative services; chief clerk; administrative assistant III; assistant chief clerk; and administrative assistant II, shall be eligible for the variable incentive compensation plan applicable to the classifications represented by the Management Association in the County of San Diego. Any initial step changes required by such plan shall be effective upon the effective date of this amendment. Any incentive adjustments hereafter granted shall be prospective only, and are subject to prior approval of the court administrator. The court administrator shall promulgate specific job-related criteria to measure such performance, and must provide all affected attachés with such criteria within one month after the commencement of the period of

eligibility.

SEC. 14. Section 74343.4 of the Government Code is amended to read:

74343.4. (a) The traffic referee shall receive a salary equal to 60 percent of the salary of a judge of the municipal court. He shall, after each year of service, receive an increase of 5 percent of the salary of a judge of the municipal court but in no event shall he receive more than 65 percent of the salary of a judge of the municipal court.

(b) There shall be three commissioners who shall hold office at the pleasure of the judges; provided that a majority of judges may appoint as many commissioners as the business of the court may require, not to exceed five, at such time as the San Diego County Board of Supervisors finds there are sufficient funds to provide for all or any such commissioners and adopts a resolution or resolutions to that effect.

(c) The commissioner shall receive a salary equal to 75 percent of the salary of a judge of the municipal court.

SEC. 15. Section 74350 of the Government Code is amended to read:

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

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

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

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

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

SEC. 16. Section 74352 of the Government Code is amended to read:

74352. In any civil action or proceedings filed in the San Diego, El Cajon, North County, or South Bay Judicial Districts, a reporter's filing fee of eleven dollars ($11) shall be paid, as specified in Section 68090.5.

SEC. 17. Section 74357 of the Government Code is amended to read:

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

Each judicial secretary other than the chief judicial secretary shall

receive a biweekly salary at a rate equal to that specified for administrative secretary IV in the classified service of the County of San Diego, commencing at step D at initial employment and advancing to step E at the end of one year of continuous service.

Whenever the salary of administrative secretary IV of the classified service of the County of San Diego is adjusted by the Board of Supervisors of San Diego County, the salaries of the chief judicial secretary and judicial secretaries shall be adjusted a commensurate percentage on the same date, such adjustments to take effect on the effective date of any amendments to this article enacted at the 1981–82 Regular Session of the Legislature. Any salary adjustments made as a result of this section shall be effective only until January 1, 1985.

Notwithstanding the provisions of Section 74350, the chief judicial secretary and judicial secretaries shall receive and be entitled to the same vacations, sick leave, leaves of absence and similar privileges and benefits as are now or may hereafter be provided for administrative secretary IV in the classified service of the County of San Diego; provided, however, that the majority of the municipal court judges may adopt rules to provide for vacations, sick leave, leaves of absence and similar privileges and benefits different from those for administrative secretary IV in the classified service of the County of San Diego.

SEC. 18. Article 25.5 (commencing with Section 74361) of Chapter 10 of Title 8 of the Government Code is repealed.

SEC. 19. Article 25.5 (commencing with Section 74361) is added to Chapter 10 of Title 8 of the Government Code, to read:

Article 25.5. Marshal of San Diego County

74361. There shall be one marshal for the superior and all municipal courts established in judicial districts in San Diego County who shall be appointed pursuant to this article. In no event shall the compensation of the marshal be less than 15 percent higher than that specified for the position of assistant marshal. Unless entitled to a higher range under the provisions of subdivision (c) of Section 74350, appointment to the position of marshal shall be made at the C step.

74362. The marshal shall be designated as Marshal of San Diego County.

74363. A branch office of the Marshal of San Diego County, shall be maintained in each superior and municipal court district facility.

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

(a) One assistant marshal. The compensation of the assistant marshal shall be 15 percent higher than that specified for the position of captain.

(b) Four captains.

(c) Four lieutenants.

(d) Sixteen sergeants.

(e) One hundred sixty-five deputy marshals; provided, however, that each vacancy occurring in this class shall not be filled and shall cause a corresponding reduction in the number of deputy marshal positions authorized until the number of deputy marshal positions authorized is reduced to 150.

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

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

(f) One administrative secretary II. Each vacancy occurring in this position shall cause a corresponding reduction in the number of administrative secretaries II hereby authorized; provided, however, that each of such vacancies shall increase by one a position designated as senior typist.

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

(h) Eighteen intermediate typists.

(i) Five senior typists.

(j) Twenty-five deputy marshal-cadets. Notwithstanding any other provisions of this article, in no event shall a deputy marshal-cadet's salary be less than 65 percent of the salary of a deputy marshal at the corresponding pay step. At the time an incumbent in the position of deputy marshal-cadet attains the age of 21 he may be appointed by the marshal to a position of deputy marshal or court service officer, provided such a position is open, without further qualification or examination. A deputy marshal-cadet shall receive 65 percent of the uniform allowance prescribed for deputy marshals, under the same conditions prescribed for deputy marshals. In the event that a deputy marshal-cadet is appointed to the position of deputy marshal or court service officer, he or she shall receive the amount of reimbursement of the cost of required uniforms and equipment prescribed for a newly hired deputy marshal or court service officer, less any reimbursement received by him or her for the cost of required deputy marshal-cadet uniforms and equipment.

(k) One supervising clerk.

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

(m) Six legal procedures clerks III.

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

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

(p) Thirty court service officers. In no event shall a court service officer's salary be less than 75 percent of a deputy marshal at the corresponding pay step. A court service officer shall receive 75 percent of the uniform allowance prescribed for a deputy marshal, under the same conditions prescribed for deputy marshals. The marshal may appoint a court service officer to a position of deputy marshal, provided such position is open, without further qualification or examination. In the event that a court service officer is appointed to the position of deputy marshal, he or she shall receive the amount of reimbursement prescribed for a newly hired deputy marshal, less any reimbursement received by him or her for the cost of required court service officer uniforms and equipment. Court service officers shall be peace officers pursuant to Section 830.4 of the Penal Code. Notwithstanding any other provision of law, court services officers shall be general members of the County Employees Retirement System.

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

(r) Two principal clerks.

(s) Two communications dispatchers. At the time the appointment to such positions are made, the marshal may designate two positions authorized in subdivision (h) to be abolished, and such positions shall thereafter cease to exist.

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

(u) Notwithstanding any other provision of this article, when an employee provided for in this article is eligible for increased compensation as a result of possessing a peace officer standards and

training certificate, such increased compensation shall be the biweekly rate specified in the salary ordinance of the County of San Diego for comparable classifications in the classified civil service of the County of San Diego.

74365. Whenever any vacancy occurs in the position of Marshal of San Diego County, after the effective date of this section, the judges of the superior court and all of the municipal courts in San Diego County by a majority vote of their aggregate number, shall select and appoint the marshal under such organization, rules and procedure as they adopt or ratify therefor. The procedure for discharge of the marshal shall come under the same rules or organization. The judges may prescribe, and regulate by a majority vote the organization, policies, rules and regulations for the conduct of the marshal and his offices, and it shall be their duty and that of the personnel of his offices to be governed thereby. For the purpose of voting to select, appoint or discharge a marshal, or to prescribe and regulate the organization, policies, rules and regulations aforesaid, upon five days written notice, the judges of the superior court and the municipal courts in judicial districts located in San Diego County shall meet at a time and place designated by the presiding judges of the superior court and the municipal court of the judicial district in which is included the county seat. If and when, under any provision of law, the superior court judges and the municipal court judges in the judicial districts of the county have formally organized to administer all matters jointly affecting their courts, the conduct of such meetings and the voting thereat shall be pursuant to the rules or bylaws adopted by the judges for that purpose.

74366. The marshal shall possess the rights and powers and perform the duties imposed upon marshals of municipal courts generally and within San Diego County, he shall exercise all powers and perform all duties imposed upon sheriffs with respect to proceedings in the superior court.

74367. For the purpose of this article, the appointing authority means the person having the power in the first instance to select the employee from an eligible list provided for that purpose.

74368. The appointing authority may lay off and suspend an employee or employees because of lack of work requiring the service of the existing personnel of such office or department.

74369. All persons holding positions on the effective date of statutes enacted in any regular session of the Legislature shall continue in their respective positions without further examination or qualification and at the added compensation provided in this article, including increments for continuous prior service in such positions in the court. Thereafter, any increments earned by additional service in grade shall take effect upon the first day of the pay period following completion of such required service.

74370. In addition to the compensation provided in this article the marshals and other attachés of the municipal court shall receive, and they shall be entitled to the same vacation, sick leaves, leaves of

absence, bilingual pay, holidays, merit pay increases, retirement benefit, deferred compensation benefits, and all privileges and benefits as are now or may hereafter be provided for the employees of the County of San Diego, including the right to participate in any group accident, health, life insurance, or retirement plan adopted by the board of supervisors of the county.

For purposes of providing the privileges and benefits specified in this section, each classification in the marshal's office shall receive benefits equal to those of the comparable classification in the classified civil service of San Diego County as specified in Section 74374. The term "benefits equal" for purposes of this section shall include, but not be limited to, any benefits which are available to comparable classifications in the classified civil service of San Diego County pursuant to the provisions of any ordinance of the County of San Diego which credit to a member of the San Diego County Employees Retirement System extra days, or fractions thereof, of service for retirement purposes for each day of uncompensated sick leave. For the purpose of this subdivision only, the marshal and assistant marshals shall receive no less privileges and benefits than are received by the classifications of chief probation officer of the classified service of the County of San Diego.

74371. Within San Diego County, all provisions of law relating to duties imposed upon sheriffs with respect to court-related services and all provisions of law relating to marshals of municipal courts, or a marshal of a municipal court and the deputies and attachés thereof, not inconsistent with the provisions of this article, apply to the Marshal of San Diego County, and to the officers, deputies and attachés of the marshal. The judges of the superior and municipal courts of the judicial districts in San Diego County acting jointly by a vote of a majority of said judges may adopt rules not inconsistent with the provisions of this article to make effective the provisions thereof.

74373. Except where this article otherwise provides, the provisions of law succeeding the Municipal and Justice Court Act of 1949 or this code shall govern the appointment and assignment of officers, deputies and attachés to the offices and positions enumerated in this article, and shall define the rights, benefits, and privileges of the marshals, constables, deputies and attachés of superseded courts, including the right of such persons to succeed to such offices and positions. All assistants, deputies, and other employees of the Marshal of San Diego County, may be appointed, promoted, removed, suspended, or discharged for cause by the said marshal, subject in such appointment, promotion, removal, suspension, or discharge to all civil service provisions applicable to the personnel of the office of Sheriff, San Diego County.

74374. The hereinafter enumerated classes of positions in the Marshal's office of San Diego County are deemed to be equivalent in job, and salary level, and benefit level to certain classifications in the classified civil service of San Diego County and whenever the

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

The equivalent classifications are as follows:

Marshal classification	County classification
Captain	Deputy sheriff-captain
Lieutenant	Deputy sheriff-lieutenant
Sergeant	Deputy sheriff-sergeant
Deputy marshal	Deputy sheriff
Senior typist	Senior clerk-typist
Intermediate typist	Intermediate clerk-typist
Junior typist	Junior typist
Cadet	Revenue and recovery officer trainee
Supervising clerk	Supervising clerk
Administrative assistant III	Administrative assistant III
Administrative assistant II	Administrative assistant II
Principal clerk	Principal clerk
Legal procedures clerk II	Legal procedures clerk II
Legal procedures clerk I	Legal procedures clerk I
Communications dispatcher	Communications dispatcher
Administrative assistant I	Administrative assistant I
Administrative secretary II	Administrative secretary II
Chief, administrative services	Chief, administrative services
Legal procedures clerk III	Legal procedures clerk III
Court service officer	Revenue and recovery officer II

Persons occupying positions in the above specified marshal classifications shall not be paid less salary than persons occupying positions in equivalent county classifications. In no event shall a deputy marshal receive less salary than that received by a deputy sheriff in the highest classification designated for deputy sheriffs by the County of San Diego. A change in title or designation for the position of top level deputy sheriff shall not affect the parity of this level granted to a deputy marshal.

74375. A person appointed by the marshal, pursuant to Section 72150, if appointed from an eligible list certified by the Civil Service Commission of the County of San Diego to fill a temporary position,

may be appointed by the marshal to a corresponding permanent position without further examination, qualification, or certification on a civil service list if, the Legislature, at its regular session, increased the number of positions in the marshal's office of the type to which the person was appointed so as to make such temporary position a permanent position.

74376. In the event that the number of judges, commissioners, or referees provided for the superior court or any existing municipal court judicial district in the County of San Diego is increased, or that additional municipal court judicial districts are provided in the County of San Diego, thereby causing an increase in the number of judges, commissioners, or referees, the marshal at his discretion may appoint one deputy marshal or court service officer and one intermediate typist, legal procedures clerk, or deputy marshal cadet each of whom shall receive compensation as specified for their respective classifications, for each additional judge, commissioner, or referee appointed or elected.

74377. The first 18 months served by a deputy marshal appointee or the first 12 months served by any other appointee shall be considered probationary and the appointing power shall have the authority to dismiss without cause in the case of a new employee, or demote without cause in the case of a promoted employee during said probationary period.

SEC. 20. Section 74671 of the Government Code is amended to read:

74671. In the Santa Clara County Judicial District in any civil action or proceeding, a reporter's filing fee of fourteen dollars ($14) shall be paid as specified in Section 68090.5.

SEC. 21. Section 74742 of the Government Code is amended to read:

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

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

SEC. 22. Section 74743 of the Government Code is amended to read:

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

(a) One assistant court administrator. The assistant court administrator shall serve as the assistant clerk of the court and shall receive a biweekly salary at a rate 17 percent below that specified for assistant court administrator of the San Diego Judicial District.

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

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

(c) One deputy clerk who shall be a chief clerk and who shall receive a biweekly salary at a rate 10 percent higher than that specified for assistant chief clerk in the San Diego Judicial District.

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

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

(f) Thirty-nine deputy clerks III, II or I, as the case may be. Each of the deputy clerks III shall receive a biweekly salary at a rate 17 percent below that specified for deputy clerk IV. Each of the deputy clerks II shall receive a biweekly salary at a rate 16 percent below that specified for deputy clerk III. Each of the deputy clerks I shall receive a biweekly salary equal to that specified for the classification of intermediate clerk-typist in the classified service of San Diego County. At the discretion of the court administrator, appointments to the deputy clerk I classification may be at any step within the salary range.

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

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

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

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

(k) Any person occupying a position specified in subdivision (f) and performing bilingual duties as certified by the court

administrator shall be paid additional compensation at the biweekly rate determined by the court administrator as specified for bilingual ability in the salary ordinance of the County of San Diego.

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

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

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

SEC. 23. Section 74746 of the Government Code is amended to read:

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

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

For purposes of this subdivision only, the court administrator and assistant court administrator shall receive the same privileges and

benefits as are received by the classification of chief probation officer of the classified service of the County of San Diego. All persons holding positions as chief clerks shall receive the same privileges and benefits as are received by the classification of administrative assistant III of the classified service of the County of San Diego.

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

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

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

SEC. 24. Section 74749 of the Government Code is repealed.

SEC. 25. Section 830.4 of the Penal Code is amended to read:

830.4. The following persons are peace officers while engaged in the performance of their duties in or about the properties owned, operated, or administered by their employing agency, or when they are required by their employer to perform their duties anywhere within the political subdivision which employs them. Such officers shall also have the authority of peace officers anywhere in the state as to an offense committed, or which there is probable cause to believe has been committed, with respect to persons or property the protection of which is the duty of such officer or when making an arrest pursuant to Section 836 of the Penal Code as to any public offense with respect to which there is an immediate danger to person or property or of the escape of the perpetrator of the offense. Such

peace officers may carry firearms only if authorized by and under such terms and conditions as are specified by their employing agency:

(a) Security officers of the California State Police Division.

(b) The Sergeant at Arms of each house of the Legislature.

(c) Bailiffs of the Supreme Court and of the courts of appeal.

(d) Guards and messengers of the Treasurer's office.

(e) Officers designated by the hospital administrator of a state hospital under the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services pursuant to Section 4313 or 4493 of the Welfare and Institutions Code.

(f) Any railroad policeman commissioned by the Governor pursuant to Section 8226 of the Public Utilities Code.

(g) Persons employed as members of a security department of a school district pursuant to Section 39670 of the Education Code.

(h) Security officers of the County of Los Angeles.

(i) Housing authority patrol officers employed by the housing authority of a city, district, county, or city and county.

(j) Transit police officers of a county, city, or district.

(k) Any person regularly employed as an airport law enforcement officer by a city, county, or district operating the airport or by a joint powers agency, created pursuant to Article 1 (commencing with Section 6500), Chapter 5, Division 7, Title 1 of the Government Code, operating the airport.

(*l*) Court service officers in a county of the third class.

SEC. 26. Section 10 of this act shall become operative on February 1, 1983.

SEC. 27. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

CHAPTER 1583

An act to amend Sections 33527, 37621, 38861, 54432, and 62272 of, and to add Sections 37437 and 37622 to, the Food and Agricultural Code, relating to dairy products, and making an appropriation therefor.

[Approved by Governor September 30, 1982. Filed with Secretary of State September 30, 1982]

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

SECTION 1. Section 33527 of the Food and Agricultural Code is amended to read:

33527. The milk or cream shall be cooled to a temperature of 50 degrees Fahrenheit or lower within one hour after it is drawn from the cows or goats and so maintained until delivery to a milk products plant.

SEC. 2. Section 37437 is added to the Food and Agricultural Code, to read:

37437. (a) Cheese labeled as having been made from raw milk shall be made from milk that has been cooled to 50 degrees Fahrenheit or lower within one hour after it has been drawn from cows or goats as provided in Section 33527.

(b) Raw milk cheese shall contain five or more units of phosphatase as tested by methods equivalent to the Scharer Rapid Phosphatase Test.

SEC. 3. Section 37621 of the Food and Agricultural Code is amended to read:

37621. Cream cheese is the soft uncured cheese which is prepared by the mixing of cream with milk or skim milk, or both. The milk shall be pasteurized and may be homogenized. It is coagulated by the addition of harmless lactic acid producing bacteria with or without rennet. The curd may be pressed, chilled, worked, and seasoned. It shall contain not less than 33 percent of milk fat and not more than 55 percent of moisture. The moisture content may be adjusted with cheese whey, concentrated cheese whey, dried cheese whey, or reconstituted cheese whey prepared by the addition of water to concentrated whey or dried cheese whey.

SEC. 4. Section 37622 is added to the Food and Agricultural Code, to read:

37622. Cream cheese shall be labeled "acidified cream cheese" if it is manufactured by the acidification process pursuant to Section 38861 and if it includes the addition of food grade acids acceptable to the director, with or without the addition of bacterial cultures, in such quantities as to produce a pH of between 4.5 and 4.7. Except as otherwise provided in this section, acidified cream cheese shall comply with the provisions of Section 37621.

SEC. 5. Section 38861 of the Food and Agricultural Code is amended to read:

38861. With the exception of those dairy products defined in Article 27 (commencing with Section 38731) and Article 28 (commencing with Section 38741) of this chapter, any milk product for which a standard of composition is established by or pursuant to this division, and which may be processed or manufactured with the treatment or addition of cultures, may also be processed or manufactured with the addition of food-grade acids acceptable to the director instead of, or in combination with, cultures, if the milk product otherwise conforms to all requirements for the product established by or pursuant to this division. If the milk product is processed or manufactured by an acidification process instead of, or

in combination with, cultures, the word "acidified" shall be a part of the name of the product, and shall be included in the label of the product.

SEC. 6. Section 54432 of the Food and Agricultural Code is amended to read:

54432. The provisions of subdivision (e) of Section 54431 only apply to any processor, handler, distributor, or agent of any such person, who refuses to negotiate or bargain, as specified by such provisions, with a cooperative bargaining association which represents producers with whom such a processor, handler, distributor, or agent of any such person, has had a prior course of dealing.

For purposes of this section, "prior course of dealing" means that the processor, handler, distributor, or agent of any such person has purchased in any two of the immediate preceding five years a commodity from a producer which a cooperative bargaining association represents. However, a processor, handler, distributor, or agent of any such person is subject to subdivision (e) of Section 54431 if that person has newly gone into business in California by locating in this state from another state or country, by being created from other business entities which had a prior course of dealing with a bargaining association, or by being newly created and utilizing substantially the same processing facilities as a prior processor which itself was subject to subdivision (e) of Section 54431.

SEC. 7. Section 62272 of the Food and Agricultural Code is amended to read:

62272. The director may allocate from the funds which are derived pursuant to Article 14 (commencing with Section 62211) such sum for any fiscal year, not exceeding one hundred twenty thousand dollars ($120,000) which shall be used exclusively for the supervision and checking the correctness of the milk fat, milk solids not fat, and bacteriological tests and the weighing and sampling of all market milk delivered to handlers in accordance with the stabilization and marketing plans established pursuant to the provisions of this division.

The director may also allocate from the funds which are derived pursuant to Article 14 (commencing with Section 62211), the sum of thirty thousand dollars ($30,000), for the 1982–83 fiscal year, which shall be used exclusively for the purchase and installation of an infrared milk analyzer to assist with the requirements of this section.

SEC. 8. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1584

An act to amend Sections 296, 331.1, 331.2, 426, 672, 3001, 3003, 3012, 3051, and 11723 of, and to add Section 436 to, the Vehicle Code, relating to vehicles.

[Approved by Governor September 30, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 296 of the Vehicle Code is amended to read:

296. A "distributor" is any person other than a manufacturer who sells or distributes new vehicles subject to registration under this code, or new off-highway motorcycles subject to identification under this code, to dealers in this state and maintains representatives for the purpose of contacting dealers or prospective dealers in this state.

SEC. 2. Section 331.1 of the Vehicle Code is amended to read:

331.1. A "franchisee" is any person who, pursuant to a franchise, receives new motor vehicles subject to registration under this code or new off-highway motorcycles, as defined in Section 436, from the franchisor and who sells the vehicles at retail.

SEC. 3. Section 331.2 of the Vehicle Code is amended to read:

331.2. A "franchisor" is any person who manufactures, assembles, or distributes new motor vehicles subject to registration under this code or new off-highway motorcycles, as defined in Section 436, and who grants a franchise.

SEC. 4. Section 426 of the Vehicle Code is amended to read:

426. "New motor vehicle dealer" is a dealer, as defined in Section 285, who, in addition to the requirements of that section, either acquires for resale new and unregistered motor vehicles from manufacturers or distributors of such motor vehicles or acquires for resale new and unregistered off-highway motorcycles from manufacturers or distributors of the vehicles. No distinction shall be made, nor any different construction be given to the definition of "new motor vehicle dealer" and "dealer" except for the application of the provisions of Chapter 6 (commencing with Section 3000) of Division 2. The provisions of Sections 3001 and 3003 shall not, however, apply to a dealer who deals exclusively in motorcycles.

SEC. 5. Section 436 is added to the Vehicle Code, to read:

436. An "off-highway motorcycle" means a motorcycle or motor-driven cycle which is subject to identification under this code.

SEC. 6. Section 672 of the Vehicle Code is amended to read:

672. (a) "Vehicle manufacturer" is any person who produces from raw materials or basic components a vehicle of a type subject to registration under this code, or off-highway motorcycles subject to identification under this code, or who permanently alters for purposes of retail sales, new commercial vehicles by converting the vehicles into housecars which display the insignia of approval

required by Section 18056 of the Health and Safety Code and any regulations issued pursuant thereto by the Department of Housing and Community Development. As used in this section, "permanently alters" does not include the permanent attachment of a camper to a vehicle.

(b) Unless a vehicle manufacturer either grants franchises to franchisees in this state, or issues vehicle warranties directly to franchisees in this state or consumers in this state, such manufacturer shall have an established place of business or a representative in this state.

(c) The scope and application of this section shall be limited to the provisions of Division 2 (commencing with Section 1500) and Division 5 (commencing with Section 11100).

SEC. 7. Section 3001 of the Vehicle Code is amended to read:

3001. Four of the appointive members of the board shall be new motor vehicle dealers as defined in Section 426 who have engaged for a period of not less than five years preceding their appointment in activities regulated by Article 1 (commencing with Section 11700) of Chapter 4 of Division 5. These members shall be appointed by the Governor.

Each of the five remaining appointive members shall be a public member who is not a licentiate under Article 1 (commencing with Section 11700) or 2 (commencing with Section 11800) of Chapter 4 of Division 5 or an employee of such licentiate at the time of such appointment and one of these five appointive members shall have been admitted to practice law in the state for at least 10 years immediately preceding his appointment. One public member shall be appointed by the Senate Rules Committee, one by the Speaker of the Assembly, and three by the Governor.

Each member shall be of good moral character.

The provisions of this section shall not apply to a dealer who deals exclusively in motorcycles.

SEC. 8. Section 3003 of the Vehicle Code is amended to read:

3003. Each appointive member of the board shall be appointed for a term of four years and shall hold office until the appointment and qualification of his successor or until six months shall have elapsed since the expiration of the term for which he was appointed, whichever first occurs.

The terms of the members of the board first appointed shall expire as follows: one public member and one new motor vehicle dealer member, January 15, 1969; two public members and one new motor vehicle dealer member, January 15, 1970; two public members and two new motor vehicle dealer members, January 15, 1971. The terms shall thereupon expire in the same relative order.

Vacancies occurring shall be filled by appointment for the unexpired term.

The provisions of this section shall not apply to a dealer who deals exclusively in motorcycles.

SEC. 9. Section 3012 of the Vehicle Code is amended to read:

3012. Each member of the board shall receive a per diem of seventy-five dollars ($75) for each day actually spent in the discharge of official duties, and he shall be reimbursed for his traveling and other expenses necessarily incurred in the performance of his duties, which per diem and reimbursement shall be wholly defrayed from funds that shall be provided in the annual budget of the department.

SEC. 10. Section 3051 of the Vehicle Code is amended to read:

3051. This chapter does not apply to any person licensed as a transporter under Article 1 (commencing with Section 11700) or as a salesman under Article 2 (commencing with Section 11800) of Chapter 4 of Division 5, or to any licensee who is not a new motor vehicle dealer, motor vehicle manufacturer, manufacturer branch, new motor vehicle distributor, distributor branch or representative. This chapter does not apply to transactions involving "mobilehomes," as defined in Section 18008 of the Health and Safety Code, "recreational vehicles," as defined in Section 18010.5 of the Health and Safety Code, "commercial coaches," as defined in Section 18012 of the Health and Safety Code or off-highway motor vehicles subject to identification, as defined in Section 38012, except off-highway motorcycles. Except as otherwise provided in this chapter, this chapter applies to a new motor vehicle dealer as defined in Section 426, a vehicle manufacturer as defined in Section 672, a manufacturer branch as defined in Section 389, a distributor as defined in Section 296, a distributor branch as defined in Section 297, a representative as defined in Section 512, or an applicant therefor.

SEC. 11. Section 11723 of the Vehicle Code is amended to read:

11723. The board may require that fees shall be paid to the department for the issuance or renewal of a license to do business as a new motor vehicle dealer, manufacturer, manufacturer branch, distributor, distributor branch, or representative. The fees shall be to reimburse the department for costs incurred in licensing, and for costs incurred, if any, in the administration of the activities and practices of those dealers, manufacturers, distributors, branches, and representatives.

This section and Section 11724 shall not apply to manufacturers, distributors, or representatives of vehicles not subject to registration under this code, except manufacturers, manufacturer branches, distributors, distributor branches, or representatives of off-highway motorcycles, as defined in Section 436.

CHAPTER 1585

An act to amend Sections 69583 and 73681 of, and to add Section 69585.7 to, the Government Code, relating to courts.

[Approved by Governor September 30, 1982 Filed with Secretary of State September 30, 1982]

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

SECTION 1. Section 69583 of the Government Code is amended to read:

69583. In the County of Fresno there shall be 14 judges of the superior court.

SEC. 2. Section 69585.7 is added to the Government Code, to read:

69585.7. In the County of Lake there shall be one judge of the superior court; provided, that at such time as the board of supervisors finds there are sufficient funds for two judges and adopts a resolution to that effect, there shall be two judges of the superior court.

SEC. 3. Section 73681 of the Government Code is amended to read:

73681. There shall be nine judges.

SEC. 4. Sections 1 and 3 of this act shall become operative on July 1, 1983.

SEC. 5. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act. Furthermore, this act does not create any present or future obligation to reimburse the agency or district for any costs incurred because of this act.

CHAPTER 1586

An act to amend Sections 2218, 2231, and 2238 of, and to add Section 2218.5 to, the Revenue and Taxation Code, relating to state-mandated local programs, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 2218 of the Revenue and Taxation Code is amended to read:

2218. For the purposes of this chapter, "claim" shall include three types of claims which local agencies and school districts may file with the state:

(a) "Test claim" or "claim of first impression" means the first claim filed with the State Board of Control alleging that a particular statute or executive order imposes a mandated cost on the local

agency or school district.

(b) "Estimated claim" means a claim filed with the Controller, during the fiscal year in which the mandated costs are to be incurred by the local agency or school district, against an appropriation made to the Controller for the purpose of paying these estimated claims.

(c) "Reimbursement claim" is a claim for costs incurred by a local agency or school district filed with the Controller against an appropriation made for the purpose of paying these claims in the prior fiscal year.

SEC. 2. Section 2218.5 is added to the Revenue and Taxation Code, to read:

2218.5. Reimbursement for state-mandated costs may be claimed as follows:

(a) A local agency or school district may file an estimated claim by November 30 of the fiscal year in which costs are to be incurred, and, by November 30 following that fiscal year shall file a reimbursement claim which details the costs actually incurred for that fiscal year; or

(b) A local agency or school district shall, by November 30 following the fiscal year in which costs are incurred, file a reimbursement claim which details the costs actually incurred for that fiscal year.

SEC. 3. Section 2231 of the Revenue and Taxation Code is amended to read:

2231. (a) The state shall reimburse each local agency for all "costs mandated by the state", as defined in Section 2207. The state shall reimburse each school district only for those "costs mandated by the state" as defined in Section 2207.5.

(b) For the initial fiscal year during which these costs are incurred reimbursement funds shall be provided as follows: (1) any statute mandating these costs shall provide an appropriation therefor, and (2) any executive order mandating these costs shall be accompanied by a bill appropriating the funds therefor, or, alternatively, an appropriation for these funds shall be included in the Budget Bill for the next following fiscal year, and the executive order shall cite the appropriate Budget Bill item or other bill as the source from which the Controller may pay the claims of local agencies and school districts.

In subsequent fiscal years appropriations for these costs shall be included in the State Budget and in the Budget Bill. In addition, appropriations to reimburse local agencies and school districts for continuing costs resulting from chaptered bills or executive orders for which claims have been awarded pursuant to subdivision (b), (c), or (d) of Section 2253 shall be included in the State Budget and in the Budget Bill subsequent to the enactment of the local government claims bill pursuant to Section 2255 which includes the amounts awarded relating to these chaptered bills or executive orders.

(c) The amount appropriated for these purposes shall be appropriated to the Controller for disbursement.

(d) The Controller shall disburse reimbursement funds to local agencies or school districts if the costs of these mandates are not payable to state agencies, or to state agencies who would otherwise collect the costs of these mandates from local agencies or school districts in the form of fees, premiums, or payments. When disbursing reimbursement funds to local agencies or school districts, the Controller shall disburse them as follows:

(1) For the initial fiscal year during which these costs will be incurred, each local agency or school district to which the mandate is applicable shall submit to the Controller, within 45 days of the operative date of the mandate, or, if the board is requested to do so pursuant to Section 2253.4, within 45 days after the board reviews the claiming instructions for reimbursement issued by the Controller, whichever is later, a claim for payment of its estimated costs required by the mandate for the current fiscal year. If the local agency or school district does not submit the claim within the 45-day period, it may submit its claim for reimbursement as specified in Section 2218.5. The Controller shall pay these claims from the funds appropriated therefor, provided that he (i) may audit the records of any local agency or school district to verify the actual amount of the mandated costs, and (ii) may reduce any claim which he determines is excessive or unreasonable. The amendments to this paragraph during 1978 shall apply to all claims submitted on or after January 1, 1978.

(2) In subsequent fiscal years each local agency or school district shall submit its claims as specified in Section 2218.5. The Controller shall pay these claims from funds appropriated therefor, provided that he (i) may audit the records of any local agency or school district to verify the actual amount of the mandated costs, (ii) may reduce any claim, which he determines is excessive or unreasonable, and (iii) shall adjust the payment to correct for any underpayments or overpayments which occurred in the previous fiscal year.

(3) In the case of unfunded mandates when funds are appropriated to the Controller to pay for these costs, claims for initial year costs, and subsequent years for which costs have been incurred prior to the enactment of the claims bill, shall be filed within 120 days from the date of notification by the Controller of the enactment of the claims bill. These claims shall be based upon parameters and guidelines issued by the board and as approved by the Legislature. The Controller shall promptly notify the relevant local agencies or school districts subsequent to enactment of the claims bill of the right to file these claims.

(4) Prior to payment of claims, the Controller shall only require information from local agencies or school districts that is actually necessary to perform audits.

SEC. 4. Section 2238 of the Revenue and Taxation Code is amended to read:

2238. (a) If a local agency or school district submits an otherwise valid reimbursement claim to the Controller after the deadline

specified in Section 2218.5, the Controller shall pay the reimbursement claim in an amount equal to 80 percent of the amount which would have been allowed had the reimbursement claim been timely filed. In no case shall a reimbursement claim be paid which is submitted more than one year after the deadline specified in Section 2218.5. Estimated claims which were filed by the deadline specified in that section shall be paid in full before payments are made on estimated claims filed after the deadline. In the event the amount appropriated to the Controller for reimbursement purposes is not sufficient to pay the estimated claims approved by the Controller, the Controller shall prorate those claims in proportion to the dollar amount of approved claims filed after the deadline and shall report to the State Board of Control or the Legislature in the same manner as described in Section 2236 in order to assure appropriation of funds sufficient to pay those claims.

(b) Notwithstanding the provisions of subdivision (a), any otherwise valid claim filed with the Controller's office on or before October 31, 1979, for costs incurred in the 1977–78 and prior fiscal years, shall be considered under this section and shall be paid at 80 percent or the lesser prorated amount after payment of the timely filed claims.

SEC. 5. The sum of twenty-four million one hundred eighty-two thousand nine hundred fifty-two dollars and forty-one cents ($24,182,952.41) is hereby appropriated from the General Fund according to the following schedule:

(a) Four hundred thirty-two thousand fifty-three dollars ($432,053) to the State Board of Control to pay claims awarded pursuant to Article 3.5 (commencing with Section 2250) of Chapter 3 of Part 4 of Division 1 of the Revenue and Taxation Code during the calendar years 1981 and 1982.

(b) Seven hundred twenty-four thousand six hundred forty dollars ($724,640) to the Controller for the payment of claims of councils of government resulting from reimbursable state-mandated costs incurred under Chapter 1143 of the Statutes of 1980, pursuant to paragraph (1) of subdivision (d) of Section 2231 of the Revenue and Taxation Code, for the 1980–1981, 1981–1982, and 1982–1983 fiscal years.

(c) Five hundred fifty-one thousand seven hundred fifty-nine dollars and forty-one cents ($551,759.41) to the Controller for the payment of claims resulting from reimbursable state-mandated costs incurred under Chapter 876, Statutes of 1976, pursuant to paragraph (1) of subdivision (d) of Section 2231 of the Revenue and Taxation Code, for the 1978–79, 1979–80, and 1981–82 fiscal years.

(d) Twenty-four thousand four hundred forty-eight dollars ($24,448) to the Controller for the payment of claims resulting from reimbursable state-mandated costs incurred under Chapter 1177, Statutes of 1973, pursuant to paragraph (1) of subdivision (d) of Section 2231 of the Revenue and Taxation Code, for the 1977–78 and 1978–79 fiscal years.

(e) Sixteen thousand seven hundred twenty-four dollars ($16,724) to the Controller for the payment of claims resulting from reimbursable state-mandated costs incurred under Chapter 842 of the Statutes of 1978, pursuant to paragraph (1) of subdivision (d) of Section 2231 of the Revenue and Taxation Code, for the 1978–79, 1979–80, 1980–81, 1981–82, and 1982–83 fiscal years.

(f) Six hundred eleven thousand seven hundred ninety-five dollars ($611,795) to the Controller for the payment of claims resulting from reimbursable state-mandated costs incurred under Chapter 978 of the Statutes of 1976 and Chapter 848 of the Statutes of 1978, pursuant to paragraph (1) of subdivision (d) of Section 2231 of the Revenue and Taxation Code, for the 1977–78, 1978–79, 1979–80, and 1980–81 fiscal years.

(g) Six thousand two hundred ninety dollars ($6,290) to the Controller for the payment of claims resulting from reimbursable state-mandated costs incurred under Chapter 984 of the Statutes of 1977, pursuant to paragraph (1) of subdivision (d) of Section 2231 of the Revenue and Taxation Code, for the 1977–78 and 1978–79 fiscal years.

(h) Three hundred fourteen thousand nine hundred seventeen dollars ($314,917) to the Controller for the payment of claims resulting from reimbursable state-mandated costs incurred under Chapter 1242 of the Statutes of 1977 and Chapter 43 of the Statutes of 1978, pursuant to paragraph (1) of subdivision (d) of Section 2231 of the Revenue and Taxation Code, for the 1977–78, 1978–79, 1979–80, 1980–81, 1981–82, and 1982–83 fiscal years.

(i) Nineteen thousand two hundred seventy-one dollars ($19,271) to the Controller for the payment of claims resulting from reimbursable state-mandated costs incurred under Chapter 1319 of the Statutes of 1978, pursuant to paragraph (1) of subdivision (d) of the Revenue and Taxation Code, for the 1978–79, 1979–80, and 1980–81 fiscal years.

(j) Eleven million seven hundred twenty-seven thousand five hundred sixty-eight dollars ($11,727,568) to the Controller for the payment of claims of school districts filed pursuant to Section 42243.6 of the Education Code for the 1980–81 fiscal year.

(k) Nine million seven hundred forty thousand one hundred twenty-three dollars ($9,740,123) to the Controller to cover deficiencies in prior appropriations to the Controller for reimbursement of state-mandated costs.

(*l*) Thirteen thousand three hundred sixty-four dollars ($13,364) to the Controller for the payment of claims resulting from reimbursable state-mandated costs related to the increase in peremptory challenges mandated under Chapter 593 of the Statutes of 1975.

SEC. 6. The Legislature finds and declares that there are no reimbursable state-mandated local costs incurred under Chapter 1053 of the Statutes of 1979 because the increase in benefit levels established under that statute represents an inflationary adjustment,

rather than a new program or an additional level of service.

Notwithstanding the provisions of Section 2236 of the Revenue and Taxation Code, the Controller shall not transmit information concerning claims under Chapter 1053 of the Statutes of 1979 to the State Board of Control, and the State Board of Control shall not include an appropriation for those claims in its report to the Legislature pursuant to Section 2255 of the Revenue and Taxation Code.

SEC. 7. The Legislature finds and declares that Chapter 876 of the Statutes of 1976 contains a reimbursable mandate and directs that the state mandate contained therein shall not be enforced against local agencies and school districts until funds become available to pay these reimbursable state-mandated costs.

SEC. 8. The Legislature finds and declares that it is unable to determine whether Chapter 593 of the Statutes of 1975 contains a mandate reimbursable under Section 2231 of the Revenue and Taxation Code and declares therefore that Chapter 593 of the Statutes of 1975 shall remain in effect and enforceable against local agencies and school districts unless a court determines that this legislation contains a reimbursable mandate, in which case any state mandate shall be suspended and shall not be enforced against local agencies and school districts until funding becomes available to pay the reimbursable state-mandated costs.

SEC. 9. The Legislature finds and declares that Chapter 1139 of the Statutes of 1976 does not impose state-mandated costs reimbursable under Section 2231 of the Revenue and Taxation Code.

SEC. 10. The Legislature finds and declares that Sections 3014, 3015, 3030, 3032, 3034, 3041 (except subdivision (c)), 3053, and 3111 of Title 8 of the California Administrative Code do not impose state-mandated costs reimbursable under Section 2231 of the Revenue and Taxation Code.

SEC. 11. The Legislature finds and declares that it cannot determine whether subdivision (c) of Section 3041 of Title 8 of the California Administrative Code imposes state-mandated costs reimbursable under Section 2231 of the Revenue and Taxation Code and declares therefore that the operation of this provision is suspended and this provision shall not be enforced against local agencies and school districts until a court determines whether this provision contains a mandate reimbursable under Section 2231 of the Revenue and Taxation Code.

SEC. 12. The Legislature finds and declares that it cannot determine whether Section 1282 of Title 15 of the California Administrative Code imposes state-mandated costs reimbursable under Section 2231 of the Revenue and Taxation Code and declares therefore that the operation of this provision is suspended and this provision shall not be enforced against local agencies and school districts until a court determines whether this provision contains a mandate reimbursable under Section 2231 of the Revenue and Taxation Code.

SEC. 13. The amendments of Sections 2218, 2231, and 2238 of the Revenue and Taxation Code made by this act do not constitute a change in, but are declaratory of, the existing law.

SEC. 14. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to settle claims against the state for mandated costs and end hardship to local agencies and school districts, and to comply with the provisions of Article XIII B of the California Constitution, it is necessary for this act to take effect immediately.

CHAPTER 1587

An act to add Section 68073.3 to the Government Code, and to provide for a courthouse for a division of the Court of Appeal for the Fourth Appellate District, relating to court houses, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 68073.3 is added to the Government Code, to read:

68073.3. (a) Notwithstanding any other provisions of law, for the purpose of assisting the City and County of San Francisco in the acquisition, rehabilitation, construction and financing of courtrooms or of a courtroom building or buildings containing facilities necessary or incidental to the operation of the justice system, the Board of Supervisors of the City and County of San Francisco shall establish in the city and county treasury a San Francisco Courthouse Temporary Construction Fund into which shall be deposited the amounts collected pursuant to subdivisions (d) and (e). The moneys of the San Francisco Courthouse Temporary Construction Fund shall be payable only for the foregoing purposes and at the time necessary therefor, and for the purposes set forth in subdivision (b) and at the time necessary therefor.

(b) In conjunction with the acquisition, rehabilitation, construction or financing of courtrooms or of a courtroom building or buildings referred to in subdivision (a), the City and County of San Francisco may use the moneys of the San Francisco Courthouse Temporary Construction Fund (1) to rehabilitate existing courtrooms or an existing courtroom building or buildings for other uses if new courtrooms or a courtroom building or buildings are acquired, constructed or financed or (2) to acquire, rehabilitate, construct or finance excess courtrooms or an excess courtroom

building or buildings if such excess is anticipated to be needed at a later time.

(c) Any excess courtrooms or excess courtroom building or buildings that are acquired, rehabilitated, constructed or financed pursuant to subdivision (b) may be leased or rented for uses other than the operation of the justice system until such time as such excess courtrooms or excess courtroom building or buildings are needed for the operation of the justice system. Any amounts received as lease or rental payments pursuant to this subdivision shall be deposited in the San Francisco Courthouse Temporary Construction Fund.

(d) In the City and County of San Francisco, a surcharge for the purpose and for the time set forth in this section may be added to any filing fee in any civil action in either the municipal court or in any civil or probate action in the superior court. The surcharge shall be in an amount, not to exceed fifty dollars ($50), and shall be collected in a manner as set forth in a resolution adopted by the Board of Supervisors of the City and County of San Francisco.

SEC. 2. (a) On January 1, 1984, all rights, title, and interests of any nature whatsoever in the old courthouse in Santa Ana, County of Orange, California, more particularly described in subdivision (c), shall vest with and in the State of California, and shall be held by the state so long as the property is used or intended to be used to house a division of the court of appeal which holds its sessions in Orange County, or for other uses compatible with the historical nature of the building. The transfer of title provided for in this act shall not occur if the County of Orange by June 30, 1983, has obtained working plans for the reconstruction of the courthouse suitable for housing the Fourth Appellate District Court of Appeal, and if actual reconstruction of the courthouse has commenced on or before December 31, 1983.

(b) The legal description of the real property referred to in subdivision (a) is as follows:

The southerly 197 feet of the "Court House Site" in the City of Santa Ana, County of Orange, State of California, per map recorded in book 1, page 57 of Miscellaneous Maps in the office of the County Recorder of Orange County.

(c) So long as the state holds title to the real property and the building is safe for occupancy, it shall permit use of a portion of the building for museum, archive and related office purposes and shall permit an Orange County organization devoted to the preservation of historical landmarks designated by the Orange County Board of Supervisors to have access to the old courthouse for such purposes.

(d) In the event that the state shall fail to commence within five years of the effective date of this act the onsite structural rehabilitation of the old courthouse in order to render it safe for occupancy and suitable for housing the court of appeal, title to the property shall revert to the County of Orange or its successor in interest.

(e) There shall be no compensation to the County of Orange or

to any other subdivision of the state as a result of this act.

(f) The Department of General Services shall, in cooperation with the Judicial Council, perform any services necessary to render the property described in subdivision (b) suitable as accommodations for the division of the Fourth Appellate District Court of Appeal required to hold its regular session in Orange County. In performing any services for the rehabilitation of the old courthouse, the department shall follow the provisions of the State Historic Building Code contained in Part 8 of Title 24 of the California Administrative Code.

(g) The Department of General Services may prepare proper instruments so that the record title of the property described in subdivision (b) shall reflect the transfer of the title made by this act.

(h) This act shall not affect any easement of record nor the status of the real property as a part of the Civic Center Authority of Orange County.

(i) If reconstruction of the courthouse facility by the County of Orange is accomplished to standards suitable for use by the appellate court, it is the intent of the Legislature that the state will lease the facility from the county for housing the operation of the court.

SEC. 3. Section 1 of this act shall become operative upon the adoption of a resolution by the Board of Supervisors of the City and County of San Francisco stating that the provisions of this act are necessary to the establishment of adequate courtroom facilities in the City and County of San Francisco, setting forth the surcharge or surcharges to be levied, the amount of such surcharge or surcharges, and the manner in which such surcharge or surcharges shall be collected, and instructing the Clerk of the City and County of San Francisco to transmit, on the next business day following the adoption of the resolution, a copy of the resolution to the Clerk of the Municipal Court of the City and County of San Francisco and to the Clerk of the Superior Court of the City and County of San Francisco.

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

(1) In order to authorize needed courthouse funding for the City and County of San Francisco, it is necessary that this act take effect immediately.

(2) In order to promptly provide a suitable physical facility for the division of the Fourth Appellate District of the Court of Appeal required to hold its regular session in Orange County, it is necessary that this act take effect immediately.

CHAPTER 1588

An act to add Section 47.5 to the Civil Code, relating to defamation.

[Approved by Governor September 30, 1982. Filed with Secretary of State September 30, 1982]

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

SECTION 1. Section 47.5 is added to the Civil Code, to read:

47.5. Notwithstanding Section 47, a peace officer may bring an action for defamation against an individual who has filed a complaint with that officer's employing agency alleging misconduct, criminal conduct, or incompetence, if that complaint is false, the complaint was made with knowledge that it was false and that it was made with spite, hatred, or ill will. Knowledge that the complaint was false may be proved by a showing that the complainant had no reasonable grounds to believe the statement was true and that the complainant exhibited a reckless disregard for ascertaining the truth.

CHAPTER 1589

An act to amend Section 7480 of the Government Code, to amend Section 25174.6 of the Health and Safety Code, to amend Sections 6006, 6010, 6011, 6012, 6012.2, 6072, 6274, 6276.1, 6284, 6367, 6379, 6422.1, 7204.3, 7401, 8608, 8610, 9505, and 43201 of, to amend and renumber Section 7360 of, to amend and repeal Section 6369 of, to add Sections 6010.10, 6703, 7855, 8957, 30315, 32387, 40155, 41123.5, and 43444.2 to, to add Article 2.5 (commencing with Section 40157) to Chapter 6 of Part 19 of Division 2 of, and to add Article 2.5 (commencing with Section 41124) to Chapter 6 of Part 20 of Division 2 of, the Revenue and Taxation Code, and to amend Section 9803 of, to repeal Section 3 of Chapter 229 of the Statutes of 1978, and to repeal Section 4 of Chapter 1245 of the Statutes of 1977, and to add Section 9801.2 to, the Vehicle Code, relating to taxation.

[Approved by Governor September 30, 1982. Filed with Secretary of State September 30, 1982.]

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, credit union, or savings and loan association 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, credit union, or savings and loan association in this state, such police or sheriff's department or district attorney may request a bank, credit union, or savings and loan association to furnish, and a bank, credit union, or savings and loan association 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, credit union, or savings and loan association 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 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; or

(3) The amount of any security interest a financial institution has in a specified asset of a customer, if the inquiry is directed to the branch or office where the interest is held.

(g) The disclosure to the Controller of the information required by Section 7853 of the Revenue and Taxation Code.

(h) The disclosure to the Employment Development Department of the amount of any security interest a financial institution has in a specified asset of a customer, if the inquiry is directed to the branch or office where the interest is held.

SEC. 1.5. Section 25174.6 of the Health and Safety Code is amended to read:

25174.6. (a) Effective July 1, 1982, the fee provided pursuant to Section 25174 to be paid by the operators of onsite and offsite hazardous waste facilities shall be four dollars ($4) for every ton, or fraction thereof, of hazardous wastes which the operator disposes of on land or applies to land.

(b) The operator of an offsite hazardous waste facility shall pay fees only for the first 2,500 tons of hazardous waste received in any one month from each site of each producer of hazardous waste.

(c) The operator of an onsite hazardous waste facility shall pay fees only for the first 2,500 tons of hazardous waste which the operator disposes of on land or applies to land in any one month.

SEC. 2. Section 6006 of the Revenue and Taxation Code is amended to read:

6006. "Sale" means and includes:

(a) Any transfer of title or possession, exchange, or barter, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration. "Transfer of possession," includes only transactions found by the board to be in lieu of a transfer of title, exchange, or barter.

(b) The producing, fabricating, processing, printing, or imprinting of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the producing, fabricating, processing, printing, or imprinting.

(c) The furnishing and distributing of tangible personal property for a consideration by social clubs and fraternal organizations to their members or others.

(d) The furnishing, preparing, or serving for a consideration of food, meals, or drinks.

(e) A transaction whereby the possession of property is transferred but the seller retains the title as security for the payment of the price.

(f) A transfer for a consideration of the title or possession of tangible personal property which has been produced, fabricated, or printed to the special order of the customer, or of any publication.

(g) Any lease of tangible personal property in any manner or by any means whatsoever, for a consideration, except a lease of:

(1) Motion picture, including television, films and tapes.

(2) Linen supplies and similar articles when an essential part of the lease agreement is the furnishing of the recurring service of laundering or cleaning the articles.

(3) Household furnishings with a lease of the living quarters in which they are to be used.

(4) Mobile transportation equipment for use in transportation of persons or property as defined in Section 6023.

(5) Tangible personal property leased in substantially the same form as acquired by the lessor or leased in substantially the same form as acquired by a transferor, as to which the lessor or transferor has paid sales tax reimbursement or has paid use tax measured by the purchase price of the property. For purposes hereof, transferor shall mean the following:

(A) A person from whom the lessor acquired the property in a transaction described in subdivision (b) of Section 6006.5.

(B) A decedent from whom the lessor acquired the property by will or the laws of succession.

(6) A mobilehome, as defined in Sections 18008 and 18211 of the Health and Safety Code, other than a mobilehome originally sold new prior to July 1, 1980, and not subject to local property taxation.

SEC. 3. Section 6010 of the Revenue and Taxation Code is amended to read:

6010. "Purchase" means and includes:

(a) Any transfer of title or possession, exchange, or barter, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration. "Transfer of possession," includes only transactions found by the board to be in lieu of a transfer of title, exchange, or barter.

(b) When performed outside this state or when the customer gives a resale certificate pursuant to Article 3 (commencing with

Section 6091) of Chapter 2 of this part, the producing, fabricating, processing, printing, or imprinting of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the producing, fabricating, processing, printing, or imprinting.

(c) A transaction whereby the possession of property is transferred but the seller retains the title as security for the payment of the price.

(d) A transfer for a consideration of tangible personal property which has been produced, fabricated, or printed to the special order of the customer, or of any publication.

(e) Any lease of tangible personal property in any manner or by any means whatsoever, for consideration, except a lease of:

(1) Motion picture, including television, films and tapes.

(2) Linen supplies and similar articles when an essential part of the lease agreement is the furnishing of the recurring service of laundering or cleaning the articles.

(3) Household furnishings with a lease of the living quarters in which they are to be used.

(4) Mobile transportation equipment for use in transportation of persons or property as defined in Section 6023.

(5) Tangible personal property leased in substantially the same form as acquired by the lessor or leased in substantially the same form as acquired by a transferor, as to which the lessor or transferor has paid sales tax reimbursement or has paid use tax measured by the purchase price of the property. For purposes hereof, transferor shall mean the following:

(A) A person from whom the lessor acquired the property in a transaction described in subdivision (b) of Section 6006.5.

(B) A decedent from whom the lessor acquired the property by will or the laws of succession.

(6) A mobilehome, as defined in Sections 18008 and 18211 of the Health and Safety Code, other than a mobilehome originally sold new prior to July 1, 1980, and not subject to local property taxation.

SEC. 4. Section 6010.10 is added to the Revenue and Taxation Code, to read:

6010.10. "Sale" and "purchase," for the purposes of this part, do not include any transfer of title of tangible personal property constituting any project or pollution control facility to the California Pollution Control Financing Authority by any participating party, nor any lease or transfer of title of tangible personal property constituting any project or pollution control facility by the authority to any participating party, when the transfer or lease is made pursuant to Division 27 (commencing with Section 44500) of the Health and Safety Code. The terms "project," "pollution control facility," and "participating party" as used in this section have the meanings ascribed to them in Sections 44506 and 44508 of the Health and Safety Code.

SEC. 5. Section 6011 of the Revenue and Taxation Code is

amended to read:

6011. (a) "Sales price" means the total amount for which tangible personal property is sold or leased or rented, as the case may be, valued in money, whether paid in money or otherwise, without any deduction on account of any of the following:

(1) The cost of the property sold.

(2) The cost of materials used, labor or service cost, interest charged, losses, or any other expenses.

(3) The cost of transportation of the property, except as excluded by other provisions of this section.

(b) The total amount for which the property is sold or leased or rented includes all of the following:

(1) Any services that are a part of the sale.

(2) Any amount for which credit is given to the purchaser by the seller.

(3) The amount of any tax imposed by the United States upon producers and importers of gasoline and the amount of any tax imposed pursuant to Part 2 (commencing with Section 7301) of this division.

(c) "Sales price" does not include any of the following:

(1) Cash discounts allowed and taken on sales.

(2) The amount charged for property returned by customers when that entire amount is refunded either in cash or credit, but this exclusion shall not apply in any instance when the customer, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned. For the purpose of this section refund or credit of the entire amount shall be deemed to be given when the purchase price less rehandling and restocking costs are refunded or credited to the customer.

(3) The amount charged for labor or services rendered in installing or applying the property sold.

(4) The amount of any tax (not including, however, any manufacturers' or importers' excise tax) imposed by the United States upon or with respect to retail sales whether imposed upon the retailer or the consumer.

(5) The amount of any tax imposed by any city, county, city and county, or rapid transit district within the State of California upon or with respect to retail sales of tangible personal property, measured by a stated percentage of sales price or gross receipts, whether imposed upon the retailer or the consumer.

(6) The amount of any tax imposed by any city, county, city and county, or rapid transit district within the State of California with respect to the storage, use or other consumption in such city, county, city and county, or rapid transit district of tangible personal property measured by a stated percentage of sales price or purchase price, whether such tax is imposed upon the retailer or the consumer.

(7) Separately stated charges for transportation from the retailer's place of business or other point from which shipment is made directly to the purchaser, but the exclusion shall not exceed a

reasonable charge for transportation by facilities of the retailer or the cost to the retailer of transportation by other than facilities of the retailer; provided, that if the transportation is by facilities of the retailer, or the property is sold for a delivered price, this exclusion shall be applicable solely with respect to transportation which occurs after the purchase of the property is made.

(8) The amount of any motor vehicle, mobilehome, or commerical coach fee or tax imposed by and paid the State of California that has been added to or is measured by a stated percentage of the sales or purchase price of a motor vehicle, mobilehome, or commercial coach.

SEC. 6. Section 6012 of the Revenue and Taxation Code is amended to read:

6012. (a) "Gross receipts" mean the total amount of the sale or lease or rental price, as the case may be, of the retail sales of retailers, valued in money, whether received in money or otherwise, without any deduction on account of any of the following:

(1) The cost of the property sold. However, in accordance with such rules and regulations as the board may prescribe, a deduction may be taken if the retailer has purchased property for some other purpose than resale, has reimbursed his vendor for tax which the vendor is required to pay to the state or has paid the use tax with respect to the property, and has resold the property prior to making any use of the property other than retention, demonstration, or display while holding it for sale in the regular course of business. If such a deduction is taken by the retailer, no refund or credit will be allowed to his vendor with respect to the sale of the property.

(2) The cost of the materials used, labor or service cost, interest paid, losses, or any other expense.

(3) The cost of transportation of the property, except as excluded by other provisions of this section.

(4) The amount of any tax imposed by the United States upon producers and importers of gasoline and the amount of any tax imposed pursuant to Part 2 (commencing with Section 7301) of this division.

(b) The total amount of the sale or lease or rental price includes all of the following:

(1) Any services that are a part of the sale.

(2) All receipts, cash, credits and property of any kind.

(3) Any amount for which credit is allowed by the seller to the purchaser.

(c) "Gross receipts" do not include any of the following:

(1) Cash discounts allowed and taken on sales.

(2) Sale price of property returned by customers when the full sale price is refunded either in cash or credit, but this exclusion shall not apply in any instance when the customer, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned. For the purpose of this section refund or credit of the entire amount shall be

deemed to be given when the purchase price less rehandling and restocking costs are refunded or credited to the customer.

(3) The price received for labor or services used in installing or applying the property sold.

(4) The amount of any tax (not including, however, any manufacturers' or importers' excise tax) imposed by the United States upon or with respect to retail sales whether imposed upon the retailer or the consumer.

(5) The amount of any tax imposed by any city, county, city and county, or rapid transit district within the State of California upon or with respect to retail sales of tangible personal property measured by a stated percentage of sales price or gross receipts whether imposed upon the retailer or the consumer.

(6) The amount of any tax imposed by any city, county, city and county, or rapid transit district within the State of California with respect to the storage, use or other consumption in such city, county, city and county, or rapid transit district of tangible personal property measured by a stated percentage of sales price or purchase price, whether such tax is imposed upon the retailer or the consumer.

(7) Separately stated charges for transportation from the retailer's place of business or other point from which shipment is made directly to the purchaser, but the exclusion shall not exceed a reasonable charge for transportation by facilities of the retailer or the cost to the retailer of transportation by other than facilities of the retailer; provided, that if the transportation is by facilities of the retailer, or the property is sold for a delivered price, this exclusion shall be applicable solely with respect to transportation which occurs after the sale of the property is made to the purchaser.

(8) The amount of any motor vehicle, mobilehome, or commercial coach fee or tax imposed by and paid to the State of California that has been added to or is measured by a stated percentage of the sales or purchase price of a motor vehicle, mobilehome, or commercial coach.

For purposes of the sales tax, if the retailers establish to the satisfaction of the board that the sales tax has been added to the total amount of the sale price and has not been absorbed by them, the total amount of the sale price shall be deemed to be the amount received exclusive of the tax imposed. Section 1656.1 of the Civil Code shall apply in determining whether or not the retailers have absorbed the sales tax.

SEC. 7. Section 6012.2 of the Revenue and Taxation Code is amended to read:

6012.2. (a) For purposes of this part, "gross receipts" from the sale of a used mobilehome, as defined in Section 18014 of the Health and Safety Code, and the "sales price" of a used mobilehome, sold or stored, used, or otherwise consumed in this state shall exclude the separately stated value of in-place location, awning, skirting, carport, patio, landscaping, shrubs, unattached furnishings or other items not part of the mobilehome as a vehicle, when a registered or legal

owner sells a used mobilehome through a person licensed under the Health and Safety Code as a dealer and not on the dealer's own account or through a licensed real estate broker acting pursuant to Section 10131.6 of the Business and Professions Code.

(b) For the purposes of this part, "gross receipts" from the sale of a mobilehome, whether new or used, and the "sales price" of a mobilehome, whether new or used, shall exclude the amount of separately stated escrow fees on the sale of such mobilehome.

SEC. 8. Section 6072 of the Revenue and Taxation Code is amended to read:

6072. A permit shall be held only by persons actively engaging in or conducting a business as a seller of tangible personal property. Any person not so engaged shall forthwith surrender his permit to the board for cancellation. The board may revoke the permit of a person found to be not actively engaged in or conducting a business as a seller of tangible personal property.

Any person who knowingly issues a resale certificate while the person is not actively engaged in business as a seller, for personal gain or to evade the payment of taxes, shall be liable for the taxes that would otherwise have been due on the transaction, plus a penalty of 10 percent which is in addition to all other penalties imposed by this part, and interest at the adjusted annual rate established pursuant to Section 19269 from the last day of the month following the quarterly period for which the amount or any portion thereof should have been returned until the date of payment.

SEC. 9. Section 6274 of the Revenue and Taxation Code is amended to read:

6274. "Aircraft" means any contrivance designed for powered navigation in the air except a rocket or missile.

SEC. 10. Section 6276.1 of the Revenue and Taxation Code is amended to read:

6276.1. (a) For purposes of Section 6276, "sales price" of a used mobilehome, as defined in Section 18014 of the Health and Safety Code, shall exclude the separately stated value of in-place location, awning, skirting, carport, patio, landscaping, shrubs, unattached furnishings, or other items not part of the mobilehome as a vehicle, when a registered or legal owner sells a used mobilehome through a person licensed under the Health and Safety Code or the Vehicle Code as a dealer and not on the dealer's own account or through a licensed real estate broker acting pursuant to Section 10131.6 of the Business and Professions Code.

(b) For purposes of Section 6276, "sales price" of a mobilehome, whether new or used, shall exclude the amount of separately stated escrow fees on the sale of the mobilehome.

SEC. 11. Section 6284 of the Revenue and Taxation Code is amended to read:

6284. If a person is engaged in the business of selling vehicles, mobilehomes, commercial coaches, vessels or aircraft he or she shall not be excused from the requirements of Article 2 (commencing

with Section 6066) of Chapter 2 of this part, by reason of the exemptions provided in Sections 6282 and 6283.

SEC. 12. Section 6367 of the Revenue and Taxation Code is amended to read:

6367. There are exempted from the taxes imposed by this part the gross receipts from occasional sales of tangible personal property and the storage, use, or other consumption in this state of tangible personal property, the transfer of which to the purchaser is an occasional sale. This exemption does not apply to the gross receipts from the sale of, or to the storage, use, or other consumption in this state of, a mobilehome or commercial coach required to be annually registered under the Health and Safety Code, a vessel or aircraft, as defined in Article 1 (commencing with Section 6271) of Chapter 3.5 of this part, or a vehicle required to be registered under the Vehicle Code or a vehicle required to be identified under Division 16.5 (commencing with Section 38000) of the Vehicle Code. This section shall not preclude the exemption afforded under Section 6281.

SEC. 12.3. Section 6369 of the Revenue and Taxation Code, as amended by Section 1 of Chapter 229 of the Statutes of 1978, is amended to read:

6369. (a) There are exempted from the taxes imposed by this part the gross receipts from the sale, and the storage, use, or other consumption, in this state of medicines:

(1) Prescribed for the treatment of a human being by a person authorized to prescribe the medicines, and dispensed on prescription filled by a registered pharmacist in accordance with law, or

(2) Furnished by a licensed physician and surgeon, dentist, or podiatrist to his own patient for treatment of the patient, or

(3) Furnished by a health facility for treatment of any person pursuant to the order of a licensed physician and surgeon, dentist, or podiatrist, or

(4) Sold to a licensed physician and surgeon, podiatrist, dentist, or health facility for the treatment of a human being.

(5) Sold to this state or any political subdivision or municipal corporation thereof, for use in the treatment of a human being; or furnished for the treatment of a human being by a medical facility or clinic maintained by this state or any political subdivision or municipal corporation thereof.

(b) "Medicines" as used in this section mean and include any substance or preparation intended for use by external or internal application to the human body in the diagnosis, cure, mitigation, treatment or prevention of disease and which is commonly recognized as a substance or preparation intended for such use; provided that "medicines" do not include (1) any auditory, prosthetic, ophthalmic or ocular device or appliance, (2) articles which are in the nature of splints, bandages, pads, compresses, supports, dressings, instruments, apparatus, contrivances, appliances, devices, or other mechanical, electronic, optical or

physical equipment or article or the component parts and accessories thereof, (3) any alcoholic beverage the manufacture, sale, purchase, possession or transportation of which is licensed and regulated by the Alcoholic Beverage Control Act (Division 9, commencing with Section 23000, of the Business and Professions Code).

(c) Notwithstanding subdivision (b), "medicines" as used in this section shall mean and include: (1) sutures, whether or not permanently implanted; (2) bone screws, bone pins, pacemakers, and other articles, other than dentures, permanently implanted in the human body to assist the functioning of any natural organ, artery, vein, or limb and which remain or dissolve in the body; (3) orthotic devices, other than orthodontic devices, designed to be worn on the person of the user as a brace, support or correction for the body structure, and replacement parts for such devices; provided, that orthopedic shoes and supportive devices for the foot are not exempt unless they are an integral part of a leg brace or artificial leg; (4) prosthetic devices, and replacement parts for such devices, designed to be worn on or in the person of the user to replace or assist the functioning of a natural part of the human body, other than auditory, opthalmic and ocular devices or appliances, and other than dentures, removable or fixed bridges, crowns, caps, inlays, artificial teeth and other dental prosthetic materials and devices; (5) artificial limbs and eyes, or their replacement parts, for human beings; and, (6) programmable drug infusion devices to be worn on or implanted in the human body.

(d) "Health facility" as used in this section has the meaning ascribed to it in Section 1250 of the Health and Safety Code.

(e) Insulin and insulin syringes furnished by a registered pharmacist to a person for treatment of diabetes as directed by a physician shall be deemed to be dispensed on prescription within the meaning of this section.

(f) Orthotic and prosthetic devices, and replacement parts for such devices, furnished pursuant to the written order of a physician, shall be deemed to be dispensed on prescription within the meaning of paragraph (a) (1) of this section, whether or not the devices are furnished by a registered pharmacist.

(g) Mammary prostheses, and any appliances and related supplies necessary as the result of any surgical procedure by which an artificial opening is created in the human body for the elimination of natural waste, shall be deemed to be dispensed on prescription within the meaning of this section.

SEC. 12.7. Section 6369 of the Revenue and Taxation Code, as amended by Section 2 of Chapter 1245 of the Statutes of 1977, is repealed.

SEC. 13. Section 6379 of the Revenue and Taxation Code is amended to read:

6379. 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 any used mobilehome, as defined in

Section 18014 of the Health and Safety Code, which is subject to property tax pursuant to Part 13 (commencing with Section 5800) of Division 1.

SEC. 15. Section 6422.1 of the Revenue and Taxation Code is amended to read:

6422.1. The board may provide for exemption certificates and other tax clearance certificates to be issued by it or by retailers selling vehicles as defined in Article 1 of Chapter 3.5 of this part, commercial coaches as defined in Section 18001.8 of the Health and Safety Code or mobilehomes as defined by Section 18008 of the Health and Safety Code. Such certificates shall be used to allow a completion of registration of a vehicle by the Department of Motor Vehicles or a commercial coach or mobilehome by the Department of Housing and Community Development. The certificates may indicate that the board finds that no use tax is due or is likely to become due with respect to the storage, use or other consumption of the vehicle, commercial coach, or mobilehome, or that the tax has been paid or is to be paid in a manner not requiring the withholding of a registration or transfer of registration. The certificates shall be in such form as the board may prescribe and shall be executed, issued and accepted for clearance of registration on such conditions as the board may prescribe. The issuance, alteration, forgery or use of any such certificate in a manner contrary to the requirements of the board constitutes a misdemeanor.

SEC. 16. Section 6703 is added to the Revenue and Taxation Code, to read:

6703. The board may by notice of levy, served personally or by first-class mail, require all persons having in their possession, or under their control, any credits or other personal property belonging to a retailer or other person liable for any amount under this part to withhold from such credits or other personal property the amount of any tax, interest, or penalties due from such retailer or other person, or the amount of any liability incurred by them under this part, and to transmit the amount withheld to the board at such times as it may designate.

In the case of a financial institution, to be effective, the notice shall state the amount due from the taxpayer and shall be delivered or mailed to the branch or office of the financial institution where the credits or other property is held, unless another branch or office is designated by the financial institution to receive the notice.

SEC. 17. Section 7204.3 of the Revenue and Taxation Code is amended to read:

7204.3. The board shall charge a city, city and county, redevelopment agency, or county, as the cost of the board's services in administering the sales and use tax ordinance of the local entity, 0.82 percent of all sales and use taxes available for distribution to the city, city and county, redevelopment agency, or county on and after July 1, 1972. Such amounts shall be deducted from the taxes collected by the board for the city, city and county, redevelopment agency, or

county.

SEC. 18. Section 7360 of the Revenue and Taxation Code is amended and renumbered to read:

8657. (a) Notwithstanding any provision of the Alcoholic Beverage Control Act (Division 9 (commencing with Section 23000) of the Business and Professions Code) any alcohol produced for use in or as a fuel to propel a motor vehicle shall be taxed as fuel under this part and shall not be subject to taxes under the Alcoholic Beverage Tax Law (Part 14 (commencing with Section 32001)).

(b) The state requirements for determining whether alcohol is produced for use in or as a fuel to propel a motor vehicle and not for use as an alcoholic beverage shall be the same as the requirements of the Bureau of Alcohol, Tobacco and Firearms of the United States Department of Treasury under federal law.

SEC. 19. Section 7401 of the Revenue and Taxation Code is amended to read:

7401. The provisions of this part requiring the payment of license taxes do not apply to any of the following:

(a) Natural gasoline distributed to a duly licensed distributor under such regulations as the board may prescribe.

(b) Motor vehicle fuel exported from this state by the distributor or delivered by the distributor to any vessel clearing from a port of this state for a port outside of this state and actually exported from this state in the vessel.

(c) Motor vehicle fuel distributed, or delivered on the order of the owner, to a distributor who has furnished bond as prescribed by Sections 7486 and 7487 of not less than fifty thousand dollars ($50,000), nor more than five hundred thousand dollars ($500,000), and who has established to the satisfaction of the board that this bond, together with property to which the lien imposed by Section 7872 attaches, is sufficient security to assure payment of all license taxes as they may become due to the state from him or her under this part.

(d) Motor vehicle fuel sold to the United States armed forces for use in ships or aircraft, or for use outside this state.

(e) Motor vehicle fuel distributed to any licensed distributor, or to any licensed broker who has furnished bond or other security in the form and amount required of distributors under Article 2.1 (commencing with Section 7486) of Chapter 4 of this part, for sale to the United States armed forces for use in ships or aircraft or use outside this state. Notwithstanding any other provisions of this part, the receiving of motor vehicle fuel in this state from a licensed distributor and the sale and delivery of the fuel to the United States armed forces pursuant to this subdivision shall not constitute a broker a distributor under this part.

Every distributor claiming an exemption shall report the exports, sales or distributions to the board in such detail as the board may require; otherwise the exemption granted in this section shall be null and void and all the fuel shall be considered distributed in this state

subject fully to the provisions of this part.

SEC. 19.5. Section 7401 of the Revenue and Taxation Code is amended to read:

7401. (a) The provisions of this part requiring the payment of license taxes do not apply to any of the following:

(1) Natural gasoline distributed to a duly licensed distributor under such regulations as the board may prescribe.

(2) Motor vehicle fuel exported from this state by the distributor or delivered by the distributor to any vessel clearing from a port of this state for a port outside of this state and actually exported from this state in the vessel.

(3) Motor vehicle fuel distributed, or delivered on the order of the owner, to a distributor who has furnished bond as prescribed by Sections 7486 and 7487 of not less than fifty thousand dollars ($50,000), nor more than five hundred thousand dollars ($500,000), and who has established to the satisfaction of the board that this bond, together with property to which the lien imposed by Section 7872 attaches, is sufficient security to assure payment of all license taxes as they may become due to the state from him or her under this part.

(4) Motor vehicle fuel sold to the United States armed forces for use in ships or aircraft, or for use outside this state.

(5) Motor vehicle fuel distributed to any licensed distributor, or to any licensed broker who has furnished bond in the form and amount required of distributors under Article 2 (commencing with Section 7486) of Chapter 4, for sale to the United States armed forces for use in ships or aircraft or use outside this state. Notwithstanding any other provisions of this part, the receiving of motor vehicle fuel in this state from a licensed distributor and the sale and delivery of the fuel to the United States armed forces pursuant to this subdivision shall not constitute a broker a distributor under this part.

(b) Every distributor claiming an exemption shall report the exports, sales or distributions to the board in such detail as the board may require; otherwise the exemption granted in this section shall be null and void and all the fuel shall be considered distributed in this state subject fully to the provisions of this part.

SEC. 20. Section 7855 is added to the Revenue and Taxation Code, to read:

7855. The Controller may by notice of levy, served personally or by first-class mail, require all persons having in their possession, or under their control, any credits or personal property belonging to a distributor or other person liable for any amount under this part to withhold from such credits or other personal property the amount of any tax, interest, or penalties due from such distributor or other person, or the amount of any liability incurred by them under this part, and to transmit the amount withheld to the Controller at such times as it may designate.

In the case of a financial institution, to be effective, the notice shall state the amount due from the taxpayer and shall be delivered or

mailed to the branch office of the financial institution where the credits or other property is held, unless another branch or office is designated by the financial institution to receive the notice.

SEC. 21. Section 8608 of the Revenue and Taxation Code is amended to read:

8608. "User" includes any person who, within the meaning of the term "use" as defined in this chapter, uses fuel.

The provisions of Article 1 (commencing with Section 8701) of Chapter 3 and Article 1 (commencing with Section 8751) of Chapter 4 do not apply to a user whose sole use of fuel in this state is for the propulsion of a privately operated passenger motor vehicle, or the propulsion of a commercial vehicle with unladen weight of less than 6,000 pounds; provided, that the fuel used, except fuel brought into this state in the fuel tank of the vehicle, is purchased from and delivered into the fuel tank of the vehicle by a vendor.

SEC. 22. Section 8608 of the Revenue and Taxation Code is amended to read:

8608. "User" includes any person who, within the meaning of the term "use" as defined in this chapter, uses fuel.

The provisions of Article 1 (commencing with Section 8701) of Chapter 3 and Article 1 (commencing with Section 8751) of Chapter 4 do not apply to a user whose sole use of fuel in this state is for the propulsion of a privately operated passenger motor vehicle, or the propulsion of a commercial vehicle with unladen weight of less than 6,000 pounds; or for the propulsion of a privately operated two-axle truck which the user has rented or leased for a period of 30 days or less; provided, that the fuel used, except fuel brought into this state in the fuel tank of the vehicle, is purchased from and delivered into the fuel tank of the vehicle by a vendor.

SEC. 22.5. Section 8610 of the Revenue and Taxation Code is amended to read:

8610. "Vendor" includes every person who sells fuel in this state and places, or causes to be placed, the fuel into any receptacle on a motor vehicle from which receptacle fuel is supplied for the propulsion of the vehicle.

"Vendor" does not include a person who places the fuel, or causes the fuel to be placed, into a receptacle on a privately operated passenger motor vehicle with respect to which the annual flat rate fuel tax described in Section 8651.7 has been paid for the current year and to which is attached the current prescribed identification emblem.

SEC. 23. Section 8957 is added to the Revenue and Taxation Code, to read:

8957. The board may by notice of levy, served personally or by first-class mail, require all persons having in their possession, or under their control, any credits or other personal property belonging to a user, vendor or other person liable for any amount under this part to withhold from such credits or other personal property the amount of any tax, interest, or penalties due from such user, vendor

or other person, or the amount of any liability incurred by them under this part, and to transmit the amount withheld to the board at such times as it may designate.

In the case of a financial institution, to be effective, the notice shall state the amount due from the taxpayer and shall be delivered or mailed to the branch office of the financial institution where the credits or other property is held, unless another branch or office is designated by the financial institution to receive the notice.

SEC. 24. Section 9505 of the Revenue and Taxation Code is amended to read:

9505. After deducting its cost in administering the tax, the State Board of Equalization shall transmit the net revenues to the county periodically as promptly as possible for distribution in accordance with the allocation agreement between the county and cities. The transmittals from the Board of Equalization to counties and the transmittal from counties to cities shall be made at least twice in each calendar quarter.

SEC. 25. Section 30315 is added to the Revenue and Taxation Code, to read:

30315. The board may by notice of levy, served personally or by first-class mail, require all persons having in their possession, or under their control, any credits or other personal property belonging to a distributor, dealer or other person liable for any amount under this part to withhold from such credits or other personal property the amount of any tax, interest, or penalties due from such distributor, dealer or other person, or the amount of any liability incurred by them under this part, and to transmit the amount withheld to the board at such times as it may designate.

In the case of a financial institution, to be effective, the notice shall state the amount due from the taxpayer and shall be delivered or mailed to the branch office of the financial institution where the credits or other property is held, unless another branch or office is designated by the financial institution to receive the notice.

SEC. 26. Section 32387 is added to the Revenue and Taxation Code, to read:

32387. The board may by notice of levy, served personally or by first-class mail, require all persons having in their possession, or under their control, any credits or other personal property belonging to a taxpayer or other person liable for any amount under this part to withhold from such credits or other personal property the amount of any tax, interest, or penalties due from such taxpayer or other person, or the amount of any liability incurred by them under this part, and to transmit the amount withheld to the board at such times as it may designate.

In the case of a financial institution, to be effective, the notice shall state the amount due from the taxpayer and shall be delivered or mailed to the branch office of the financial institution where the credits or other property is held, unless another branch or office is designated by the financial institution to receive the notice.

SEC. 27. Section 40155 is added to the Revenue and Taxation Code, to read:

40155. The board may by notice of levy, served personally or by first-class mail, require all persons having in their possession, or under their control, any credits or other personal property belonging to a consumer or other person liable for any amount under this part to withhold from such credits or other personal property the amount of any surcharge, interest, or penalties due from such consumer or other person, or the amount of any liability incurred by them under this part, and to transmit the amount withheld to the board at such times as it may designate.

In the case of a financial institution, to be effective, the notice shall state the amount due from the taxpayer and shall be delivered or mailed to the branch office of the financial institution where the credits or other property is held, unless another branch or office is designated by the financial institution to receive the notice.

SEC. 28. Article 2.5 (commencing with Section 40157) is added to Chapter 6 of Part 19 of Division 2 of the Revenue and Taxation Code, to read:

Article 2.5. Priority and Lien of Surcharge

40157. The amounts required to be paid by any person under this part together with interest and penalties shall be satisfied first in any of the following cases:

(a) Whenever the person is insolvent.

(b) Whenever the person makes a voluntary assignment of his or her assets.

(c) Whenever the estate of the person in the hands of executors, administrators, or heirs is insufficient to pay all the debts due from the deceased.

(d) Whenever the estate and effects of an absconding, concealed, or absent person required to pay any amount under this part are levied upon by process of law.

This section does not give the state a preference over any lien or security interest which was recorded or perfected prior to the time when the state records or files its lien as provided in Section 7171 of the Government Code.

The preference given to the state by this section shall be subordinate to the preferences given to claims for personal services by Sections 1204 and 1206 of the Code of Civil Procedure.

40158. (a) If any person fails to pay any amount imposed under this part 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. Such a lien is subject to Chapter 14 (commencing with Section 7150) of Division 7 of Title 1 of the Government Code.

(b) 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 board 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 board.

(3) For all other amounts, the date the assessment is final.

SEC. 29. Section 41123.5 is added to the Revenue and Taxation Code, to read:

41123.5. The board may by notice of levy, served personally or by first-class mail, require all persons, other than a service supplier, having in their possession, or under their control, any credits or other personal property belonging to a service user or other person liable for any amount under this part to withhold from such credits or other personal property the amount of any surcharge, interest, or penalties due from such service user or other person, or the amount of any liability incurred by them under this part, and to transmit the amount withheld to the board at such times as it may designate.

In the case of a financial institution, to be effective, the notice shall state the amount due from the taxpayer and shall be delivered or mailed to the branch office of the financial institution where the credits or other property is held, unless another branch or office is designated by the financial institution to receive the notice.

SEC. 30. Article 2.5 (commencing with Section 41124) is added to Chapter 6 of Part 20 of Division 2 of the Revenue and Taxation Code, to read:

Article 2.5. Priority and Lien of Surcharge

41124. The amounts required to be paid by any person under this part together with interest and penalties shall be satisfied first in any of the following cases:

(a) Whenever the person is insolvent.

(b) Whenever the person makes a voluntary assignment of his or her assets.

(c) Whenever the estate of the person in the hands of executors, administrators, or heirs is insufficient to pay all the debts due from the deceased.

(d) Whenever the estate and effects of an absconding, concealed, or absent person required to pay any amount under this part are levied upon by process of law.

This section does not give the state a preference over any lien or security interest which was recorded or perfected prior to the time when the state records or files its lien as provided in Section 7171 of the Government Code.

The preference given to the state by this section shall be subordinate to the preferences given to claims for personal services by Sections 1204 and 1206 of the Code of Civil Procedure.

41124.1. (a) If any person fails to pay any amount imposed under this part 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. Such a lien is subject to Chapter 14 (commencing with Section 7150) of Division 7 of Title 1 of the Government Code.

(b) 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 board 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 board.

(3) For all other amounts, the date the assessment is final.

SEC. 30.5. Section 43201 of the Revenue and Taxation Code, as amended by Chapter 496 of the Statutes of 1982, is amended to read:

43201. (a) If the board is dissatisfied with the return or report filed or the amount of tax paid to the state by any taxpayer, or if no return or report has been filed or no payment or payments of the taxes have been made to the state by a taxpayer, the board may compute and determine the amount to be paid, based upon any information available to it. One or more additional determinations may be made of the amount of tax due for one, or for more than one, period. The amount of tax so determined shall bear interest at the adjusted annual rate established pursuant to Section 19269 from the date the amount of the tax, or any portion thereof, became due and payable until the date of payment. In making a determination, the board may offset overpayments for a period or periods against underpayments for another period or periods and against the interest and penalties on the underpayments.

(b) If any part of the deficiency for which a determination of an additional amount due is made is found to have been occasioned by negligence or intentional disregard of this part or authorized regulations, a penalty of 10 percent of the amount of the determination shall be added, plus interest as provided above.

(c) If any part of the deficiency for which a determination of an additional amount due is made is found to be occasioned by fraud or an intent to evade this part or authorized regulations, a penalty of 25 percent of the amount of the determination shall be added, plus interest as provided in subdivision (a).

(d) The board shall give to the taxpayer written notice of its determination. The notice shall be placed in a sealed envelope, with postage paid, addressed to the taxpayer at his or her address as it appears in the records of the board. The giving of notice shall be deemed complete at the time of the deposit of the notice in a United States Post Office, or a mailbox, subpost office, substation or mail chute, or other facility regularly maintained or provided by the United States Postal Service without extension of time for any reason. In lieu of mailing, a notice may be served personally by delivering to the person to be served, and service shall be deemed complete at the time of such delivery. Personal service to a corporation may be

made by delivery of a notice to any person designated in the Code of Civil Procedure to be served for the corporation with summons and complaint in a civil action.

SEC. 31. Section 43444.2 is added to the Revenue and Taxation Code, to read:

43444.2. The board may by notice of levy, served personally or by first-class mail, require all persons having in their possession, or under their control, any credits or other personal property belonging to a taxpayer or other person liable for any amount under this part to withhold from such credits or other personal property the amount of any tax, interest, or penalties due from such taxpayer or other person, or the amount of any liability incurred by them under this part, and to transmit the amount withheld to the board at such times as it may designate.

In the case of a financial institution, to be effective, the notice shall state the amount due from the taxpayer and shall be delivered or mailed to the branch office of the financial institution where the credits or other property is held, unless another branch or office is designated by the financial institution to receive the notice.

SEC. 32. Section 9801.2 is added to the Vehicle Code, to read:

9801.2. (a) When the department sells a vehicle pursuant to Section 9801, the department shall also collect any use tax, interest and penalty which is due and payable pursuant to Article 3 (commencing with Section 6291) of Chapter 3.5 of Part 1 of Division 2 of the Revenue and Taxation Code at the time of the sale. The State Board of Equalization shall advise the department of the amount to be collected for use tax, interest to the first day of the calendar month in which the sale is held, and penalty.

(b) The department shall transmit to the State Board of Equalization all collections of use tax, interest and penalty made under this section. This transmittal shall be made at least monthly, accompanied by a schedule in such form as the department and the board may prescribe.

(c) The State Board of Equalization shall reimburse the department for its costs incurred in carrying out the provisions of this section. Such reimbursement shall be effected under agreement between the agencies, approved by the Department of Finance.

SEC. 33. Section 9803 of the Vehicle Code is amended to read:

9803. At any time before the sale any legal owner so notified may pay the department the full amount of the delinquent fee and penalty, the full amount of any use tax, interest and penalty which is due and payable plus any costs incurred by the department in arranging for the sale, in which event the sale shall not be held and the vehicle seized shall be returned by the department to the person entitled to its possession.

SEC. 33.3. Section 4 of Chapter 1245 of the Statutes of 1977 is repealed.

SEC. 33.7. Section 3 of Chapter 229 of the Statutes of 1978 is repealed.

SEC. 34. The amendment of Section 6274 of the Revenue and Taxation Code made by this act does not constitute a change in, but is declaratory of, the existing law.

SEC. 34.5. Notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any sales and use tax revenues lost by it under this act.

SEC. 35. It is the intent of the Legislature, if this bill and Senate Bill 1531 are both chaptered and become effective on or before January 1, 1983, both bills amend Section 8608 of the Revenue and Taxation Code, and this bill is chaptered after Senate Bill 1531, that the amendments to Section 8608 proposed by both bills be given effect and incorporated in Section 8608 in the form set forth in Section 22 of this act. Therefore, Section 22 of this act shall become operative only if this bill and Senate Bill 1531 are both chaptered and become effective on or before January 1, 1983, both amend Section 8608, and this bill is chaptered after Senate Bill 1531, in which case Section 21 of this act shall not become operative.

SEC. 36. It is the intent of the Legislature, if this bill and Assembly Bill 2750 are both chaptered and become effective January 1, 1983, both bills amend Section 7401 of the Revenue and Taxation Code, and this bill is chaptered either before or after Assembly Bill 2750, that the amendments to Section 7401 proposed by both bills be given effect and incorporated in Section 7401 in the form set forth in Section 19.5 of this act. Therefore, Section 19.5 of this act shall become operative only if this bill and Assembly Bill 2750 are both chaptered and become effective January 1, 1983, both amend Section 7401, and this bill is chaptered either before or after Assembly Bill 2750, in which case Section 19 of this shall not become operative.

SEC. 37. Sections 32 and 33 of this act shall not be operative if Assembly Bill 3114 of the 1981–82 Regular Session is chaptered and that bill repeals and adds Article 6 (commencing with Section 9800) of Chapter 6 of Division 3 of the Vehicle Code.

CHAPTER 1590

An act to amend Sections 14838 and 14842 of the Government Code, relating to state contracts.

[Approved by Governor September 30, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 14838 of the Government Code is amended to read:

14838. In order to facilitate the participation of small business in state procurement and in construction contracts under the Office of

the State Architect or other state agencies which contract for the construction (including alteration, demolition, repair or improvement) of state facilities, the directors of General Services and of such other agencies, each within their respective areas of responsibility, shall:

(a) Establish goals for the extent of participation of small businesses in state procurement and in construction contracts.

(b) Provide for small business preference where responsibility and quality are equal. Such preference to small business shall be 5 percent for the lowest responsible bidder meeting specifications. However, the small business preference shall not exceed fifty thousand dollars ($50,000) for any bid.

(c) Give special consideration to small businesses by both:

(1) Reducing the experience required.

(2) Reducing the level of inventory normally required.

(d) Give special assistance to small businesses in their preparation and submission of the information requested in Government Code Section 14310.

(e) Under the authorization granted in Section 14311 of the Government Code, make awards, whenever feasible, to small business bidders for each project bid upon within their prequalification rating. This may be accomplished by dividing major projects into subprojects so as to allow a small business contractor to qualify to bid on such subprojects.

SEC. 2. Section 14842 of the Government Code is amended to read:

14842. (a) A business which has obtained classification as a small business by reason of having furnished incorrect supporting information or by reason of having withheld information, and which knew, or should have known, the information furnished was incorrect or the information withheld was relevant to its request for classification, and which by reason of such classification has been awarded a contract to which it would not otherwise have been entitled, shall:

(1) Pay to the state any difference between the contract amount and what the state's costs would have been if the contract had been properly awarded;

(2) In addition to the amount described in subdivision (a), be assessed a penalty in an amount of not more than 10 percent of the amount of the contract involved; and

(3) Be ineligible to transact any business with the state for a period of not less than three months and not more than 24 months.

(b) All payments to the state pursuant to paragraph (1) of subdivision (a) shall be deposited in the fund out of which the contract involved was awarded.

(c) All payments to the state pursuant to paragraph (2) of subdivision (a) shall be deposited in the state General Fund.

(d) Prior to the imposition of any sanctions under subdivision (a), a business shall be entitled to a public hearing and to at least five

working days' notice of the time and place thereof. The notice shall state the reasons for the hearing.

CHAPTER 1591

An act to amend, repeal, and add Sections 6012.2 and 6276.1 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 30, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 6012.2 of the Revenue and Taxation Code is amended to read:

6012.2. (a) For purposes of this part, "gross receipts" from the sale of a used mobilehome, as defined in Section 18014 of the Health and Safety Code, and the "sales price" of a used mobilehome, sold or stored, used, or otherwise consumed in this state shall be based on the current value of the used mobilehome as determined by a recognized value guide, when a registered or legal owner sells a used mobilehome through a person licensed under the Health and Safety Code as a dealer and not on the dealer's own account or through a licensed real estate broker acting pursuant to Section 10131.6 of the Business and Professions Code. The State Board of Equalization shall approve the value guides for use within this state through regulation.

(b) For the purposes of this part, "gross receipts" from the sale of a mobilehome, whether new or used, and the "sales price" of a mobilehome, whether new or used, shall exclude the amount of separately stated escrow fees on the sale of such mobilehome.

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

SEC. 2. Section 6012.2 is added to the Revenue and Taxation Code, to read:

6012.2. (a) For purposes of this part, "gross receipts" from the sale of a used mobilehome, as defined in Sections 396 and 665 of the Vehicle Code, and the "sales price" of a used mobilehome, sold or stored, used, or otherwise consumed in this state shall exclude the separately stated value of in-place location, awning, skirting, carport, patio, landscaping, shrubs, unattached furnishings or other items not part of the mobilehome as a vehicle, when a registered or legal owner sells a used mobilehome through a person licensed under the Vehicle Code as a dealer and not on the dealer's own account or through a licensed real estate broker acting pursuant to Section 10131.6 of the Business and Professions Code.

(b) For the purposes of this part, "gross receipts" from the sale of

a mobilehome, whether new or used, and the "sales price" of a mobilehome, whether new or used, shall exclude the amount of separately stated escrow fees on the sale of such mobilehome.

(c) This section shall become operative on January 1, 1987.

SEC. 3. Section 6276.1 of the Revenue and Taxation Code is amended to read:

6276.1. (a) For purposes of Section 6276, "sales price" of a used mobilehome, as defined in Section 18014 of the Health and Safety Code shall be based on the current value of the used mobilehome as determined by a recognized value guide. The State Board of Equalization shall approve the value guides for use within this state through regulation.

(b) For purposes of Section 6276, "sales price" of a mobilehome, whether new or used, shall exclude the amount of separately stated escrow fees on the sale of the mobilehome.

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

SEC. 4. Section 6276.1 is added to the Revenue and Taxation Code, to read:

6276.1. (a) For purposes of Section 6276, "sales price" of a used mobilehome, as defined in Sections 18008 and 18221 of the Health and Safety Code or Sections 396 and 665 of the Vehicle Code, shall exclude the separately stated value of in-place location, awning, skirting, carport, patio, landscaping, shrubs, unattached furnishings, or other items not part of the mobilehome as a vehicle, when a registered or legal owner sells a used mobilehome through a person licensed under the Health and Safety Code or the Vehicle Code as a dealer and not on the dealer's own account or through a licensed real estate broker acting pursuant to Section 10131.6 of the Business and Professions Code.

(b) For purposes of Section 6276, "sales price" of a mobilehome, whether new or used, shall exclude the amount of separately stated escrow fees on the sale of the mobilehome.

(c) This section shall become operative on January 1, 1987.

SEC. 5. The State Board of Equalization shall prepare a report to be submitted to the Legislature on or before January 1, 1985, on the fiscal effects of this act on state and local revenues.

SEC. 6. Notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any sales and use tax revenues lost by it under this act.

SEC. 7. 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.

CHAPTER 1592

An act to add Section 12005 to the Fish and Game Code, relating to mammals, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1982 Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 12005 is added to the Fish and Game Code, to read:

12005. Notwithstanding Section 12000, the maximum punishment for each violation of Section 4758 is a fine of five thousand dollars ($5,000), imprisonment in the state prison or the county jail for a period not to exceed one year, or both the fine and imprisonment.

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

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

It has been estimated that 1,000 bears have been illegally taken in 1982, poachers are taking cubs and females which endangers the bear population, and there is a growing foreign and domestic market for bear parts. Thus, to enable the provisions of this bill to aid in remedying these problems it is necessary that this act take effect immediately.

CHAPTER 1593

An act to amend Section 1522 of the Health and Safety Code, relating to community care facilities.

[Approved by Governor September 30, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 1522 of the Health and Safety Code is amended to read:

1522. It is the intent of the Legislature in enacting this section to require the fingerprints of those individuals whose contact with community care clients may pose a risk to the clients' health and safety.

(a) Before issuing a license or special permit to any person or persons to operate or manage a community care facility, the state department shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any other person specified in subdivision (b) has ever been convicted of a crime other than a minor traffic violation. No fee shall be charged by the Department of Justice or the state department for the fingerprinting of an applicant for a license or special permit to operate a facility providing nonmedical board, room, and care for six or less children or for obtaining a criminal record of such an applicant pursuant to this section. If it is found that the applicant or any other person specified in subdivision (b) has been convicted of a crime, other than a minor traffic violation, the application shall be denied, unless the director grants an exemption pursuant to subdivision (d).

(b) In addition to the applicant, the provisions of this section shall be applicable to criminal convictions of the following persons:

(1) Adults responsible for administration or direct supervision of staff.

(2) Any person, other than a client, residing in the facility.

(3) Any person who provides client assistance in dressing, grooming, bathing, or personal hygiene.

(4) Any staff person or employee who has frequent and routine contact with the clients. In determining who has frequent contact, any volunteer who is in the facility shall be exempt unless the volunteer is used to replace or supplement staff in providing direct care and supervision of clients. In determining who has routine contact, staff and employees under direct on site supervision and who are not providing direct care and supervision or who have only occasional or intermittent contact with clients shall be exempt.

(5) Except for staff members of social rehabilitation facilities serving minors with alcohol or drug abuse problems, staff members of social rehabilitation facilities, other than those specified in paragraphs (1) and (2), are exempt from fingerprinting requirements.

At the time of employment, all employees required to be fingerprinted shall sign a statement regarding prior criminal convictions and be fingerprinted. Fingerprints shall be submitted to the licensing agency within 20 days following employment.

(6) If the applicant is a firm, partnership, association, or corporation, any officer, director, or shareholder with a beneficial ownership interest in the applicant exceeding 10 percent.

(7) Additional officers of the governing body of the applicant, or other persons with a financial interest in the applicant, as

determined necessary by the department by regulation. The criteria used in the development of these regulations shall be based on the person's capability to exercise substantial influence over the operation of the facility.

(c) For purposes of this section or any other provision of this chapter, a conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which the state department is permitted to take following the establishment of a conviction may be taken 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, notwithstanding a subsequent order pursuant to the provisions of Sections 1203.4 and 1203.4a of the Penal Code permitting such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment. For purposes of this section or any other provision of this chapter, the record of a conviction, or a copy thereof certified by the clerk of the court or by a judge of the court in which the conviction occurred, shall be conclusive evidence of the conviction.

(d) After review of the record, the director may grant an exemption from disqualification for a license or special permit pursuant to subdivision (a), if the director has substantial and convincing evidence to support a reasonable belief that the applicant and the person convicted of the crime, if other than the applicant, are of such good character as to justify issuance of the license or special permit. However, no exemption shall be granted if the applicant or administrator of a community care facility located within one mile of an elementary school has been convicted of a sex offense against a minor, as defined in Section 1564. If such a person has been granted an exemption prior to January 1, 1983, the department shall notify the facility that this person may no longer be the licensee for, or administrator of, such a facility after June 30, 1983.

CHAPTER 1594

An act to add Section 655.1 to the Business and Professions Code, to amend Section 6254 of the Government Code, to add Sections 1251.3 and 1322 to, and to amend Sections 442.3, 1266, 1442.5, and 32121 of the Health and Safety Code, to amend Sections 10133 and 11512 of, and to add Sections 10133.1, 10133.5, 10402, 10402.1 and 11512.1 to the Insurance Code, to amend Sections 5624, 5705.1, 14005.1, 14005.4, 14005.9, 14005.10, 14005.12, 14006, 14008, 14011, 14016, 14019.1, 14021.5, 14052, 14081, 14082, 14083, 14086, 14087, 14087.1, 14087.2, 14087.6, 14087.8, 14087.27, 14087.55, 14088, 14088.1, 14089, 14105.1, 14105.3, 14115, 14123, 14124.89, 14132, 14133.25, 14133.3, 14134,

14171.5, 14172.5, 14178, 16700, 16703, 16704, 16705.5, 16706, 16707, and 16708 of, to add Sections 4073, 14011.5, 14040, 14041, 14052, 14081.5, 14087.28, 14087.29, 14087.95, 14088.6, 14088.7, 14154.1, 16709, and 16717 to, and to repeal Sections 14005.16 and 14491.5 of, the Welfare and Institutions Code, to amend Sections 8.3, 48, 49, 50, 51, 52, and 53 of Chapter 328, of the Statutes of 1982, and to amend Section 28.35 of Chapter 326 of the Statutes of 1982, relating to general welfare, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 655.1 is added to the Business and Professions Code, to read:

655.1. In light of substantial evidence that the provisions of Section 655 may adversely affect vision care consumers in California, the Department of Consumer Affairs, in consultation with the Board of Optometry, the California Attorney General, and the Federal Trade Commission, shall, utilizing the available evidence, conduct a study to determine the impact of commercial practice restrictions in the ophthalmic industry upon vision care consumers and competition in the ophthalmic industry and, not later than February 1, 1983, shall report to the Legislature its findings and recommendations for legislative action.

This section shall remain in effect until July 1, 1983, and as of that date is repealed.

SEC. 2. Section 6254 of the Government Code is amended to read:

6254. Except as provided in Section 6254.7, nothing in this chapter shall be construed to require disclosure of records that are any of the following:

(a) Preliminary drafts, notes, or interagency or intra-agency memoranda which are not retained by the public agency in the ordinary course of business, provided that the public interest in withholding such records clearly outweighs the public interest in disclosure.

(b) Records pertaining to pending litigation to which the public agency is a party, or to claims made pursuant to Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, until such litigation or claim has been finally adjudicated or otherwise settled.

(c) Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy.

(d) Contained in or related to:

(1) Applications filed with any state agency responsible for the regulation or supervision of the issuance of securities or of financial

institutions, including, but not limited to, banks, savings and loan associations, industrial loan companies, credit unions, and insurance companies.

(2) Examination, operating, or condition reports prepared by, on behalf of, or for the use of any state agency referred to in subdivision (1).

(3) Preliminary drafts, notes, or interagency or intra-agency communications prepared by, on behalf of, or for the use of any state agency referred to in subdivision (1).

(4) Information received in confidence by any state agency referred to in subdivision (1).

(e) Geological and geophysical data, plant production data and similar information relating to utility systems development, or market or crop reports, which are obtained in confidence from any person.

(f) Records of complaints to or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice, and any state or local police agency, or any such investigatory or security files compiled by any other state or local police agency, or any such investigatory or security files compiled by any other state or local agency for correctional, law enforcement or licensing purposes, except that state and local law enforcement agencies shall disclose the names and addresses of persons involved in, or witnesses other than confidential informants to, the incident, the description of any property involved, the date, time, and location of the incident, all diagrams, statements of the parties involved in the incident, the statements of all witnesses, other than confidential informants, to the victims of an incident, or an authorized representative thereof, an insurance carrier against which a claim has been or might be made, and any person suffering bodily injury or property damage or loss, as the result of the incident caused by arson, burglary, fire, explosion, larceny, robbery, vandalism, vehicle theft, or a crime of violence as defined by subdivision (b) of Section 13960, unless the disclosure would endanger the safety of a witness or other person involved in the investigation, or unless disclosure would endanger the successful completion of the investigation or a related investigation; provided, however, that nothing herein shall require the disclosure of that portion of those investigative files which reflect the analysis or conclusions of the investigating officer.

Other provisions of this subdivision notwithstanding, state and local law enforcement agencies shall make public the following information, except to the extent that disclosure of a particular item of information would endanger the safety of a person involved in an investigation or would endanger the successful completion of the investigation or a related investigation:

(1) The full name, current address, and occupation of every individual arrested by the agency, the individual's physical description including date of birth, color of eyes and hair, sex, height

and weight, the time and date of arrest, the time and date of booking, the location of the arrest, the factual circumstances surrounding the arrest, the amount of bail set, the time and manner of release or the location where the individual is currently being held, and all charges the individual is being held upon, including any outstanding warrants from other jurisdictions and parole or probation holds; and

(2) The time, substance, and location of all complaints or requests for assistance received by the agency and the time and nature of the response thereto, including, to the extent such information regarding crimes alleged or committed or any other incident investigated is recorded, the time, date and location of occurrence, the time and date of the report, the name, age and current address of the victim, except that the address of the victim of any crime defined by Section 261, 264, 264.1, 273a, 273d, 286, 288, 288a, or 289 of the Penal Code shall not be disclosed, the factual circumstances surrounding the crime or incident, and a general description of any injuries, property or weapons involved.

(g) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination, except as provided for in Chapter 3 (commencing with Section 99150) of Part 65 of the Education Code.

(h) The contents of real estate appraisals, engineering or feasibility estimates and evaluations made for or by the state or local agency relative to the acquisition of property, or to prospective public supply and construction contracts, until such time as all of the property has been acquired or all of the contract agreement obtained, provided, however, the law of eminent domain shall not be affected by this provision.

(i) Information required from any taxpayer in connection with the collection of local taxes which is received in confidence and the disclosure of the information to other persons would result in unfair competitive disadvantage to the person supplying such information.

(j) Library circulation records kept for the purpose of identifying the borrower of items available in libraries, and library and museum materials made or acquired and presented solely for reference or exhibition purposes. The exemption in this subdivision shall not apply to records of fines imposed on such borrowers.

(k) Records the disclosure of which is exempted or prohibited pursuant to provisions of federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege.

(*l*) Correspondence of and to the Governor or employees of the Governor's office or in the custody of or maintained by the Governor's legal affairs secretary, provided public records shall not be transferred to the custody of the Governor's legal affairs secretary to evade the disclosure provisions of this chapter.

(m) In the custody or maintained by the Legislative Counsel.

(n) Statements of personal worth or personal financial data required by a licensing agency and filed by an applicant with such licensing agency to establish his personal qualification for the license,

certificate, or permit applied for.

(o) Financial data contained in applications for financing under Division 27 (commencing with Section 44500) of the Health and Safety Code, where an authorized officer of the California Pollution Control Financing Authority determines that disclosure of such financial data would be competitively injurious to the applicant and such data is required in order to obtain guarantees from the United States Small Business Administration. The California Pollution Control Financing Authority shall adopt rules for review of individual requests for confidentiality under this section and for making available to the public those portions of an application which are subject to disclosure under this chapter.

(p) Records of state agencies related to activities governed by Chapter 10.3 (commencing with Section 3512) of Division 4 of Title 1, Chapter 10.5 (commencing with Section 3525) of Division 4 of Title 1, and Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, which reveal a state agency's deliberative processes, impressions, evaluations, opinions, recommendations, meeting minutes, research, work products, theories, or strategy, or which provide instruction, advice, or training to employees who do not have full collective bargaining and representation rights under the above chapters. Nothing in this subdivision shall be construed to limit the disclosure duties of a state agency with respect to any other records relating to the activities governed by the employee relations acts referred to in this subdivision.

(q) Records of state agencies related to activities governed by Articles 2.6, 2.8, and 2.91 of Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code, which reveal the special negotiator's deliberative processes, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy, or which provide instruction, advice, or training to employees. All or portions of contracts entered into pursuant to these articles may be exempted from the provisions of this chapter as specified by the terms of each contract.

Nothing in this section is to be construed as preventing any agency from opening its records concerning the administration of the agency to public inspection, unless disclosure is otherwise prohibited by law.

SEC. 3. Section 442.3 of the Health and Safety Code, as added by Section 9.5 of Chapter 594 of the Statutes of 1980 is amended to read:

442.3. Any health facility which does not file any report required by Section 441.18 with the commission as provided therein is liable for a civil penalty of one hundred dollars ($100) a day to be assessed and recovered in a civil action brought in the name of the people of the State of California by the commission for each day the filing of such report with the commission is delayed, unless an extension is granted in accord with the guidelines and procedures established by the commission pursuant to Section 442.4. Assessment of a civil

penalty may, at the request of any health facility, be reviewed on appeal by the appeals committee, which may reduce or waive any penalty for good cause. Any money which is received by the commission pursuant to this section shall be paid into the commission's operating fund which is established by Section 442.10.

This section shall become operative on January 1, 1985.

SEC. 4. Section 442.3 of the Health and Safety Code, as amended by Section 9 of Chapter 594 of the Statutes of 1980 is amended to read:

442.3. Any health facility which does not file any report required by Sections 441.18 and 441.185 with the commission as provided therein is liable for a civil penalty of one hundred dollars ($100) a day to be assessed and recovered in a civil action brought in the name of the people of the State of California by the commission for each day the filing of such report with the commission is delayed, unless an extension is granted in accord with the guidelines and procedures established by the commission pursuant to Section 442.4. Assessment of a civil penalty may, at the request of any health facility, be reviewed on appeal by the appeals committee, which may reduce or waive any penalty for good cause. Any money which is received by the commission pursuant to this section shall be paid into the commission's operating fund which is established by Section 442.10.

This section shall remain in effect only until January 1, 1985, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1985, deletes or extends such date.

SEC. 5. Section 1251.3 is added to the Health and Safety Code, to read:

1251.3. A health facility licensed as a general acute care hospital, providing alcohol recovery services, may convert its licensure category to an acute psychiatric hospital and it may reclassify all of its general acute care beds to acute psychiatric without first obtaining a certificate of need pursuant to Section 437.10 if all of the following conditions are met:

(a) The health facility notifies, in writing, the State Department and the Office of Statewide Health Planning and Development on or before September 3, 1982.

(b) The project would reclassify all of the facility's general acute care beds to acute psychiatric.

(c) The total licensed capacity of the facility to be converted does not exceed 31 beds.

SEC. 6. Section 1266 of the Health and Safety Code is amended to read:

1266. (a) Each new and renewal application for a license for the health facilities listed below shall be accompanied by an annual fee as set forth below.

The annual fee for a general acute care hospital, acute psychiatric hospital, special hospital, general acute care/rehabilitation hospital, psychiatric health facility, and chemical dependency recovery hospital, based on the number of licensed beds, is as follows:

1-49 beds	$460 plus $8 per bed
50-99 beds	$850 plus $8 per bed
100 or more beds	$1,175 plus $8 per bed

The annual fee for a skilled nursing facility, intermediate care facility, and intermediate care facility/developmentally disabled, based on the number of licensed beds, is as follows:

1-59 beds	$2,068 plus $26 per bed
60-99 beds	$2,543 plus $26 per bed
100 or more beds	$3,183 plus $26 per bed

The fees provided in this subdivision shall remain in effect only until July 1, 1983.

(b) Commencing July 1, 1983, each new and renewal application for a license for a general acute care hospital, acute psychiatric hospital, special hospital, general acute care/rehabilitation hospital, psychiatric health facility, chemical dependency recovery hospital, skilled nursing facility, intermediate care facility, and intermediate care facility/developmentally disabled shall be accompanied by an annual fee in an amount sufficient to provide revenues equal to (1) the General Fund appropriation for personal services, operating expenses and overhead to the Licensing and Certification Program as specified in the annual budget act, less revenues which will be collected pursuant to Sections 1403, 1575.9, and 1729, plus (2) the amount of federal funds budgeted for the Licensing and Certification Division in the Budget Act in the preceding state fiscal year less federal funds received or credited in the preceding state fiscal year.

Separate fees shall be established for each of the types of health facilities listed in this subdivision in an amount commensurate with their respective share of costs of administering this chapter. The department shall make adjustments to these fee levels as directed by the Legislature in the Budget Act.

The department shall submit to the Legislature, in conjunction with its annual budget request, a report describing program costs within the Licensing and Certification Division, and its methodology for calculating fee levels pursuant to this section.

The annual fees determined pursuant to this section shall be waived for any health facility conducted, maintained, or operated by this state or any state department, authority, bureau, commission or officer, or by the Regents of the University of California, or by a local hospital district, city, county, or city and county.

(c) The department shall by July 30 of each year publish a list of actual numerical fee charges as adjusted pursuant to this section. This adjustment of fees and the publication of the fee list shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 6.5. Section 1322 is added to the Health and Safety Code, to read:

1322. A hospital which contracts with an insurer, nonprofit hospital service plan, or health care service plan shall not determine or condition medical staff membership or clinical privileges upon the basis of a physician's participation or nonparticipation in a contract with such insurer, hospital service plan, or health care service plan.

SEC. 7. Section 1442.5 of the Health and Safety Code is amended to read:

1442.5. Prior to closing a county facility, eliminating or reducing the level of services provided, or prior to the leasing, selling, or transfer of management, the board shall provide public notice, including notice posted at the entrance to all county health care facilities, of public hearings to be held by the board prior to their decision to proceed. Such notice shall be posted not less than 30 days prior to such public hearings. The notice shall contain a detailed list of the proposed reductions or changes, by facility and service. The notice shall include, but not be limited to, the amount and type of each proposed change, the expected saving, and the number of persons affected.

The board shall make findings based on evidence and testimony from these hearings that their proposed action will or will not have a detrimental impact on the health care needs of the indigents of the county. Such findings shall be included as part of the official public hearing record.

Notwithstanding the board's closing of a county facility, the elimination of or reduction in the level of services provided, or the leasing, selling, or transfer of management of a county facility subsequent to January 1, 1975, the county shall provide for the fulfillment of its duty to provide care to all indigent people, either directly through county facilities or indirectly through alternative means.

(a) Where this duty is fulfilled by a contractual arrangement with a private facility or individual, the facility or individual shall assume the county's full obligation to provide care to those who cannot afford it, and make their services available to Medi-Cal and Medicare recipients.

(b) Where this duty is fulfilled by alternative means, the facility or individual providing services shall be in compliance with Sections 441.18 and 1277.

(c) Whether this duty is fulfilled directly by the county or through alternative means, the availability of services, and the quality of the treatment received by people who cannot afford to pay for their health care shall be the same as that available to nonindigent people receiving health care services in private facilities in that county.

(d) The board shall designate an agency to provide: a 24-hour information service which can give eligible people immediate information as to the available services and access to them and an agency to receive and respond to complaints from people eligible for

services under this chapter. The designated agency may be the agency which operates the facility. This subdivision shall apply only in instances in which there is a closing of a county facility, an elimination or reduction in the level of services provided, or the leasing, selling, or transfer of such a county facility.

(e) The board shall arrange for all facilities or individuals contracting to provide services to indigent people to be listed in the local telephone directory under county listings, and shall specify therein that such facilities or individuals fulfill the obligations of county facilities.

The provisions of Section 25371 of the Government Code do not relieve the county of the obligation to comply with the provisions of this section.

SEC. 8. Section 32121 of the Health and Safety Code is amended to read:

32121. Each local hospital district shall have and exercise the following powers:

(a) To have and use a corporate seal and alter it at pleasure.

(b) To sue and be sued in all courts and places and in all actions and proceedings whatever.

(c) To purchase, receive, have, take, hold, lease, use and enjoy property of every kind and description within the limits of the district, and to control, dispose of, convey and encumber the same and create a leasehold interest in same for the benefit of the district.

(d) To exercise the right of eminent domain for the purpose of acquiring real or personal property of every kind necessary to the exercise of any of the powers of the district.

(e) To administer any trust declared or created for hospitals of the district, and received by gift, devise, or bequest and hold in trust or otherwise, property situated in this state or elsewhere, and where not otherwise provided, dispose of the same for the benefit of such hospitals.

(f) To employ legal counsel to advise the board of directors in all matters pertaining to the business of the district, and to perform those functions in respect to the legal affairs of the district as the board may direct; and to call upon the district attorney of the county in which the greater part of the land in the district is situated for legal advice and assistance in all matters concerning the district, except that if that county has a county counsel, the directors may call upon the county counsel for such legal advice and assistance.

(g) To employ such officers and employees, including architects and consultants, as the board of directors deems necessary to carry on properly the business of the district.

(h) To prescribe the duties and powers of the hospital administrator, secretary and other officers and employees of any such hospitals; to determine the number of and appoint all such officers and employees, and to fix their compensation, which officers and employees shall hold their offices or positions at the pleasure of the boards.

(i) To do any and all things which an individual might do which is necessary for and to the advantage of a hospital and a nurses' training school.

(j) To establish, maintain and operate one or more health facilities at any location within the hospital district's service area as stated in the state health plan.

(k) To do any and all other acts and things necessary to carry out the provisions of this division.

(*l*) To acquire, maintain, and operate ambulances or ambulance services within and without the district.

(m) To establish, maintain, and operate, or provide assistance in the operation of, free clinics, diagnostic and testing centers, health education programs and such other health care provider groups and organizations as are necessary for the maintenance of good physical and mental health in the communities served by the district.

(n) To establish and operate in cooperation with its medical staff a coinsurance plan between the hospital district and the members of its attending medical staff.

(o) To establish, maintain, and carry on its activities through one or more corporations, joint ventures, or partnerships for the benefit of the hospital district.

(p) To transfer, without consideration for operation and maintenance, any part, but not the whole of its assets, to one or more nonprofit corporations whose directors are residents of the district.

SEC. 9. Section 32121 of the Health and Safety Code is amended to read:

32121. Each local hospital district shall have and exercise the following powers:

(a) To have and use a corporate seal and alter it at pleasure.

(b) To sue and be sued in all courts and places and in all actions and proceedings whatever.

(c) To purchase, receive, have, take, hold, lease, use and enjoy property of every kind and description within the limits of the district, and to control, dispose of, convey and encumber the same and create a leasehold interest in same for the benefit of the district.

(d) To exercise the right of eminent domain for the purpose of acquiring real or personal property of every kind necessary to the exercise of any of the powers of the district.

(e) To administer any trust declared or created for hospitals of the district, and received by gift, devise, or bequest and hold in trust or otherwise, property situated in this state or elsewhere, and where not otherwise provided, dispose of the same for the benefit of such hospitals.

(f) To employ legal counsel to advise the board of directors in all matters pertaining to the business of the district, and to perform such functions in respect to the legal affairs of the district as the board may direct; and to call upon the district attorney of the county in which the greater part of the land in the district is situated for legal advice and assistance in all matters concerning the district, except that if

that county has a county counsel, the directors may call upon the county counsel for such legal advice and assistance.

(g) To employ such officers and employees, including architects and consultants, as the board of directors deems necessary to carry on properly the business of the district.

(h) To prescribe the duties and powers of the hospital administrator, secretary and other officers and employees of any such hospitals; to establish such offices as may be appropriate and to appoint board members or employees to those offices; to determine the number of and appoint all such officers and employees, and to fix their compensation, which officers and employees shall hold their offices or positions at the pleasure of the boards.

(i) To do any and all things which an individual might do which is necessary for and to the advantage of a hospital and a nurses' training school.

(j) To establish, maintain and operate one or more health facilities at any location within the hospital district's service area as stated in the state health plan.

(k) To do any and all other acts and things necessary to carry out the provisions of this division.

(*l*) To acquire, maintain, and operate ambulances or ambulance services within and without the district.

(m) To establish, maintain, and operate, or provide assistance in the operation of, free clinics, diagnostic and testing centers, health education programs and such other health care provider groups and organizations as are necessary for the maintenance of good physical and mental health in the communities served by the district.

(n) To establish and operate in cooperation with its medical staff a coinsurance plan between the hospital district and the members of its attending medical staff.

(o) To establish, maintain, and carry on its activities through one or more corporations, joint ventures, or partnerships for the benefit of the hospital district.

(p) To transfer, without consideration for operation and maintenance, any part, but not the whole of its assets, to one or more nonprofit corporations whose directors are residents of the district.

SEC. 9.5. It is the intent of the Legislature, if this bill and Senate Bill 1978 are both chaptered and become operative January 1, 1983, both bills amend Section 32121 of the Health and Safety Code and this bill is chaptered after Senate Bill 1978, that the amendments to Section 32121 proposed by both bills be given effect and incorporated in Section 32121 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 1978 are both chaptered and become operative January 1, 1983, both amend Section 32121, and this bill is chaptered after Senate Bill 1978, in which case Section 1 of this act shall not become operative.

SEC. 10. Section 10133 of the Insurance Code is amended to read:

10133. (a) Upon written consent of the insured first obtained

with respect to a particular claim any disability insurer shall pay group insurance benefits contingent upon, or for expenses incurred on account of, hospitalization or medical or surgical aid to the person or persons furnishing such hospitalization or medical or surgical aid, but the amount of any such payment shall not exceed the amount of benefit provided by the policy with respect to the service or billing of the provider of aid, and the amount of such payments pursuant to one or more assignments shall not exceed the amount of expenses incurred on account of such hospitalization or medical or surgical aid. Payments so made shall discharge the insurer's obligation with respect to the amount so paid.

(b) Nothing in this section shall be construed to authorize an insurer to furnish or directly provide services of hospitals, or physicians and surgeons or in any manner to direct, participate in or control the selection of the hospital or physician and surgeon from whom the insured secures services or exercise medical or dental professional judgment, except that an insurer may negotiate and enter into contracts for alternative rates of payment with institutional providers, and offer the benefit of such alternative rates to insureds who select such providers.

(c) Alternatively, insurers may, by agreement with group policy holders, limit payments under a policy to services secured by insureds from institutional providers, and after July 1, 1983, from professional providers, charging alternative rates pursuant to contract with such insurer.

(d) Pursuant to subdivision (c), when alternate rates of payment to providers are applicable to contracts with group policyholders, such contracts shall include programs for the continuous review of the quality of care, performance of medical personnel, utilization of services and facilities and costs, by professionally recognized unrelated third parties utilizing in the case of professional providers similarly licensed providers for each medical or dental service covered under the plan and utilizing in the case of institutional providers appropriate professional providers. All provisions of the laws of the state relating to immunity from liability and discovery privileges for medical and dental peer review shall apply to the licensed providers performing the foregoing activities.

(e) On or after July 1, 1983, the amendments made to this section during the 1982 portion of the 1981–82 Regular Session, shall also be applicable with respect to both professional and institutional providers.

SEC. 10.5. Section 10133.1 is added to the Insurance Code, to read:

10133.1. Insurers shall provide group policyholders with a current roster of institutional and professional providers under contract to provide services at alternative rates under their group policy and shall also make such lists available for public inspection during regular business hours at the insurer's or plan's principal office within the state.

SEC. 11. Section 10133.5 is added to the Insurance Code, to read:

10133.5. The commissioner shall, on or before July 1, 1983, promulgate regulations applicable to insurers and nonprofit hospital service plans which contract with providers for alternative rates pursuant to Sections 10133 and 11512 and limit payments under their policies and plans to services secured by insureds and subscribers from providers charging alternative rates pursuant to such contracts.

These regulations shall be designed to assure accessibility of provider services to individuals comprising the insured or contracted group. The regulations shall insure:

1. Adequacy of number and locations of institutional facilities and professional providers, and consultants in relationship to the size and location of the insured group and that the services offered are available at reasonable times.

2. Adequacy of number of professional providers, and license classifications of such providers, in relationship to the projected demands for services covered under the group policy or plan.

3. The policy or contract is not inconsistent with standards of good health care.

4. All contracts including contracts with providers, and other persons furnishing services, or facilities shall be fair and reasonable.

In designing the regulations the commissioner shall consider the regulations in Title 10, of the California Administrative Code, commencing with Section 1300.67.2 which are applicable to Knox-Keene plans, and all other relevant guidelines in an effort to accomplish maximum accessibility within a cost efficient system of indemnification.

SEC. 12. Section 10402 is added to the Insurance Code, to read:

10402. Any person who, without the prior authorization of an insurer or plan solicits a provider to enter into a contract for alternative rates under Section 10133 or 11512 of this code on behalf of such insurer or plan shall be guilty of a misdemeanor.

An insurer or plan which contracts for, or authorizes another person to, solicit or contract for alternative rates with providers on its behalf other than in the name of such insurer or plan shall be guilty of a misdemeanor.

SEC. 13. Section 10402.1 is added to the Insurance Code, to read:

10402.1. An insurer or plan which accepts or ratifies a contract for alternative rates known by it to have been executed by a provider prior to the insurer's or plan's authorization, in reliance on the representation that it was authorized by such insurer or plan, shall be guilty of a misdemeanor.

SEC. 14. Section 11512 of the Insurance Code is amended to read:

11512. No hospital service contract shall be entered into between a corporation proposing to furnish or provide any one or more of the services authorized under this chapter and a subscriber:

(a) Unless the entire consideration therefor is expressed in the contract;

(b) Unless the times at which the benefits or services to the

subscriber take effect and terminate are stated in a portion of the contract above the evidence of its execution;

(c) If the contract purports to entitle more than one person to benefits or services except family hospital service contracts issued under Section 11512.1, group hospital service contracts issued under Section 11512.2 and blanket contracts issued under Section 11512.4;

(d) Unless every printed portion and any endorsement or attached papers is plainly printed in type of which the face is not smaller than 10 points;

(e) Except for group hospital service contracts and blanket contracts issued under Section 11512.2, unless the exceptions of the contract are printed with greater prominence than the benefits to which they apply;

(f) Except for group hospital service contracts and blanket contracts issued under Section 11512.2, unless, if any portion of such contract purports, by reason of the circumstances under which an illness, injury or disablement is incurred to reduce any service to less than that provided for the same illness, injury or disablement incurred under ordinary circumstances, such portion is printed in boldface type and with greater prominence than any other text of the contract;

(g) If the contract contains any provisions purporting to make any portion of the charter, constitution or bylaws of such nonprofit corporation a part of the contract unless such portion is set forth in full in the contract;

(h) Except for a comprehensive health care contract issued under subdivision (e) of Section 11493, unless the contract for hospital service contains in blackface type not less than 10-point the following provisions:

Nothing in this contract contained shall in any way or manner restrict or interfere with the right of any individual entitled to hospital service and care hereunder to select the contracting hospital or to make a free choice of his attending physician, who shall be the holder of a valid and unrevoked physician and surgeon's certificate and who is a member of, or acceptable to, the attending staff and board of directors of the hospital in which said hospital services are to be provided and rendered:

A contract need not contain the foregoing provisions of this subdivision when a plan has negotiated and entered into contracts for alternative rates of payment with institutional providers, and offers the benefits of such alternative rates to group contractors who selects such providers. A contract need not contain the foregoing provisions when a plan, by agreement with group contractors limits payments under a contract to services secured by subscribers from institutional providers charging alternative rates pursuant to contract with such plan. On and after July 1, 1983, the provisions of this subdivision shall also be applicable with respect to both professional and institutional providers.

(i) Contracts for alternative rates of payment with institutional

and professional providers made pursuant to subdivision (h) of this section shall be executed in the name of the plan and fully disclosed to the contracting providers.

A contract which, by agreement with group contractors, limits payments to services secured by subscribers from providers charging alternative rates shall meet the provisions of Section 10133.5 of the Insurance Code.

A contract which, by agreement with group contractors limits payments under a contract to services secured by subscribers from institutional providers charging alternative rates pursuant to contract with such plan, and after July 1, 1983 to services secured by both professional and institutional providers, shall include programs for the continuous review of the quality of care, performance of medical personnel, utilization of services and facilities and costs by professionally recognized unrelated third parties utilizing in the case of professional providers similarly licensed providers for each medical and dental service covered under the plan and utilizing in the case of institutional providers appropriate professional providers. All provisions of the laws of the state relating to immunity from liability and discovery privileges for medical and dental peer review shall apply to the licensed providers performing the foregoing activities.

(j) If such contract contains coverage for sterilization operations or procedures and it imposes any disclaimer, restriction on, or limitation of coverage relative to the insured's reason for sterilization. All such contracts entered into or renewed on or after March 7, 1973, shall be construed to be in compliance with this section, and any provision in any such contract which is in conflict with this section shall be of no force or effect;

(k) Unless, in the case of a contract which provides benefits that accrue after a certain time of confinement in a health care facility, the contract specifies what constitutes a day of confinement or the number of consecutive hours of confinement which are requisite to the commencement of benefits.

SEC. 14.5. Section 11512.1 is added to the Insurance Code, to read:

11512.1. A plan shall provide group contractors with a current roster of institutional and professional providers under contract to provide services at alternative rates under their group contract, and shall also make such a roster available for public inspection, during regular business hours, at the plan's home office or principal place of business in this state.

SEC. 15. Section 4073 is added to the Welfare and Institutions Code, to read:

4073. The State Department of Mental Health shall report to the Legislature by November 30, 1982, on (1) the criteria and standards it has developed for the utilization review of inpatient services and (2) the procedures it will employ to enforce compliance with the criteria and standards. Thirty days after submitting the report the

department shall promulgate emergency regulations setting forth utilization review procedures and criteria for inpatient services.

The Director of the State Department of Mental Health shall adopt all regulations pursuant to subdivision (a) as emergency regulations in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For the purposes of the Administrative Procedure Act, the adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. These regulations shall not be subject to the review and approval of the Office of Administrative Law; shall not be subject to the approval of the California Conference of Local Mental Health Directors; shall not be subject to automatic repeal until 180 days after the regulations take effect; and shall become effective immediately upon filing with the Secretary of State.

SEC. 16. Section 5624 of the Welfare and Institutions Code is amended to read:

5624. Each county mental health program shall establish by January 1, 1980, a quality assurance system that covers all county operated and county contracted mental health facilities and programs. As used in this section "quality assurance system" refers to a systematic approach for the evaluation of the quality of care which is designed to promote and maintain efficient, effective, and appropriate mental health services.

The quality assurance system shall contain at least the following components:

(a) Utilization review of all Short-Doyle funded inpatient services.

(b) Interdisciplinary peer review of the quality of patient care.

(c) Monitoring of the medication regimens of Short-Doyle clients including procedures to review the appropriateness of the medications prescribed, the appropriateness of the dosage levels prescribed, the effectiveness of the medications for the client, the occurrence of any adverse reactions, the extent of patient compliance, the level of patient information and ability to manage his own medication regimen; provided, that such monitoring shall be carried out by, be in conjunction with, or be under supervision of, a person licensed to prescribe or dispense prescription drugs.

The quality assurance system shall conform to the standards and guidelines for such systems established by the State Department of Mental Health, as specified in Section 4070.

The county's initial quality assurance system plan shall be approved by the Department of Mental Health by January 1, 1980, and shall thereafter be reviewed and approved by the Department of Mental Health annually.

SEC. 17. Section 5705.1 of the Welfare and Institutions Code is amended to read:

5705.1. (a) The Director of Mental Health shall establish, by regulation, rates and methods of reimbursement based on

provider-specific costs for local mental health services specified in the approved county Short-Doyle plans.

(b) In establishing rates, no rate shall exceed the lower of each individual provider's actual cost or 125 percent of the statewide weighted average of the cost of services provided in accordance with the approved county Short-Doyle plans for the 1980–81 fiscal year. This shall not prohibit the adjustment of the rates for cost-of-living increases appropriated by the Legislature. This subdivision shall not apply to prepaid health plans.

(c) The Director of Mental Health, subject to the availability of funds, may approve a waiver of the 125 percent limitation set forth in subdivision (b) requested by the board of supervisors of a county if the county demonstrates that the imposition of the 125 percent limitation will result in a substantial inability to provide mental health services. The Department shall report annually to the Legislature as to the factors justifying waivers granted by it.

(d) The provisions of subdivision (b) shall not apply to consolidated mental health programs established in accordance with Article 5 (commencing with Section 14660) of Chapter 8.8 of Division 9.

(e) Notwithstanding the provisions of this section, in the event that a health facility has entered into a negotiated rate agreement pursuant to Article 2.6 (commencing with Section 14081) of Chapter 7 of Part 4 of Division 9, the facility's rates shall be governed by such agreement.

(f) The State Department of Mental Health shall promulgate regulations implementing the provisions of this article. The Director of the State Department of Mental Health shall adopt all regulations pursuant to subdivision (a) as emergency regulations in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For the purposes of the Administrative Procedure Act, the adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. These regulations shall not be subject to the review and approval of the Office of Administrative Law; shall not be subject to approval by the California Conference of Local Mental Health Directors; shall not be subject to automatic repeal until 180 days after the regulations take effect; and shall become effective immediately upon filing with the Secretary of State.

(g) Notwithstanding any other provision of law, the department may, in fiscal year 1982–83, make monthly payments to the counties for services specified in the approved county Short-Doyle plan. However, these payments shall be adjusted at the end of the fiscal year on the basis of year-end cost reports to reflect the amount reimbursable pursuant to this section.

SEC. 18. Section 14005.1 of the Welfare and Institutions Code is amended to read:

14005.1. Except for adults receiving aid pursuant to Chapter 2

(commencing with Section 11200) and for whom federal financial participation would not be obtainable for their medical costs under Title XIX of the federal Social Security Act, public assistance recipients are eligible for health care services under Section 14005, including persons who would be eligible for public assistance, except for the provisions of subdivision (b) of Section 11450.

SEC. 19. Section 14005.4 of the Welfare and Institutions Code is amended to read:

14005.4. (a) A medically indigent child who is under 21 years of age or an adult residing in a skilled nursing or intermediate care facility whose monthly income or family's income in excess of the amount required for maintenance established pursuant to Section 14005.12 (exclusive of any amounts considered exempt under the provisions of Chapter 2 (commencing with Section 11200) of this part) is not sufficient to provide for the costs of health care or coverage, less any amount by which the value of his or her other resources exceeds the value established in accordance with Section 14006, or a reasonable portion of such value thereof as may be determined in accordance with standards established by the director, is eligible for health care services under Section 14005.

(b) Included under this section are children in foster care for whom public agencies are assuming financial responsibility in whole or in part and persons receiving aid under Chapter 2.1 (commencing with Section 16115) or Part 4 of Division 9 of this code.

(c) The director may, to meet the requirements of the Federal Social Security Act, decrease or increase the eligibility standards for persons under this section.

(d) For the purposes of this section, "skilled nursing facility" shall also include distinct skilled nursing beds in acute care hospitals.

(e) For the purposes of this section, "intermediate care facility" shall include intermediate care facility for developmentally disabled and intermediate care facility for developmentally disabled/habilitative.

(f) For the purposes of this section, the schedule of benefits provided to medically indigent adults residing in skilled nursing facilities or intermediate care facilities shall not include any services rendered during the individual's stay in any type of acute care hospital.

(g) Notwithstanding any other provision of law, no person of the age of 21 years or over shall qualify for aid under this section after January 1, 1983, unless that person is confined in a skilled nursing home or intermediate care facility or a pregnant woman of any age with confirmed pregnancy.

SEC. 20. Section 14005.9 of the Welfare and Institutions Code is amended to read:

14005.9. (a) Share of cost shall be determined on a monthly basis. No person or family shall be required to incur more than one month's share of cost prior to being certified as specified in Section 14018.

(b) For persons in long-term care, any income exempted under

Sections 14005.4 and 14005.7 shall be considered in the share-of-cost determination to the extent required by federal law or regulations.

(c) The State Director of Health Services shall adopt regulations implementing this section as emergency regulations in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For the purposes of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. Notwithstanding the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, emergency regulations adopted by the State Department of Health Services in order to implement the provisions shall not be subject to the review and approval of the Office of Administrative Law. These regulations shall become effective immediately upon filing with the Secretary of State.

SEC. 21. Section 14005.10 of the Welfare and Institutions Code, as added by Chapter 328 of the Statutes of 1982, is amended to read:

14005.10. (a) The department may contract with a county and a county shall be permitted to contract with the department to provide or arrange for the provision of health care services to county residents eligible under Section 14005.4 who are 21 years of age or older, and not confined in a skilled nursing home or intermediate care facility for whom federal funds under Title XIX of the federal Social Security Act are not obtainable. These services shall exclude dental benefits provided in subdivision (h) of Section 14132. Each county may enter into such a contract on the first of any month prior to January, 1983, by sending a written declaration of intent to the department at least 45 days in advance. The declaration shall include, but not be limited to, an assurance that the county will make appropriate and necessary health services available to the population specified in this section for the same medical and related conditions and problems covered by the Medi-Cal Program. The declaration shall also include a finding by the county that entering into such a contract on the date specified will mitigate the impact on the county of the January 1, 1983 amendments to Section 14005.4.

(b) Funds payable to a county under the provisions of this section shall be the total amount which the department estimates would be payable for all health care services covered under the contract if all these services were provided by the department to the county residents certified as eligible for Medi-Cal.

(c) One third of the total amount estimated pursuant to subdivision (b) shall be authorized for payment by the department to the county on the first of the month the county intends to enter into the contract as specified in the declaration of intent and upon the approval of a complete declaration submitted pursuant to subdivision (a). The unexpended balance shall be recovered by the department should the county and department fail to enter into a

written contract within 60 days of receipt of the declaration submitted pursuant to subdivision (a) from funds allocated for January 1, 1983, pursuant to Part 4.5 (commencing with Section 16700). The remaining two-thirds of the amount estimated pursuant to subdivision (b) shall be paid in equal installments on a monthly basis on or after the fifteenth day of each month covered by the contract.

(d) A contract entered into pursuant to this section shall include, but not be limited to, all of the following stipulations:

(1) A provision that the county will act as an agent of the state in providing or arranging to provide benefits specified under Sections 14021 and 14132, excluding dental benefits specified in subdivision (h) of Section 14132, to county residents specified in the contract for the same medical and related conditions and problems covered by the Medi-Cal program.

(2) The county shall be liable for all costs associated with the provision of services to the county residents specified in this section which are in excess of the amount specified in subdivision (b) above.

(3) The county may retain any funds not spent during the contract period and may use these funds only for services specified in subdivision (c) of Section 16704.

(4) The county and the department shall establish and maintain all systems necessary to obtain federal funds for services rendered to county residents covered by the contract. The county shall be liable for any funds lost due to its inability or failure to provide the information needed to claim the funds.

(5) The county shall notify each affected Medi-Cal beneficiary and providers in writing of the changes in health care services for the county residents specified in this section to occur on the effective date of the contract.

(6) The county shall ensure that all of the following data is maintained and available in a form specified by the department:

(A) Number of persons determined by the county to be eligible.

(B) Units by types of services received by the eligible population.

(C) Location (county or contract provider) of services provided.

(D) Expenditures by types of services.

(e) In order to mitigate the impact of the amendments to Section 14005.4 which take effect on January 1, 1983, the Legislature hereby determines that an expedited contract process for contracts under this section is necessary. Therefore, contracts under this section shall be exempt from the provisions of Chapter 6 (commencing with Section 14780) of Part 5.5 of Division 3 of the Government Code. Contracts shall have no force and effect unless approved by the Department of Finance.

(f) Counties shall not be required to adopt utilization controls specified in Chapter 7 (commencing with Section 14000), provided that alternatives are reasonable and appropriate. Counties shall maintain access to necessary care.

(g) Notwithstanding any other provision of law, a county may

enter into contracts with selected providers to provide health care services funded pursuant to this section. The county may negotiate the reimbursement or payment arrangements which it desires in the contracts. A county shall not be obligated to pay for health care services unless pursuant to a contract or the county has specifically authorized the services and agreed to payment. All the contracts shall be available for review by the department. A county may require county residents specified in this section to use county facilities or county selected providers except for emergency medical services.

(h) This section shall remain in effect until December 31, 1982, and on that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1983, deletes or extends that date.

SEC. 22. Section 14005.12 of the Welfare and Institutions Code is amended to read:

14005.12. (a) For the purposes of Sections 14005.4, and 14005.7, except as specified in subdivisions (b) and (c), the department shall establish the income levels for maintenance need at the lowest levels at which federal financial participation will still be provided under Title XIX of the federal Social Security Act.

(b) For the purposes of Sections 14005.4 and 14005.7 for a person in long-term care the amount considered as required for maintenance per month shall be computed pursuant to regulations which provide for the following purposes:

(1) Personal and incidental needs while a patient.

(2) The upkeep and maintenance of the home.

(3) The support and care of his spouse, minor dependents and any disabled relative for whose support he has contributed regularly.

(4) If federal requirements permit such a person to own an automobile of greater value than is permitted in the case of recipients of aid under Chapter 3 of this part, the department shall adopt the more liberal allowance in its rules and regulations.

(c) When family members maintain separate residences, but eligibility is determined as a single unit under Section 14008, the income levels for maintenance per month shall be established for each household in accordance with subdivisions (a) to (c), inclusive. The total of these levels shall be the level for the single eligibility unit.

SEC. 23. Section 14005.16 of the Welfare and Institutions Code is repealed.

SEC. 24. Section 14006 of the Welfare and Institutions Code is amended to read:

14006. (a) For the purposes of Sections 14005.4 and 14005.7, the term "other resources" means the real or personal property, or any combination of both, held by a medically needy or medically indigent individual or family.

(b) The amount of other resources is limited to not more than one thousand five hundred dollars ($1,500) for an aged, blind or disabled individual, or not more than three thousand dollars ($3,000) for an

aged, blind or disabled individual and his spouse. For a medically needy family person or for a medically indigent person or family, this limit shall be established at not less than one thousand five hundred dollars ($1,500) and not more than three thousand dollars ($3,000), in accordance with family size. In addition, a medically needy or medically indigent person or family may retain: (1) Other property accordance with the provisions of Sections 11158 and 12152 of this code; (2) Real property other than the home, up to a value of six thousand dollars ($6,000) provided it is producing income for the individual or family reasonably consistent with its value; (3) Any additional resources allowed under the provisions of Title XVI of the Social Security Act.

(c) The director, to meet the requirements of the Federal Social Security Act and to insure the highest percentage of federal financial participation in the program provided by this chapter, may decrease or increase the amounts set forth herein.

(d) If the holdings are in the form of real property, the value shall be the assessed value, determined under the most recent county property tax assessment, less the unpaid amount of any encumbrance of record.

If the real property other than the home is not producing income reasonably consistent with its value, the applicant or recipient shall be allowed reasonable time to begin producing such income from the property. If the property cannot produce reasonable income or be sold based on the market value, the applicant or recipient shall be allowed to submit evidence from a qualified real estate appraiser which indicates the value for which the property can be adequately utilized or sold. If the applicant or recipient provides evidence that the only method of adequately utilizing the property is sale, and the property has not been sold at market value during a reasonable period of time, the property shall be considered to be adequately utilized provided it is listed with a licensed real estate broker at the value determined to be the fair market value by a qualified real estate appraiser and the applicant or recipient provides evidence that a bona fide and continuous effort is being made to sell the property.

(e) Any mortgage or note secured by a deed of trust shall be deemed real property if its value does not exceed six thousand dollars ($6,000) and it is obtained by the applicant or recipient, or in combination with his spouse, through the sale of such real property.

(f) If the holdings consist of money on deposit, the value shall be the actual amount thereof. If the holdings are in any other form of personal property or investment, except life insurance, the value shall be the conversion value as of the date of application or the anniversary date of such application. If the holdings are in the form of life insurance, the value shall be the cash value as of the policy anniversary nearest the date of such application.

(g) The value of property holdings shall be determined as of the date of application and, if the person is found eligible, this

determination shall establish the amount of such holdings to be considered during the ensuing 12 months except a new determination to govern during the succeeding 12 months shall be made on the first anniversary date of the application or such alternate date as may be established following the acquisition of additional holdings as provided in the following paragraph and on each succeeding anniversary date thereafter.

(h) If any person shall by gift, inheritance, or other manner, acquire additional holdings during any such interval, other than from his own earnings, he shall immediately report such acquisition, and the anniversary date shall become the date of such acquisition.

(i) To the extent permitted by federal law, in the event that a recipient's principal residence becomes other property subject to the limitations contained in paragraph (2) of subdivision (b), the applicant or recipient shall remain eligible for Medi-Cal as long as the property shall be listed with a licensed real estate broker at the value determined to be the fair market value by a qualified real estate appraiser and the applicant or recipient provides evidence that a bona fide and continuous effort is being made to sell the property, bona fide offers are accepted, and all offers are reported. The state shall have a lien against the property, to the extent permitted by federal law, for reimbursement to the state for the cost of medical services.

SEC. 25. Section 14008 of the Welfare and Institutions Code is amended to read:

14008. (a) No relative, other than the spouse, shall be held to be financially responsible for the cost of health care received by an adult eligible under this chapter, except as provided in subdivisions (b) and (c).

(b) Except as provided in Section 14010, no relative, other than the parent or parents of a child under the age of 18 years, or a child over the age of 18 years if a parent claims the child as a dependent in order to receive a tax credit or deduction for purposes of state or federal income taxation, shall be held to be financially responsible for the cost of health care or related services received by such child, otherwise eligible under this chapter.

(c) To the extent permitted by federal law, the parent or parents shall have such financial responsibility for any child 18 years of age or older but under the age of 21 years who is living in the home of the parent or parents.

SEC. 26. Section 14011 of the Welfare and Institutions Code is amended to read:

14011. (a) Each applicant who is not a recipient of public assistance shall be required to file an affirmation setting forth such facts about his annual income and other resources and qualifications for eligibility as may be required by the department. Such statements shall be on forms prescribed by the department.

(b) To the extent permitted by federal law, eligibility for medical assistance for such applicants shall not be granted until the applicant

or designated representative provides independent documentation verifying statements of gross income by type and source; income amounts withheld for taxes, health care benefits available through employment, retirement, military service, work related injuries or settlements from prior injuries, employee retirement contributions, and other employee benefit contributions, deductible expenses for maintenance or improvement of income-producing property and status and value of property owned, other than property exempt under the provisions of Section 14006. The director may prescribe those items of exempt property which the director deems should be verified as to status and value in order to reasonably assure a correct designation of those items as exempt.

(c) The verification requirements of subdivision (b) apply to income, income deductions and property both of applicants for medical assistance (other than applicants for public assistance) and to persons whose income, income deductions, expenses or property holdings must be considered in determining the applicant's eligibility and share of cost.

(d) A determination of eligibility and share of cost may be extended beyond otherwise prescribed time frames if, in the county department's judgment, and subject to standards of the director, the applicant or designated representative has good cause for failure to provide the required verification and continues to make a good faith effort to provide such verification.

(e) To the extent permitted by federal law, in addition to the other verification requirements of this section, a county department may require verification of any other applicant statements, or conduct a full and complete investigation of such statements, whenever such a verification or investigation is warranted in the judgment of the county department.

(f) If documentation is unavailable, as defined in regulations promulgated by the department, the applicant's signed statement as to the value or amount shall be deemed to constitute verification.

SEC. 27. Section 14011.5 is added to the Welfare and Institutions Code, to read:

14011.5. The department shall be responsible for establishing the necessary systems for the identification, review and approval, disbursement, and reimbursement systems for those health services provided to the medically indigent population eligible for federal reimbursement under the Refugee/Cuban Haitian Entrant Program.

SEC. 28. Section 14016 of the Welfare and Institutions Code is amended to read:

14016. (a) The county in which the person resides, except as specified in subdivision (c), shall determine the eligibility of, each person pursuant to Sections 14005.1, 14005.4, and 14005.7 and Article 4.4 (commencing with Section 14140) of this chapter, except that the department may contract with the federal Social Security Administration for the determination of Medi-Cal eligibility of

persons eligible under Title XVI of the Social Security Act. Upon termination of such assistance, the county shall determine whether the person remains eligible for Medi-Cal coverage under one of these sections.

(b) The department shall institute an eligibility quality control program, with onsite state auditors who shall verify the eligibility determination of a statistically valid sampling of persons in each county granted Medi-Cal eligibility under Section 14005.4, 14005.7, or 14005.8 or Article 4.4 (commencing with Section 14140) of this chapter. The department shall report to the Legislature in May 1982, on the results of the quality control and on findings of errors.

(c) When family members maintain separate residences, but eligibility is determined as a single unit because of the provisions of Section 14008, the county in which the parent or parents reside shall determine the eligibility for the entire unit.

(d) In administering the provisions of law and regulations related to eligibility determination the director shall impose such sanctions as provided by this section to assure adequate county administrative performance.

(e) (1) The director shall hold counties financially liable for payments made on behalf of ineligible persons or persons with an incorrect share of cost as represented by a dollar payment error rate. There shall be established, annually, a dollar error rate standard which shall be the basis for computing a county's liability under this section commencing with the budget for the 1983–84 fiscal year to be applied on January 1, 1984. The standard for the 1983–84 fiscal year shall be developed by April 1, 1983, and the department shall submit a report to the Legislature pertaining to development of that standard by July 1, 1983. For those counties which exceed the dollar error rate standard, liability shall not exceed the product of the dollar payment error rate in excess of the standard multiplied by the total expenditures paid under the program. The director may grant exceptions to these counties if the department is unable to establish a statistically valid sample or if the error in an individual county rate is above the standard due to natural disaster, job actions, or other occurrences as determined by the director.

(2) Notwithstanding the provisions of paragraph (1), if fiscal sanctions are imposed by the Department of Health and Human Services against the State Department of Health Services as a result of California's eligibility dollar error rate being above the federally established tolerance level for the Medicaid Quality Control program, the director shall pass on to the counties that portion of the sanction which can be attributed to an individual county's failure to properly apply state laws and regulations. The State Department of Health Services shall develop a methodology for determining the amount of federal fiscal sanctions which shall be passed on to individual counties.

(3) When a county welfare department contravenes state eligibility processing regulations and written instructions in a way

that produces increased program benefits or administrative expenses but doesn't result in an increase in the eligibility dollar error rate, the director shall recoup from that county the additional administrative or program benefit costs above those which would have been incurred had that county not contravened the established state eligibility processing regulations and written instructions. This section shall not be construed to interfere with the rights of counties to out-station eligibility staff.

SEC. 29. Section 14019.1 of the Welfare and Institutions Code is amended to read:

14019.1. Any adult at least 21 years of age, who is eligible for services pursuant to Section 14005.4, except for an adult residing in a skilled nursing or intermediate care facility or a woman of any age with a confirmed pregnancy, shall not be eligible to receive services under this chapter for any of the three months immediately prior to the month in which application is made.

This section shall remain in effect only until January 1, 1983, and on that date is repealed.

SEC. 30. Section 14021.5 of the Welfare and Institutions Code is amended to read:

14021.5. (a) Notwithstanding any other provision of law, rates for reimbursing Short-Doyle mental health and drug services allowable under the Medi-Cal program and rendered to Medi-Cal beneficiaries under the Short-Doyle program shall continue to be based on the upper limits allowable under federal law and regulations for services provided prior to July 1, 1980, on the lower of reasonable cost and customary charges for services provided July 1, 1980, through June 30, 1982, and on the lowest of reasonable cost, customary charges, and rates paid by the Short-Doyle program for services provided July 1, 1982, through June 30, 1983.

(b) The Legislature hereby states and declares that this section does not constitute a change in, but is declaratory of, existing law and that rates for reimbursing Short-Doyle mental health and drug services to Medi-Cal beneficiaries under the Short-Doyle program in previous fiscal years were based upon the lower of reasonable costs or customary charges.

(c) The State Department of Health Services, after consulting with the State Department of Mental Health and the State Department of Alcohol and Drug Programs, in regard to their respective programs, shall promulgate emergency regulations relating to claims submission and establishing rates and a rate-setting methodology for determining reimbursement of Short-Doyle mental health and drug services allowable under the Medi-Cal program and rendered to Medi-Cal beneficiaries under the State Department of Mental Health and the State Department of Alcohol and Drug Programs' programs respectively. Such methodology and rates shall be effective commencing July 1, 1983.

SEC. 31. Section 14040 is added to the Welfare and Institutions Code, to read:

14040. Each contract for fiscal intermediary services shall allow providers, at their discretion, to utilize a method for transmitting claims to the fiscal intermediary contractor by magnetic tape or computer-to-computer via telephone, in a manner and format approved by the director.

The department shall develop reasonable standards for participation by providers or persons who bill on behalf of providers in the use of claim transmission methods utilized pursuant to this section. These standards shall be designed to ensure that participants shall be able to submit technically competent claims and reduce the potential for fraud and abuse.

SEC. 32. Section 14041 is added to the Welfare and Institutions Code, to read:

14041. (a) The director shall develop and implement standards for the timely processing and payment of each claim type. The standards shall be sufficient to meet minimal federal requirements for the timely processing of claims.

(b) Notwithstanding any other provision of law, the following standards shall apply to the timely processing of hospital claims:

(1) Inpatient and outpatient claims under the direct control of the fiscal intermediary which do not have errors and are not subject to medical review shall be adjudicated within 30 days of receipt by the fiscal intermediary contractor.

(2) Each inpatient and outpatient claim shall be paid or denied within 65 days of receipt by the fiscal intermediary contractor.

(c) It is the intent of the Legislature that claim forms for use by physicians and hospitals be the same as claim forms in general use by other payors, including Medicare, to the extent compatible with the following:

(1) Requirements for maximum federal matching funds.

(2) The reasonable needs of the mechanized claims processing system.

(3) Maximum billing efficiency.

(4) The convenience of providers.

SEC. 33. Section 14052 of the Welfare and Institutions Code is amended to read:

14052. "Medically indigent person or family" means a person or family who could not qualify as a public assistance recipient, a medically needy person, or a medically needy family person, for reasons other than income or resources but whose income and resources are insufficient to provide for the costs of health care, provided, that to the extent required by federal law, any person under the age of 21 years who could qualify as a medically needy person or a medically needy family person may, instead, qualify as a medically indigent person if the person so chooses.

This section shall remain in effect only until December 31, 1982, and as of that date is repealed.

SEC. 34. Section 14052 is added to the Welfare and Institutions Code, to read:

14052. "Medically indigent person" means a person under 21 years of age, a person over 21 years of age who resides in a skilled nursing or intermediate care facility, or a woman of any age with a confirmed pregnancy, who could not qualify as a public assistance recipient, a medically needy person, or a medically needy family person, for reasons other than income or resources but whose income and resources are insufficient to provide for the costs of health care, provided, that to the extent required by federal law, any person under the age of 21 years who could qualify as a medically needy person or a medically needy family person may, instead, qualify as a medically indigent person if the person so chooses.

Services to persons over 21 years of age residing in a skilled nursing or intermediate care facility shall be limited as provided in Section 14005.4.

This section shall become operative on January 1, 1983.

SEC. 35. Section 14081 of the Welfare and Institutions Code is amended to read:

14081. It is the purpose of this article to ensure that the Medi-Cal program shall be operated in the most cost-effective and efficient manner possible with the optimum number of inpatient hospital service providers. In order to carry out this purpose it is the specific intent of the Legislature that the special negotiator have maximum discretion and flexibility in order to select among various methods of arranging for the provision of health services while achieving significant cost savings. This article shall be the exclusive means of providing inpatient hospital services to recipients qualifying for such care under this chapter.

All previously eligible hospitals may continue to participate in the Medi-Cal program and receive reimbursement for the provision of inpatient hospital services under this article until the special negotiator has negotiated contracts with a sufficient number of hospitals to assure bed capacity to meet the needs of Medi-Cal beneficiaries in an area and notifies the hospital that it is no longer eligible to serve Medi-Cal inpatients except as provided for in Section 14087. A determination by the negotiator under this section shall not require a hearing under Section 14123 or any other section.

SEC. 36. Section 14081.5 is added to the Welfare and Institutions Code, to read:

14081.5. Hospitals which are not selected for contracting under this article and which have negotiated in good faith to obtain a contract need not fulfill preexisting obligations relating to the provision of inpatient services to Medi-Cal beneficiaries arising under Section 15459 of the Government Code, and subdivision (j) of Section 436.8 of, paragraph (4) of subdivision (b) of Section 437.11 of, and paragraph (4) of subdivision (b) of Section 437.112 of, the Health and Safety Code, so long as the provisions of this article remain in effect.

SEC. 37. Section 14082 of the Welfare and Institutions Code is amended to read:

14082. Notwithstanding any other provision of law, the Governor shall designate a person in his office to act as a special negotiator to negotiate rates, terms, and conditions for contracts with hospitals for inpatient services to be rendered to Medi-Cal program beneficiaries. The negotiator may also, if he or she deems it expedient, call for bids, in lieu of negotiations. The special negotiator shall consider, when contracting, the total funds appropriated for inpatient hospital services.

The department and every other state agency concerned with health care or public social services shall provide such assistance as the negotiator may require. The department shall enter into contracts with hospitals and shall be bound by the rates, terms, and conditions negotiated by the negotiator.

The negotiator shall have the powers of a head of a department pursuant to Chapter 2 (commencing with Section 11150) of Part 1 of Division 3 of Title 2 of the Government Code, except, that he or she shall adopt only such rules and regulations pursuant to Section 11152 of the Government Code as are necessary to carry out those duties specifically conferred upon the negotiator by Articles 2.6, 2.8, and 2.91 of this chapter.

The negotiator shall adopt such regulations as emergency regulations in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For the purposes of the Administrative Procedure Act, the adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare.

Notwithstanding the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, emergency regulations adopted in accordance with this section shall not be subject to the review and approval of the Office of Administrative Law. These regulations shall become effective immediately upon filing with the Secretary of State.

In addition to the powers specified in this section, the negotiator has the authority to negotiate contracts under Article 2.8 (commencing with Section 14087.5) and Article 2.91 (commencing with Section 14089) of this chapter.

SEC. 38. Section 14083 of the Welfare and Institutions Code is amended to read:

14083. The following factors to be considered by the negotiator in negotiating contracts under this article, or in drawing specifications for competitive bidding, include, but are not limited to:

(a) Beneficiary access.

(b) Utilization controls.

(c) Ability to render quality services efficiently and economically.

(d) Demonstrated ability to provide or arrange needed specialized services.

(e) Protection against fraud and abuse.

(f) Any other factor which would reduce costs, promote access, or enhance the quality of care.

(g) The capacity to provide a given tertiary service, such as specialized childrens' services, on a regional basis.

(h) Recognition of the variations in severity of illness and complexity of care.

(i) Existing labor-management collective bargaining agreements.

SEC. 39. Section 14086 of the Welfare and Institutions Code is amended to read:

14086. The provisions of this article relating to contracts with hospitals, to be negotiated or let out to bid by the negotiator, shall apply only to hospitals and shall not apply to hospital inpatient services rendered by health maintenance organizations and other organized health systems, contracting with the department under this chapter or Chapter 8 (commencing with Section 14200), or state hospitals.

The provisions of this article shall also not apply to out-of-state hospitals. These hospitals shall continue to be eligible for reimbursement in accordance with the state plan adopted by the department under Section 14105.1.

SEC. 40. Section 14087 of the Welfare and Institutions Code is amended to read:

14087. The provisions of this article shall not, however, be construed to preclude an otherwise qualified hospital from obtaining reimbursement as determined by the department based on the state plan adopted by the department under Section 14105.1, for any of the following:

(a) Providing services to program beneficiaries in life threatening or emergency situations that could result in permanent impairment.

(b) Providing services to beneficiaries who are also eligible for benefits under the federal program of hospital insurance for the aged and disabled.

(c) Providing services to beneficiaries who live or reside farther than the community travel time standard from a contract hospital, as defined by the department, if the hospital providing services is closer than a contract hospital.

SEC. 41. Section 14087.1 of the Welfare and Institutions Code is amended to read:

14087.1. The department or its authorized agents shall conduct periodic audits or reviews, including onsite audits or reviews, of performance under any contract made pursuant to this article. These audits or reviews may evaluate the following:

(a) Level and quality of care, and the necessity and appropriateness of the services provided.

(b) Internal procedures for assuring efficiency, economy and quality of care.

(c) Grievances relating to medical care and their disposition.

(d) Financial records only when determined necessary by the department to protect public funds.

SEC. 42. Section 14087.2 of the Welfare and Institutions Code is amended to read:

14087.2. It is the intent of the Legislature that for the 1982–83 fiscal year, children's hospitals and charitable research hospitals as defined in Section 10178 of the Insurance Code, need not contract under the provisions of this article. Services provided by such hospitals shall be reimbursed according to the state plan. Children's hospitals are defined as those hospitals where 30 percent of the infants and children served by the single institution qualify for Med-Cal payment systems and the institution serves primarily children.

If such a hospital elects to contract pursuant to this article in the 1982–83 fiscal year, the negotiator shall give consideration to the special services provided in such hospitals, such as those services provided to children. The California Medical Assistance Commission shall continue to extend such consideration to such hospitals following the 1982–83 fiscal year.

SEC. 43. Section 14087.27 of the Welfare and Institutions Code is amended to read:

14087.27. (a) Notwithstanding any other provision of law, judicial review pursuant to Section 1085 of the Code of Civil Procedure, shall be available to resolve disputes relating to the terms, performance, or termination of contracts entered into pursuant to this article, or any act, failure to act, conduct, order, or decision of the special hospital negotiator or the commission which violate the provisions of this article.

(b) Subdivision (a) shall not apply to recoupment efforts based on an audit or review of hospital performance of the terms and conditions of the negotiated contract. These recoupment efforts shall be reviewable pursuant to Section 14171.

(c) As an alternative for a contract hospital, to the remedy provided in subdivision (a), contracts entered into pursuant to this article shall provide for administrative review of disputes relating to performance under the contracts. The proceedings for review of the disputes shall be conducted by an independent hearing examiner who shall render a proposed decision. The final decision shall be rendered by the director.

(d) Venue for judicial review pursuant to this section shall lie only in counties in which the Attorney General maintains an office.

SEC. 43.5. Section 14087.28 of the Welfare and Institutions Code is amended to read:

14087.28. A hospital contracting with the Medi-Cal program pursuant to this chapter, shall not deny medical staff membership or clinical privileges for reasons other than a physician's individual qualifications as determined by professional and ethical criteria, uniformly applied to all medical staff applicants and members. Determination of medical staff membership or clinical privileges shall not be made upon the basis of:

(a) The existence of a contract with the hospital or with others.

(b) Membership in or affiliation with any society, medical group or teaching facility or upon the basis of any criteria lacking professional justification, such as sex, race, creed or national origin.

The special negotiator may authorize a contracting hospital to impose reasonable limitations on the granting of medical staff membership or clinical privileges in the following instances:

(a) To permit an exclusive contract for the provision of pathology, radiology, and anesthesiology services, except consulting services requested by the admitting physician.

SEC. 44. Section 14087.29 is added to the Welfare and Institutions Code, to read:

14087.29. Hospitals or groups of hospitals with which a contract has been entered into pursuant to this article shall be exempt from the provisions of Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code for purposes of carrying out the contracts.

SEC. 45. Section 14087.55 of the Welfare and Institutions Code is amended to read:

14087.55. The department shall enter into contracts with counties under this article, and shall be bound by the rates, terms, and conditions negotiated by the negotiator. Contracts under this article may be on a nonbid basis and shall be exempt from the provisions of Chapter 6 (commencing with Section 14780) of Part 5.5 of Division 3 of the Government Code. Contracts shall have no force and effect unless approved by the State Department of Finance.

SEC. 46. Section 14087.6 of the Welfare and Institutions Code is amended to read:

14087.6. A county which has contracted for the provision of services pursuant to this article may provide the services directly to recipients, or arrange for any or all of the services to be provided by subcontracting with primary care providers, health maintenance organizations, insurance carriers, or other entities or individuals. The subcontracts may utilize a prospectively negotiated reimbursement rate, fee-for-service, retainer, capitation, or other basis for payment. The rate of payment established under the contract shall not exceed the total per capita amount which the department estimates would be payable for all services and requirements covered under the contract if all such services and requirements were to be furnished Medi-Cal beneficiaries under the Medi-Cal fee-for-service program.

SEC. 47. Section 14087.8 of the Welfare and Institutions Code is amended to read:

14087.8. When the department has entered into a contract with a county pursuant to this article, the department shall, at a minimum, monitor the level and quality of services provided in a county, as well as a county's expenditures pursuant to the contract, and shall ensure conformity with federal law.

SEC. 48. Section 14087.95 is added to the Welfare and Institutions Code, to read:

14087.95. Counties contracting with the department pursuant to

this article shall be exempt from the provisions of Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code for purposes of carrying out the contracts.

SEC. 49. Section 14088 of the Welfare and Institutions Code is amended to read:

14088. For the purposes of this article, the following definitions shall apply:

(a) "Primary care provider" means any internist, general practitioner, obstetrician/gynecologist, pediatrician or family practice physician or any primary care clinic, rural health clinic, community clinic or hospital outpatient clinic holding a valid and current Medi-Cal provider number, which agrees to provide case management to Medi-Cal beneficiaries.

(b) "Case management" means responsibility for referral, consultation, ordering of therapy, admission to hospitals, followup care, and prepayment approval of referred services.

(c) "Designation form" or "form" means a form supplied by the department to be executed by a Medi-Cal beneficiary and an eligible primary care provider, setting forth the beneficiary's choice of primary care provider and an agreement to be limited by the case management decisions of that primary care provider and the provider's agreement to be responsible for that beneficiary's case management and medical care, as specified in this article.

(d) "Emergency services" means health care services rendered by an eligible Medi-Cal provider to a Medi-Cal beneficiary for any condition in which the beneficiary is in danger of loss of life or serious injury or illness or is experiencing severe pain and suffering.

SEC. 50. Section 14088.1 of the Welfare and Institutions Code is amended to read:

14088.1. The department or a county which has contracted for the provision of services pursuant to this article may, within geographical areas designated by the department, enter into contracts with primary care providers. The contracts shall be on a capitated rate or risk sharing basis, or a combination of both. The rate of payment established under the contract shall not exceed the total per capita amount which the department estimates would be payable for all services and requirements covered under the contract if all such services and requirements were to be furnished Medi-Cal beneficiaries under the Medi-Cal fee-for-service program except that, for a period of two years after the effective date of Senate Bill 2012, as enacted during the 1981–82 Regular Session, reimbursement may include an additional amount to a primary care provider who enters into a contract for providing case management services.

SEC. 51. Section 14088.6 is added to the Welfare and Institutions Code, to read:

14088.6. In order to achieve maximum cost savings, the Legislature hereby determines that an expedited contract process for contracts under this article is necessary. Therefore, contracts under this article may be on a nonbid basis and shall be exempt from

the provisions of Chapter 6 (commencing with Section 14780) of Part 5.5 of Division 3 of the Government Code. Contracts shall have no force and effect unless approved by the State Department of Finance.

SEC. 52. Section 14088.7 is added to the Welfare and Institutions Code, to read:

14088.7. Primary care providers with whom a contract has been entered into pursuant to this article shall be exempt from the provisions of Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code for purposes of carrying out the contracts.

SEC. 53. Section 14089 of the Welfare and Institutions Code is amended to read:

14089. (a) The purpose of this article is to provide an additional mechanism for providing adequate health care to Medi-Cal recipients residing in clearly defined geographical areas. It is, further, the purpose of this article to permit Medi-Cal recipients the option of choosing from among two or more health care plans, including, but not limited to, health maintenance organizations, prepaid health plans, independent practice associations, various insurance coverage, organized county health systems, private foundations and university medical center systems, for the provision of health care services.

(b) The negotiator may seek such proposals and then shall contract based on relative costs, extent of coverage offered, quality of health services to be provided, financial stability of the health care plan or carrier, recipient access to services, cost-containment strategies, peer and community participation in quality control, emphasis on preventive services and the ability of the health plan to meet all requirements for certification by the Commissioner of Corporations, the Insurance Commissioner and the Department of Health Services.

(c) Such proposals shall be for the provision of health care services to eligible populations on a capitated, prepaid basis. The cost of each program established under this section shall not exceed the total amount which the department estimates it would pay for all services and requirements within the same geographic area under the fee-for-service Medi-Cal program.

(d) The department shall enter into contracts pursuant to this article, and shall be bound by the rates, terms, and conditions negotiated by the negotiator.

(e) An eligible beneficiary shall be entitled to enroll in any health care plan contracted for pursuant to this article that is in effect for the geographic area in which he or she resides. Enrollment shall be for a minimum of six months. Contracts entered into pursuant to this article shall be for at least one but no more than three years. The director shall make available to recipients information summarizing the benefits and limitations of each health care plan available pursuant to this section in the geographic area in which the recipient

resides.

(f) A participating county may include within the plan or plans providing coverage pursuant to this section, employees of county government, and others who reside in the geographic area and who depend upon county funds for all or part of their health care costs.

(g) The negotiator shall establish pilot projects in at least two counties to test the cost effectiveness of delivering benefits as defined in subdivisions (a) through (f). At least one pilot shall be conducted in a rural area and one in an urban area.

The California Medical Assistance Commission shall evaluate the cost-effectiveness of these pilot projects after one year of implementation. Pursuant to this evaluation the commission may either terminate or retain the existing pilot projects.

SEC. 54. Section 14105.1 of the Welfare and Institutions Code is amended to read:

14105.1. In determining rates of reimbursement for inpatient hospital services the department shall use reimbursement policy existing on the date prior to the effective date of this act. The director shall have authority to modify this reimbursement policy. The director shall implement a new reimbursement policy of peer grouping of hospitals through the promulgation of emergency regulations after required federal approvals are obtained. The department may adjust interim payment rates to hospitals and may control or freeze rates in order to carry out the provisions of this section. The provisions of this section shall cease to apply to a hospital when the department enters into a contract, pursuant to Article 2.6 (commencing with Section 14081), either with that hospital or with other hospitals to the exclusion of that hospital.

The department shall, by January 10, 1983, report to the Legislature on the implementation of the new reimbursement policy set forth in this section.

SEC. 55. Section 14105.3 of the Welfare and Institutions Code is amended to read:

14105.3. (a) The department is considered to be the purchaser, but not the dispenser or distributor, of prescribed drugs under the Medi-Cal program for the purpose of enabling the department to obtain from one or more manufacturers of prescribed drugs the most favorable price for such drugs furnished by one or more manufacturer, based upon the large quantity of such drugs purchased under the Medi-Cal program, and to enable the department, notwithstanding any other provision of California law, to obtain from such manufacturers discounts, rebates, or refunds based on such quantities purchased under said program, insofar as may be permissible under federal law. Nothing in this section shall interfere with usual and customary distribution practices in the drug industry.

(b) The department may enter into exclusive or nonexclusive contracts on a bid or negotiated basis with manufacturers, distributors, dispensers, or suppliers of drugs, appliances, durable

medical equipment, medical supplies, and other product-type health care services and laboratories for the purpose of obtaining the most favorable prices to the state and to assure adequate quality of the product or service. This subdivision shall not apply to pharmacies licensed pursuant to Section 4080 of the Business and Professions Code.

(c) The department is hereby specifically authorized to contract with one or more manufacturers of each multisource prescribed product or supplier of clinical laboratory services on a bid or nonbid basis. Nothing in this section shall be construed as prohibiting the department from contracting with less than all manufacturers or clinical laboratories including just one manufacturer or clinical laboratory, on a bid or nonbid basis.

(d) Prior to entering into any contract under this section, the department shall submit a report to the Legislature demonstrating the cost-effectiveness of the contract.

(e) In order to achieve maximum cost savings the Legislature hereby determines that an expedited contract process for contracts under this section is necessary. Therefore contracts under this section may be on a nonbid basis and shall be exempt from the provisions of Chapter 6 (commencing with Section 14780), Part 5.5, Division 3 of the Government Code. Contracts shall have no force and effect unless approved by the Department of Finance.

SEC. 56. Section 14115 of the Welfare and Institutions Code is amended to read:

14115. Bills for service under this chapter shall be submitted not more than two months after the month in which the service is rendered, and shall be in the form prescribed by the director, except that in the event the patient does not identify himself to the provider as a Medi-Cal beneficiary, the provider shall be entitled to submit his statement at any time within 60 days after that date certified by the provider as the date said patient was first identified as a Medi-Cal beneficiary, provided, however, that such date certified by the provider as the date the patient was first so identified shall not be later than one year after the month in which the service was rendered. Whenever a provider has submitted a claim to a liable third party, the provider shall have one year after the month in which the service is rendered for submission of the bill. Whenever a legal proceeding has been commenced with either an administrative or judicial tribunal concerning a bill for which the provider is attempting to obtain payment from a liable third party, the provider shall have one year in which to submit the bill after the month in which the services have been rendered. A copy of the pleadings shall be conclusively presumed to be sufficient evidence of commencement of a legal proceeding.

Further, the director may, where he finds that delay in the submission of bills was caused by circumstances beyond the control of the provider, extend the period for submission of bills for a period not to exceed one year.

For the purposes of this section, identification of a patient as a Medi-Cal beneficiary shall mean presentation to the provider of the patient's Medi-Cal card.

SEC. 57. Section 14123 of the Welfare and Institutions Code is amended to read:

14123. Participation in the medical assistance program by a provider of service is subject to suspension in order to protect the health of the recipients and the funds appropriated to carry out this chapter.

(a) The director may suspend a provider of service from further participation under the medical assistance program for violation of the provisions of this chapter or Chapter 8 (commencing with Section 14200) of this part or any rule or regulation promulgated by the director pursuant to those chapters. Any such suspension may be for an indefinite or specified period of time and with or without conditions or may be imposed with the operation of the suspension stayed or probation granted. The director shall suspend a provider of service for conviction of any felony or any misdemeanor involving fraud, abuse of the Medi-Cal program or any patient, or otherwise substantially related to the qualifications, functions, or duties of a provider of service. If the provider of service is a clinic, group, corporation, or other association, conviction of any officer, director, or shareholder with a 10 percent or greater interest in that organization, of such a crime shall result in the suspension of that organization and the individual convicted if the director believes that suspension would be in the best interest of the Medi-Cal program. If the provider of services is a political subdivision of the state or other government agency, the conviction of the person in charge of the facility of such a crime may result in the suspension of that facility. 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 of the fact that the conviction occurred. 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 director shall order the suspension of a provider of service 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 any subsequent order under the provisions of Section 1203.4 of the Penal Code allowing a person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment. The suspension shall not take effect earlier than the date of the director's order. Suspension following a conviction is not subject to the proceedings required in subdivision (c). However, the director may grant an informal hearing at the request of the provider of service to determine in the director's sole discretion if the circumstances surrounding the conviction justify rescinding or otherwise modifying the suspension provided for in

this subdivision.

(b) Whenever the director receives written notification from the Secretary of the Department of Health and Human Services, that a physician or other individual practitioner has been suspended from participation in the Medicare or Medicaid programs, the director shall, promptly suspend such practitioner from participation in the medical assistance program. This automatic suspension is not subject to the proceedings required in subdivision (c). No payment from state or federal funds may be made for any item or service rendered by such practitioner during the period of suspension.

(c) The proceedings for suspension 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, except that hearings may be conducted by departmental hearing officers appointed by the director. The director may periodically subcontract with the Office of Administrative Hearings to conduct such hearings. The director may temporarily suspend any provider of service prior to any hearing when in his opinion such action is necessary to protect the public welfare or the interests of the medical assistance program. The director shall notify the provider of service of the temporary suspension and the effective date thereof and at the same time serve such provider with an accusation. The accusation and all proceedings thereafter shall be in accordance with the sections of the Government Code specified in this subdivision. Upon receipt of a notice of defense by the provider, the director shall set the matter for hearing within thirty (30) days after receipt of said notice. The temporary suspension shall remain in effect until such time as the hearing is completed and the director has made a final determination on the merits, provided, however, said temporary suspension shall be deemed vacated if the director fails to make a final determination on the merits within 60 days after the original hearing has been completed.

(d) The suspension by the director of any provider of service shall preclude such provider from submitting claims for payment, either personally or through claims submitted by any clinic, group, corporation or other association to the medical assistance program for any services or supplies he has provided under such program, except for services or supplies provided prior to the suspension. No clinic, group, corporation, or other association which is a provider of service shall submit claims for payment to the medical assistance program for any services or supplies provided by a person within said organization who has been suspended or revoked by the director, except for services or supplies provided prior to the suspension.

Where the provisions of this chapter or Chapter 8 (commencing with Section 14200) of this part or the regulations promulgated by the director are violated by a provider of service which is a clinic, group, corporation, or other association, the director may suspend such organization and any individual person within said organization who is responsible for such violation.

(e) Notice of the suspension shall be sent by the director to such provider's state licensing, certifying or registering authority along with the evidence upon which the suspension was based.

SEC. 58. Section 14124.89 of the Welfare and Institutions Code is amended to read:

14124.89. (a) Every health care service plan, self-insured employee welfare benefit plan, disability insurer, and nonprofit hospital service plan shall, upon request of the department for any records, or any information contained in records pertaining to an individual or group health insurance policy or plan issued by such insurer or plan against, or pertaining to the medical or dental benefits paid by or claims made against such insurer or plans under a policy or plan, make the requested records or information available upon a certification by the department that the individual is an applicant for or recipient of services under this chapter or is a person who is legally responsible for such an applicant or recipient.

(b) The department shall enter into a cooperative agreement setting forth mutually agreeable procedures for requesting and furnishing appropriate information, not inconsistent with any law pertaining to the confidentiality and privacy of medical records, which procedure shall include such financial arrangements as may be necessary to reimburse insurers or plans for necessary costs incurred in furnishing requested information, and the time and manner such procedures are to become effective. Reimbursement to insurers or plans complying with the provisions of this section shall be at the same rate of reimbursement used to reimburse the Department of Motor Vehicles for providing information to insurance carriers.

(c) The information required to be made available pursuant to this section shall be limited to information necessary to determine whether health benefits have been or should have been claimed and paid pursuant to a health insurance policy or plan with respect to items of medical care and services received by a particular individual for which Medi-Cal coverage would otherwise be available.

(d) Not later than the date upon which the procedures agreed to pursuant to subdivision (b) become effective, the director shall establish guidelines to assure that information relating to an individual certified to be an applicant for or recipient of medical assistance, furnished to any insurer or plan pursuant to this section, is used only for the purpose of identifying the records or information requested in such manner so as not to violate the confidentiality of an applicant or recipient.

(e) The department shall implement the provisions of this section by January 1, 1983.

SEC. 59. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, acupuncture to the extent federal matching funds are provided for acupuncture, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry and physician services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered by an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered to the extent prescribed.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. The utilization controls shall allow emergency and essential diagnostic and restorative dental services and prostheses that are necessary to prevent a significant disability or to replace previously furnished prostheses which are lost or destroyed due to circumstances beyond the beneficiary's control. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Utilization controls shall allow replacement of prosthetic and orthotic devices and eyeglasses

necessary because of loss or destruction due to circumstances beyond the beneficiary's control. Frame styles for eyeglasses replaced pursuant to this subdivision shall not change more than once every two years, unless the department so directs.

Orthopedic and conventional shoes are covered when provided by a prosthetic and orthotic supplier on the prescription of a physician and when at least one of the shoes will be attached to a prosthesis or brace, subject to utilization controls. Modification of stock conventional or orthopedic shoes when medically indicated, is covered subject to utilization controls. When there is a clearly established medical need that cannot be satisfied by the modification of stock conventional or orthopedic shoes, custom-made orthopedic shoes are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls. Utilization controls shall allow replacement of hearing aids necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls. The utilization controls shall allow the replacement of durable medical equipment and medical supplies when necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(n) Intermediate care facility services, including physician services, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this part.

(r) Application of fluoride, or other appropriate fluoride treatment as defined by the department, and other prophylaxis treatment for children 17 years of age and under are covered.

(s) Paramedic services performed by a city, county, or special district, or pursuant to a contract with a city, county, or special

district, and pursuant to a program established under Article 3 (commencing with Section 1480) of Chapter 2.5 of Division 2 of the Health and Safety Code by a paramedic certified pursuant to that article, and consisting of defibrillation and those services specified in subdivision (3) of Section 1482 of the article.

This subdivision shall be in effect only to the extent federal financial participation is available as set forth in Section 14106.6.

(t) In-home medical care services are covered when medically appropriate and subject to utilization controls, for beneficiaries who would otherwise require care for an extended period of time in an acute care hospital at a cost higher than in-home medical care services. The director shall have the authority under this section to contract with organizations qualified to provide in-home medical care services to such persons. Such services may be provided to patients placed in facilities such as skilled nursing or intermediate care facilities, or to persons in shared-or-congregate living arrangements, if a home setting is not medically appropriate or available to the beneficiary. As used in this section, in-home medical care services shall include utility bills directly attributable to continuous, 24-hour operation of life-sustaining medical equipment, to the extent that federal financial participation is available.

(u) Home and community-based services approved by the federal Department of Health and Human Services may be covered to the extent that federal financial participation is available for such services under waivers granted in accordance with Section 1915 of the federal Social Security Act. The director may seek waivers for any or all home and community-based services approvable under Section 1915 of the federal Social Security Act. Coverage for such services shall be limited by the terms, conditions, and duration of the federal waivers.

The department shall submit a report, as provided in Section 28 of the 1982 Budget Act, 30 days prior to providing these services a Medi-Cal benefits. The report shall be submitted to the Joint Legislative Budget Committee and the fiscal committees and shall address the cost-effectiveness of services provided pursuant to this subdivision.

SEC. 60. Section 14133.25 of the Welfare and Institutions Code, is amended to read:

14133.25. (a) The director shall identify those surgical and medical procedures capable of outpatient performance and establish conditions for assuring performance in an outpatient rather than inpatient setting when medically appropriate.

(b) The director shall identify and apply appropriate utilization controls to review outpatient and office medical and surgical procedures for medical necessity and program coverage. The director may under this section identify and require prior authorization for any specified outpatient or office medical or surgical procedure performed during a month without regard to the provisions of Section 14133.1, provided that, with respect to

outpatient or office medical procedures, those medical procedures which remain not subject to prior authorization are sufficient in number and scope as to achieve the general purpose of Section 14133.1.

(c) The director may establish a schedule of differential reimbursement rates to the operating surgeon for surgery procedures. Those surgery procedures which can safely be performed on an outpatient basis may be reimbursed at a higher level when performed in an outpatient setting than the same procedures performed on an inpatient basis.

(d) Provisions of this section shall not be applied to mental health services as defined under Division 5 (commencing with Section 5000) or Section 14021, or any other mental health services funded by the Medi-Cal program.

SEC. 61. Section 14133.3 of the Welfare and Institutions Code is amended to read:

14133.3. (a) The director shall require fully documented medical justification from providers that the requested services are medically necessary to protect life or prevent significant disability, on all requests for prior authorization.

(b) For services not subject to prior authorization, the director shall additionally determine utilization controls which shall be applied to assure that the health care services provided and the conditions treated, are medically necessary to protect life or prevent significant disability. Such utilization controls shall take into account those diseases, illnesses, or injuries which require preventive health services or treatment to prevent serious deterioration of health.

(c) Nothing in this section shall preclude payment for family planning services or early and periodic screening, diagnosis and treatment services mandated by federal law.

Provisions of this section shall not be applied to mental health services as defined under Division 5 (commencing with Section 5000) or Section 14021, or any other mental health services funded by the Medi-Cal program.

SEC. 62. Section 14134 of the Welfare and Institutions Code is amended to read:

14134. A recipient of services under this chapter shall be required to make copayments as follows:

(a) Except for any person age 12 or under or any woman receiving perinatal care, a copayment of five dollars ($5) shall be made for nonemergency services received in an emergency room. For the purposes of this section, "nonemergency services" means any services not required for the alleviation of severe pain or the immediate diagnosis and treatment of severe medical conditions which, if not immediately diagnosed and treated, would lead to disability or death.

(b) A copayment of one dollar ($1) shall be made for each drug prescription. Collection of this copayment shall be required as a condition for reimbursement. This subdivision shall not apply to an

individual residing in a skilled nursing or intermediate care facility.

(c) Except for any person age 12 or under, any woman receiving perinatal care, or any person who is an inpatient in a facility as defined in Section 1250 of the Health and Safety Code, a copayment of one dollar ($1) shall be made for each visit for services under subdivisions (a) and (h) of Section 14132.

(d) The above copayment amounts set forth in subdivisions (a) and (c) may be collected and retained or waived by the provider.

(e) The department shall not reduce the reimbursement otherwise due to providers as a result of such copayment. Such copayment amounts shall be in addition to any reimbursement otherwise due the provider for services rendered under this program.

(f) The provisions of this section shall not apply to any services received by persons covered under the federal program of health insurance for the aged and disabled, for which claims for payment will be billed to the federal program or to any child in AFDC-Foster Care, as defined in Section 11400.

(g) The provisions of subdivision (b) shall become operative upon the effective date of federal approval. Until the effective date of federal approval, any person age 65 or over, any person age 12 or under, any person who has a chronic condition requiring multiple prescriptions as determined by that person's attending physician, or any person who is an inpatient in a facility as defined in Section 1250 of the Health and Safety Code shall be exempt from copayment as set forth in subdivision (b). Until the effective date of federal approval, the copayment set forth in subdivision (b) shall not be required as a condition for reimbursement and such copayment amount may be collected and retained or waived by the provider.

SEC. 63. Section 14154.1 is added to the Welfare and Institutions Code, to read:

14154.1. Reimbursement for any Medi-Cal county administrative costs shall be made subject to the requirements specified in the County Administrative Cost Control Plan, established pursuant to Section 14154. However, notwithstanding any other provision of law, commencing on January 1, 1983, and thereafter, the department shall make allocations for Medi-Cal county administrative expenses relating to Medi-Cal applications taking into consideration 100 percent of approved applications. However, the department shall not allocate state general funds for nonapproved Medi-Cal applications which exceed a specified level. That level shall be determined by multiplying the county's number of approved applications by the weighted average of the ratios of nonapproved applications to approved applications processed by the county during fiscal years 1979–80, 1980–81, and 1981–82. The director may determine that a county's allocation should be based upon a different ratio upon making a finding of special circumstance, subject to the approval of the Department of Finance. Reimbursement to Los Angeles County hospitals shall be limited on the same basis.

SEC. 64. Section 14171.5 of the Welfare and Institutions Code is amended to read:

14171.5. Any institutional provider of health care services which obtained reimbursement under this chapter to which it is not entitled shall be subject to the following interest charges or penalties:

(a) When it is established upon audit that the provider has claimed payments under this chapter to which it is not entitled, the provider shall pay, in addition to the amount improperly received, interest at the rate specified by subdivision (e) of Section 14171.

(b) When it is established upon audit that the provider claimed payments related to services or costs which the department had previously notified the provider in an Audit Report that such costs or services were not reimbursable, the provider shall pay in addition to the amount improperly claimed, a penalty of 10 percent of the amount improperly claimed after this notice, plus the cost of the audit. In addition, interest will be assessed at the rate specified in subdivision (e) of Section 14171. Providers who wish to preserve appeal rights or to challenge the department's positions regarding appeal issues, may claim such cost or services and not be reimbursed therefor, provided that they are identified and presented separately on the cost report.

(c) When it is established that the provider fraudulently claimed and received payments under this chapter, the provider shall pay a penalty of 25 percent of the amount improperly claimed, plus the cost of the audit, in addition to the amount thereof. In addition, interest will be assessed at the rate specified by subdivision (e) of Section 14171. A fraudulent claim is a claim upon which the provider has been convicted of fraud upon the program. Nothing in this section shall prevent the imposition of any other civil or criminal penalties to which the provider may be liable.

(d) Appeals to action taken in subdivisions (a), (b), and (c) of Section 14171.5 above are subject to the administrative appeals process provided by Section 14171.

(e) Penalties paid by providers under subdivisions (a), (b), and (c) of Section 14171.5 are not reimbursable by the program.

(f) As used in this section, "the cost of the audit" includes actual hourly wages, travel, and incidental expenses at rates allowable by State Board of Control rules, and applicable overhead costs.

SEC. 65. Section 14172.5 of the Welfare and Institutions Code is amended to read:

14172.5. (a) Notwithstanding the provisions of Section 14172 or any other law, when it is established that an overpayment has been made to a provider, the department shall not begin liquidation of such overpayment until 60 days after issuance of the first statement of accountability or demand for repayment after issuance of the audit or examination report establishing such overpayment. Should it be found upon appeal that no overpayment was made to the provider, the department shall repay the amount collected, together with the payment of interest thereon, from the date occurring 60 days after

issuance of the first statement of accountability or demand for repayment after issuance of the audit or examination report alleging the overpayment.

(b) If on the basis of reliable evidence, the department has a valid basis for believing that, with respect to a provider, proceedings have been or will shortly be instituted in a state or federal court for purposes of determining whether the provider is insolvent or bankrupt under appropriate state or federal law, or that a provider is or will shortly be taking action which reasonably might seriously hinder or defeat the department's ability to collect overpayments in the future, the department may immediately adjust any payments to the provider to a level necessary to insure that no overpayment to the provider is made.

SEC. 66. Section 14178 of the Welfare and Institutions Code is amended to read:

14178. (a) Counties shall be held harmless in accordance with the provisions of this section for state funds to be recouped pursuant to audit exceptions issued for acts performed prior to July 1, 1982.

(b) Audit exception for the purpose of this section shall be defined as follows: Demands for recovery resulting from those audit reports issued by the Department of Health Services in which no final settlement or administrative decision adopted by the director has been arrived at prior to the effective date of this section.

(c) Such forgiveness of audit exceptions shall apply only to the state's share of payments made in support of the Medi-Cal program. Counties shall retain liability for payment of the federal portion of payments made for Medi-Cal services unless and until the federal government agrees to waive their rights for repayment of federal share.

(d) Audit exceptions regarding county claims related to nonprogram benefits shall remain unaffected by the provisions of the section. County claims for nonprogram benefits shall include claims for return on equity, claims for bad debts, claims for uncompensated care, and any other claims not compensable pursuant to Title XIX of the federal Social Security Act.

(e) The amount of the recoupment of the federal portion of valid audit exceptions pursuant to subdivision (c) shall be determined pursuant to the existing administrative appeals process.

(f) No provision of this section shall apply to any audit report issued by the Department of Health Services after the effective date of this section relating to acts performed subsequent to July 1, 1982.

SEC. 67. Section 14491.5 of the Welfare and Institutions Code is repealed.

SEC. 68. Section 16700 of the Welfare and Institutions Code is amended to read:

16700. (a) For purposes of this part, local jurisdiction shall mean a county, an existing local health district formed pursuant to Chapter 6 (commencing with Section 880) of Part 2 of Division 1 of the Health and Safety Code, or a city which has not transferred to the county

enforcement authority of applicable health statutes and regulations or a city which provides public health services pursuant to a contract with a county through an organized health department recognized by the State Department of Health Services.

(b) (1) On or before September 15 of the 1982–83 and 1983–84 fiscal years, the governing body of each county, the City of Berkeley, and each existing local health district shall adopt and submit to the State Director of Health Services an update of its adopted 1981–82 county health services plan and budget in the form and in accordance with procedures specified by the director.

(2) On or before September 15, 1983 and each third subsequent year thereafter, the governing body of each county, the City of Berkeley, and each existing local health district shall adopt and submit to the department a multi-year base county health services plan and budget for the next fiscal year in the form and in accordance with procedures established in regulations promulgated by the department.

(3) On or before September 15 of 1984 and each year thereafter, the governing body of each county, the City of Berkeley, and each existing local health district shall adopt and submit to the department an update of its adopted multi-year county health services plan and budget in the form and in accordance with procedures established in regulations promulgated by the department.

(c) The county health services plan and budget adopted by the governing body of each county shall include, but not be limited to, the following information:

(1) The eligibility criteria that will be used by the county in determining the allocation of funds received and services provided pursuant to Section 16703.

(2) A description of the county's eligibility process, beneficiary notification on availability of services, services to be provided, accessibility of service, resources, collections, target population size, and costs.

(d) The department shall develop and implement the regulations governing the form and procedures for the preparation and submission of multi-year base county health services plans and budgets and updates in order for the counties to have sufficient time prior to September 15, 1983, to prepare and submit their multi-year base county health services plans and budgets by September 15, 1983.

(e) For the purposes of simplifying and reducing plan requirements, the Legislature intends that the annual update shall not duplicate any of the material in the multi-year base county health services plan and budget, but shall serve as a progress report both evaluating what has been accomplished over the past year and describing what will be accomplished in relation to each of the elements in the multi-year base county health services plan and budget during the coming year.

(f) An update or a multi-year county health services plan and

budget shall be considered a county health services plan and budget for purposes of this part.

SEC. 69. Section 16703 of the Welfare and Institutions Code is amended to read:

16703. (a) The sum of the amounts set forth in Section 16702 is appropriated annually from the General Fund for deposit in the County Health Services Fund which is hereby created.

(b) The Medically Indigent Services Account is hereby created in the County Health Services Fund. Moneys in the Medically Indigent Services Account shall be expended by the State Department of Health Services in accordance with this part.

(c) Commencing on January 1, 1983, the amount made available for the Medically Indigent Services Account is two hundred sixty-one million five hundred thousand dollars ($261,500,000). This amount is to be transferred by the Controller from the Medical Assistance Program, from Item 4260-101-001 (b) 50.11 Benefits (Medical Care and Services) of Chapter 326 of the Statutes of 1982 through the Health Care Deposit Fund to the Medically Indigent Services Account of the County Health Services Fund.

Of this amount, the department shall ensure that counties will not expend more than twenty-one million five hundred thousand dollars ($21,500,000) on costs for eligibility determinations.

(d) Each county's maximum annual allocation from the Medically Indigent Services Account shall be as follows:

(1) There shall be determined for each county, based upon available department data, the average amount expended during fiscal years 1979–80, 1980–81, and 1981–82 for health care services under Section 14005 for county residents who were certified eligible pursuant to Section 14005.4.

(2) Each county's average amount determined pursuant to paragraph (1) shall then be divided by the total average amount for all counties for the same three-year period. The resulting percentage shall then be multiplied against the funds appropriated to subdivision (c) and the amount shall be the county's maximum allocation.

(e) 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. 70. 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, the City of Berkeley, and each existing local health district 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 of each county upon submission of the plan and budget as required by Section 16700. These funds shall be expended for county health services.

(b) The allocation of the amounts up to the maximum determined in subdivisions (b), (c), and (d) of Section 16702 shall be made upon application by the governing body of each local jurisdiction and upon signing of an agreement between the governing body and the State Director of Health Services. In the agreement, (1) all local jurisdictions 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; (2) counties shall agree to net county costs for county health services of county funds in the same amount as the funds requested under this paragraph pursuant to subdivision (b) of Section 16702; (3) counties shall agree to expend one dollar ($1) of county funds for every three dollars ($3) of state funds requested pursuant to subdivision (d) of Section 16702; and (4) cities shall agree to expend three dollars ($3) of city funds for every one dollar ($1) of state funds requested pursuant to paragraph (2) of subdivision (c) of Section 16702; and (5) all local health districts shall agree to expend two dollars ($2) of district funds for every one dollar ($1) of state funds requested pursuant to paragraph (3) of subdivision (c) of Section 16702. Funds requested pursuant to subdivision (d) and paragraph (3) of subdivision (c) of Section 16702 shall be expended only for public health services.

(c) (1) The allocation of funds appropriated pursuant to subdivisions (c) and (d) of Section 16703 shall be made upon application by the county board of supervisors. The application shall be in a form and in accordance with procedures and format established by the department. The board shall assure that it will expend such funds only for the health services specified in Sections 14132 and 14021 provided to persons certified as eligible for such services pursuant to Section 17000 and shall assure that it will incur no less in net costs of county funds for county health services in any fiscal year than the amount required to obtain the maximum allocation under Section 16702. These assurances shall be incorporated in the agreement specified in subdivision (b) of this section. In no event shall such funds be expended for costs of services specified in county Short-Doyle plans which are in excess of the 125 percent limitation specified in Section 5705.1.

(2) A county may reduce the amount of net costs of county funds for county health services required pursuant to paragraph (1) of subdivision (c) to the extent such reduction has been permitted pursuant to the provision of Section 16705 or 16705.5, provided that for fiscal year 1982–83 only, the provisions of Section 16705 shall not be operative, except for counties which received approval for reduction pursuant to this section in prior fiscal years.

(3) Any person whose income and resources meet the income and resource criteria for certification for services pursuant to Section 14005.7 other than for the aged, blind, or disabled, shall not be excluded from eligibility for services to the extent that state funds are provided. Such persons may be held financially liable for these

services based upon the person's ability to pay. A county may not establish a payment requirement which would deny medically necessary services. This section shall not be construed to mandate that a county provide any specific level or type of health care service or to preclude a county from utilizing its own forms for the purpose of identifying persons eligible for county health care services. The Board of Control shall not honor any claims by a local agency for reimbursement of costs under this section. The provisions of this paragraph shall become inoperative if a court ruling is issued which decrees that the provisions of this paragraph mandates that additional state funds be provided and which requires that additional state reimbursement be made to counties for costs incurred under this paragraph. This paragraph shall be operative only until June 30, 1983, unless a later enacted statute extends or deletes that 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, city, or district funds for health services beyond that required by this section and Section 16707.

(e) The local jurisdiction shall act in general accordance with the plan and budget submitted pursuant to Section 16700.

SEC. 71. Section 16705.5 of the Welfare and Institutions Code is amended to read:

16705.5. Notwithstanding the provisions of Section 16705, a county may reduce, pursuant to a waiver granted at the discretion of the State Director of Health Services in consultation with the Department of Finance, portions of its county match required to receive state funds for county health services programs. In no event may a county reduce its required match by more than 20 percent for any one of the programs specified.

A county may reduce its matching requirements only if the State Director of Health Services, in consultation with the Department of Finance, has determined all of the following:

(1) The county has exhausted all its reserves, has minimal fund balances, and has minimal interest earnings.

(2) The county's financial distress has left it unable to budget the amount required for match to obtain its maximum allocation.

(3) The county's reductions in public health services proposed in its county health services plan and budget are not proportionately greater than the county's reductions in other services funded from the county general fund for the 1982–83 fiscal year.

(4) The county's share is less than 30 percent of the total countywide property tax revenue, as shown in the 1980–81 Annual Report of the California State Board of Equalization.

Prior to submitting a request for waiver to the State Director of Health Services, the county shall hold a public hearing on its proposed request for waiver. The county shall post notice of the hearing at least 15 days prior to the hearing. Notice shall be posted

in all county health facilities and other appropriate public areas and shall be published in a local newspaper of general circulation.

All data, information, memoranda, and budgets upon which the request for the waiver will be based shall be made available for public inspection at the county at least 10 days prior to the public hearing on the request for the waiver.

The county shall submit to the State Director of Health Services, along with its request for the waiver, all testimony, evidence, comments, whether written or oral, presented at the public hearing or received prior to the close of the public hearing.

SEC. 72. Section 16706 of the Welfare and Institutions Code is amended to read:

16706. (a) The distribution of funds pursuant to subdivision (b) of Section 16704 shall be made prospectively on a quarterly basis in accordance with regulations of the department. The distribution of funds pursuant to paragraph (1) of subdivision (c) of Section 16704 may be made in advance of the executed standard agreement on a monthly basis on or about the 15th of the month in accordance with regulations of the department. The director shall make adjustments in succeeding fiscal years for failure to comply with the terms of the agreement.

(b) The department may make adjustments to the monthly payments made to each county pursuant to paragraph (1) of subdivision (c) of Section 16704 if the county fails to expend such funds as specified in the agreement. The department shall recover any unexpended funds and may recover any funds not expended in accordance with the agreement.

(c) Each local jurisdiction receiving funds pursuant to Section 16704 shall submit the following reports to the department in the form and according to the procedures established by the department:

(1) A report of estimated actual expenditures, revenues, and net county costs for the services provided in accordance with the county health services plan and budget for the fiscal year for which the agreement with the local jurisdiction was in effect. This report shall be provided by November 15 of the fiscal year following the close of the fiscal year for which the agreement with the local jurisdiction was in effect, unless an extension of this date is formally granted by the department, and shall serve as the initial basis for recovery of funds not expended in accordance with the agreement. The department shall recoup to the extent feasible by March 15 of the fiscal year following the fiscal year for which the agreement with the local jurisdiction was in effect.

(2) A report of actual expenditures, revenues, and net county costs for the services provided in accordance with the county health services plan and budget for the fiscal year for which the agreement with the local jurisdiction was in effect. This report shall be provided by November 15 of the second fiscal year following the close of the fiscal year for which the agreement with the local jurisdiction was in

effect, unless an extention of this date is formally granted by the department, and shall serve as the final basis for recovery of funds not expended in accordance with the agreement, unless modified by actual audit findings officially adopted by the state. The department shall recoup to the extent feasible by March 15 of the second fiscal year following the fiscal year for which the agreement with the local jurisdiction was in effect.

(d) The director shall withhold, in part or in whole, payment of county health services funds to a local jurisdiction, until the reports specified in subdivision (b) have been received by the department.

SEC. 73. Section 16707 of the Welfare and Institutions Code is amended to read:

16707. Savings that occur in the County Health Services Fund due to a lack of applications for funds or for failure of local jurisdictions to expend funds as required to qualify for funding under this part may be allocated by the State Director of Health Services upon application by the governing body of any local jurisdiction in accord with special needs and priorities established by the director. Such funds shall only be expended if a local jurisdiction agrees to net expenditures of local jurisdiction funds in the same amounts. Excluding the amounts available from previous fiscal years, the amount of savings which may be utilized by the department pursuant to Section 16707 shall be limited to two million dollars ($2,000,000) of the total amount of funds appropriated to the County Health Services Fund for fiscal year 1982–83, and for fiscal year 1983–84 and for each fiscal year thereafter, the amount of savings which may be utilized by the department pursuant to Section 16707 shall be limited to one quarter of one percent of the total amount of funds appropriated to the County Health Services Fund. Any funds in excess of that amount shall revert to the General Fund.

The director shall establish a systematic process for the annual defining of needs and priorities under this section. The process shall include at least the following:

(a) Consulting with the California Conference of Local Health Officers and, the County Supervisors Association of California.

(b) Holding a hearing for input from other interest groups and the general public.

(c) Allocating funds available pursuant to this section not sooner than 30 days after notification of the priority funding areas and justification therefor in writing to the chairman of the committee in each house which considers appropriations and the Chairperson of the Joint Legislative Budget Committee.

Special consideration shall be given in defining needs and priorities to crises in the public health sector and to innovative approaches to the delivery of health care that assure quality services at reasonable cost.

The director shall report annually to the Legislature on the prior year's distribution of funds under this section.

The Department of Health Services is authorized to utilize funds

that accumulate in the County Health Services Fund for special needs and priorities pursuant to this section for administration of this program so long as these costs are authorized through the regular budget process.

SEC. 74. Section 16708 of the Welfare and Institutions Code is amended to read:

16708. Expenditures subject to payment shall include expenditures for salaries of personnel, facilities and services provided through contract, operation, service and maintenance costs, depreciation of local jurisdiction facilities, and other expenditures as may be approved by the director.

The State Department of Health Services shall develop a plan whereby local jurisdiction costs for the administration of health services plans and budgets will be effectively controlled within the amounts annually appropriated pursuant to this part. The plan, to be known as the County Health Services Administrative Cost Control Plan, may be used by the director in approving or disapproving expenditures for administrative costs subject to payment pursuant to this part. It is the intent of the Legislature that administrative costs covered by the County Health Services Administrative Cost Contol Plan shall be limited to 5 percent of the funds annually appropriated pursuant to this part. The department shall submit an annual report to the Legislature on actual administrative costs and methods employed to achieve this limit.

SEC. 75. Section 16709 is added to the Welfare and Institutions Code, to read:

16709. (a) The Board of Supervisors of a county with a population under 300,000, as determined in accordance with the 1980 decennial census, may enter into a contract with the department and the department may enter into a contract with such county under which the department agrees to administer the program responsibilities for specified health services to county residents certified eligible for such services by the county. Any county may also elect to act jointly on a regional basis with other counties in assuming the program responsibilities and claim state funds on a joint basis.

(b) For the period from January 1, 1983 to June 30, 1983, each county intending to contract with the department pursuant to this section shall submit to the department a notice of intent to contract adopted by the Board of Supervisors no later than November 15, 1982. For each fiscal year thereafter a notice adopted by the board shall be submitted no later than April 1 of the fiscal year preceding the fiscal year for which the agreement will be in effect in accordance with procedures established by the department.

(c) A county contracting with the department pursuant to this section shall not be relieved of its indigent health care obligation under Section 17000.

(d) The department shall establish a separate account in the County Health Services Fund. The following amounts may be

deposited in the account: (1) moneys alloted under subdivisions (c) and (d) of Section 16703 to each county electing to contract with the department under this section; (2) any interest earned upon money deposited in the account; (3) any other additional moneys provided by participating counties or appropriated by the Legislature to the account.

(e) Moneys in the account specified in subdivision (d) of this section shall be used by the department to (1) pay for health care services provided to the county residents meeting the eligibility criteria established pursuant to subdivision (i) of this section; and (2) defray the department's administrative costs incurred in implementing the provisions of this section. Costs for administering the provisions of this section shall be borne by the participating counties out of the account specified in subdivision (d). For costs of the initial implementation of the provisions of this section, which are incurred prior to signing contracts with the counties, the department is authorized to transfer up to $500,000 from Item 4260-101-001 (b) to Item 4260-101-001 (c) to fund fiscal intermediary changes and to Item 4260-001-001 to fund additional staff. The funds shall be repaid from the account specified in subdivision (d) to the General Fund by June 30, 1984. Any change order to the Medi-Cal fiscal intermediary contract that is required to carry out this section of this act shall be exempted from the 30-day notice to the Legislature required by the Budget Act of 1982, Section 2, Item 4260-101-001, Provision 22. Such change order shall be exempt from the Department of General Services review and approval. The funds shall be repaid by funds specified in subdivision (e) to the General Fund by June 30, 1984. Transfer of funds shall be subject to Department of Finance approval and legislative notification.

(f) Moneys in this account shall be administered on an accrual basis and notwithstanding any other provision of law, except as provided in this section, shall not be transferred to any other fund or account in the State Treasury except for purposes of investment as provided in Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code. All interest or other increment resulting from such investment shall be deposited in this fund, notwithstanding Section 16305.7 of the Government Code.

(g) At the end of each fiscal year, any savings in the account which accrue from contracts, once all service liabilities are liquidated, shall revert to the General Fund. The Governor may use these funds to establish an operating reserve for purposes of this section. If the Governor seeks to establish an operating reserve, the use of these funds shall be included in a separate line item in the Governor's Budget.

(h) Moneys appropriated pursuant to subdivision (c) and (d) of Section 16703 for counties electing to contract with the department pursuant to this section shall be deposited monthly as provided in subdivision (b) of Section 16706 in the account specified in

subdivision (d) of this section after execution of the contract specified in subdivision (a). The Department of Finance may accelerate the deposit of such funds when necessary to meet cash flow requirements.

(i) The state shall be at risk for any amount over and above the amount deposited in the account specified in subdivision (d) of this section only until June 30, 1983. As a condition of the state assuming this risk, the department may require uniform eligibility criteria and benefits to be provided which shall be mutually established by participating counties in conjunction with the department. The department in consultation with the counties may revise these eligibility criteria and benefits or reduce rates of payment during the fiscal year in order to assure that sufficient funds are available for health services to county residents certified as eligible for such services. For fiscal year 1983–84 and subsequent years, the counties shall be collectively at risk for any amount over and above that amount. Counties and the department shall work collectively to ensure that expenditures do not exceed the funds available in the account and may adjust eligibility and benefit criteria and payments accordingly.

(j) The Legislature hereby determines that an expedited contract process for contracts under this section is necessary. Contracts under this section shall be exempt from the provisions of Chapter 6 (commencing with Section 14780) of Part 5.5 of Division 3 of the Government Code. Contracts shall have no force and effect unless approved by the Department of Finance.

(k) The state shall not incur any liability except as specified in this section.

SEC. 76. Section 16717 is added to the Welfare and Institutions Code, to read:

16717. Notwithstanding any other provision of law, a county may enter into contracts with selected providers to provide health care services in expending funds provided pursuant to this part and Part 5 (commencing with Section 17000). The county may negotiate such reimbursement or payment arrangements it desires in such contracts. A county shall not be obligated to pay for health care services unless pursuant to a contract or the county has specifically authorized such services and agreed to payment. All such contracts shall be available for review by the department. A county may require county residents specified in this part and Part 5 to use county facilities or county selected providers. This section may not be construed to limit a county's existing obligations to furnish health care.

SEC. 76.5. Notwithstanding Item 398.6 of the Budget Act of 1962 (Ch.1, 2nd Ex. Session of 1962) to the contrary, Del Norte County shall not be obligated to repay any remaining principal or interest with respect to the money allocated to the county pursuant to that item.

SEC. 77. Section 53 of Chapter 328 of the Statutes of 1982 is

amended to read:

Sec. 53. For the 1982–83 fiscal year, in order to effectuate savings under the Medi-Cal program, the State Department of Health Services shall:

(1) Reduce by 10 percent, rates of reimbursement for services provided by physicians, podiatrists, and outpatient departments of hospitals. This provision shall not be construed to apply to outpatient services provided by clinics licensed pursuant to Chapter 1 (commencing with Section 1200) of Division 2 of the Health and Safety Code.

This provision shall not be construed to apply to laboratory and pathology services or to freestanding clinics exempt from licensure under Section 1206.

(2) It is the intent of the Legislature to reduce pharmacy program expenditures, exclusive of the drug dispensing fee reduction provided for in paragraph (8), by sixteen million dollars ($16,000,000) General Fund money. To achieve this savings goal, the department shall eliminate drugs, medical supplies, nonprescription and prescription drugs from the Medi-Cal Drug Formulary, or from the Medi-Cal program, and implement other utilization controls for retained items. In implementing this provision, the director shall determine which drugs shall be eliminated based on standards of cost, critical therapeutic importance, safety, efficacy and need. It is the intent of the Legislature that, in making these reductions, the department shall give priority consideration to the elimination of common medicine chest medical supply items, over-the-counter drug products, prescription drug products which afford minor symptomatic relief, and codeine and other narcotic analgesics. The department shall, however, allow codeine prescriptions under all of the following conditions; (1) a prescription shall include no more than 30 dosage units, (2) a dosage unit shall be no greater than one-half grain, and (3) no codeine compound shall contain aspirin, phenactin, or caffeine, in any combination. In establishing a new savings estimate for this paragraph, the department shall give priority to reinstating drugs or drug items to assist persons with chronic illness living in dependent care situations. In implementing this provision, the department shall consider the special circumstances of persons residing in nursing homes and therefore shall make available through prior authorization antihistamines and cough and cold preparations. In implementing this provision, the Director of Health Services shall not be required to comply with the provisions of Sections 14053.6 and 14184 of the Welfare and Institutions Code, insofar as the latter section requires the director to receive a report from the Medical Therapeutics and Drug Advisory Committee prior to making determinations as to the additions and deletions from the formulary.

(3) Eliminate nonemergency medical transportation services, except for: ambulance transportation services as required by Section 14136.1 of the Welfare and Institutions Code; appropriate medical

transportation for patients who require continuing medical care such as dialysis, chemotherapy or radiation therapy, and who would be placed in a life-threatening situation if medical care were not provided; and appropriate medical transportation for patients being transported between a hospital and a skilled nursing facility or intermediate care facility, patients being transported from a skilled nursing facility or intermediate care facility to points of needed outpatient services, patients being discharged from a licensed health facility to their residence, patients being transferred from hospital to hospital, and patients being transferred between licensed health facilities if the Department of Health Services has closed the facility due to violation of state licensing standards.

(4) Eliminate coverage of hearing aid replacement batteries and reduce rates of reimbursement for fitting and dispensing of hearing aids by 10 percent.

(5) Reduce rates of reimbursement for acupuncture treatment by 10 percent.

(6) Reduce rates of reimbursement for portable X-ray services by 10 percent and provide more restrictive utilization controls for portable X-ray services in accordance with Section 14133.3 of the Welfare and Institutions Code.

(7) Reduce rates of reimbursement for chiropractic by 10 percent.

(8) Reduce rates of reimbursement for drug dispensing services by 9.6 percent, except for dispensing services provided to persons in skilled nursing and intermediate care facilities, provided that no such reimbursement reduction shall be operative until after the department has implemented the provisions of subdivision (b) of Section 14134.

(9) Reduce rates of reimbursement for laboratory and pathology services, including specimen collection and handling, which are performed by all but hospital inpatient providers, by an overall average of 25 percent. Rates for individual procedures may be adjusted by more or less than the overall 25 percent reduction to reflect changes in technology based on appropriate relative value studies.

(10) Limit coverage of adult vision care services provided by any provider to services necessary to determine whether a condition may be present which could lead to significant disability or threaten the life of the beneficiary or others. If such circumstances are present, medically necessary diagnostic and supplementary services may also be covered. The visual acuity reading of 20/40 or poorer in the worst eye is necessary for full comprehensive visual examinations. Prescribing, directing the use of, or using, any optical device in connection with ocular exercises, visual training, vision training, or orthoptics are not covered.

(11) Limit coverage of eyeglasses to situations when the beneficiary does not have eyeglasses available and the refractive correction supplied is at least 1.00 diopter in all meridians of both lenses. When eyeglasses are available, a 1.00 diopter change is also

necessary. Astigmatic corrections of at least 1.00 diopter shall be covered. Presbyopic corrections of at least 1.00 diopter shall be covered for reading glasses.

(12) Reduce expenditures for dental services by 10 percent either through reimbursement rate reductions, service reductions, or a combination of both. Reimbursement rate or service reductions provided for under this paragraph shall be made only after consultation with the California Dental Service.

(13) Reduce by 10 percent, rates of reimbursement for psychological services provided on a fee-for-service basis.

(14) Provide for utilization controls in accordance with Section 14133.3 concerning provision of durable medical equipment.

SEC. 78. Section 52 of Chapter 328 of the Statutes of 1982 is amended to read:

Sec. 52. In order to effectuate savings in the Medi-Cal program, the State Department of Health Services shall, during the 1982–83 fiscal year, provide for more restrictive utilization controls, including prior authorization requirements, for podiatric services and therapist services without regard to the restrictions of Section 14133.1.

SEC. 79. For the 1982–83 fiscal year, no funds appropriated in the Budget Act for purposes of reimbursing providers under the Medi-Cal program shall be used for payment for diagnostic pathological examination of body fluids or tissues unless the payment is made to a provider actually performing the laboratory services. For purposes of this section, services shall be deemed to have been performed by the provider if the services are provided by the provider personally, or by an employee of the provider.

SEC. 80. Section 48 of the Chapter 328 of the Statutes of 1982 is amended to read:

Sec. 48. (a) The Legislature hereby awards Los Angeles County a grant in the amount of two hundred million dollars ($200,000,000) for the purpose of funding the transition from the present system to a new county system of providing medical assistance to medically indigent adults.

(b) An agreement shall be executed between the State Department of Health Services and Los Angeles County no later than September 30, 1982, whereby the department agrees to make the payments pursuant to Section 81 of this act and Los Angeles County agrees to the conditions contained in the agreement specified in Section 16704 of the Welfare and Institutions Code for the 1982–83 fiscal year.

SEC. 81. Section 49 of Chapter 328 of the Statutes of 1982 is amended to read:

Sec. 49. (a) There is hereby established within the General Fund a reserve account to be known as the Los Angeles County Medical Assistance Grant Account.

(b) The sum of two hundred million dollars ($200,000,000) of the General Fund shall be deposited by the Controller in this account as follows:

(1) One hundred million dollars ($100,000,000) during the 1983–84 fiscal year, and

(2) One hundred million dollars ($100,000,000) during the 1984–85 fiscal year.

(c) There is hereby appropriated for the 1984–85 fiscal year the sum of two hundred million dollars ($200,000,000) from the Los Angeles County Medical Assistance Grant Account of the General Fund to the Los Angeles Special Grant Account of the County Health Services Fund hereby created. This appropriation shall be expended in June 1985 to meet the obligation described in Section 48 of Chapter 328 of the Statutes of 1982.

(d) Notwithstanding any other provision of law, the State Department of Health Services shall reduce payment of the allocations available to Los Angeles County pursuant to Sections 16702 and 16703 of the Welfare and Institutions Code for the 1982–83 fiscal year by two hundred million dollars ($200,000,000). This amount shall be transferred from the related accounts in the County Health Services Fund as determined by the department to the Health Care Deposit Fund for reimbursement of the Medical Assistance Program, Benefits (Medical Care and Services) on the date the agreement specified in Section 48 of Chapter 328 of the Statutes of 1982.

SEC. 82. Sections 8, 9, 10, 10.5, 11, 12, 13, 14, 14.5, 18, 19 and 69 of this act shall become operative on January 1, 1983.

SEC. 83. Section 50 of Chapter 328 of the Statutes of 1982 is amended to read:

Sec. 50. (a) It is the specific intent of the Legislature to authorize Los Angeles County to meet its cash requirements occasioned by the transition to the new system of treating medically indigent adults by borrowing against the security of the grant pursuant to Sections 53859 et seq. of the Government Code. For the purposes of this section, and Sections 53859 et seq. of the Government Code, the full amount of the grant awarded and appropriated pursuant to Sections 48 and 49 of Chapter 328 of the Statutes of 1982, shall be conclusively presumed to be presently appropriated and committed, to be income and revenue to Los Angeles County for the 1982–83 fiscal year, and to be accrued by the county for the 1982–83 fiscal year.

(b) The grant funds received from the State pursuant to this section and Section 49 of Chapter 328 of the Statutes of 1982, and the proceeds of grant anticipation notes sold pursuant to this section shall be placed in a separate fund. Moneys in this fund may be expended only to reimburse other county funds which would have otherwise been reimbursed by the state pursuant to Section 16704 of the Welfare and Institutions Code and to retire the principal and interest on the notes. No other county moneys may be expended for the purposes of the expenditures specified in the preceding sentence until such expenditures exceed one hundred ninety million dollars ($190,000,000).

(c) The county may, after June 30, 1982, deposit in this fund any

revenues attributable to the fiscal year 1982–83 but received thereafter to the extent that proceeds from the grant are not expected to be sufficient to repay the principal or interest on such grant anticipation notes. Total deposits to this fund may not exceed the amount required to repay the principal and interest of such grant anticipation notes.

SEC. 84. Section 51 of Chapter 328 of the Statutes of 1982, is amended to read:

Sec. 51. Notwithstanding any other provision of law, during the 1983–84 and 1984–85 fiscal years, the maximum allocation of County Health Services funds available to Los Angeles County pursuant to Sections 16703 and 16704 of the Welfare and Institutions Code shall be paid to Los Angeles County during July of those fiscal years by the State Department of Health Services. If Los Angeles County does not meet its required net county costs or the conditions specified in the agreement executed pursuant to Section 16704 of the Welfare and Institutions Code the resulting overpayment of the advanced payment made in July, shall be returned to the County Health Services Fund. The county auditor shall deposit such payments in a special trust fund from which he shall make disbursements to other county funds at the time such payments would, except for provisions of this section, be received from the state.

SEC. 85. Under the terms of the selective provider contracting sections of this act, in seeking alternative approaches to the provision of high quality, cost effective services under the Medi-Cal program, special consideration shall be given to the pilot programs established pursuant to Chapters 8 and 134 of the Statutes of 1982.

SEC. 86. Section 8.3 of Chapter 328 of the Statutes of 1982 is amended to read:

Sec. 8.3. In eliminating medically indigent adults from the Medi-Cal program, it is the intent of the Legislature to transfer funds to the counties for the provision of health care services. These funds shall be consolidated with existing county health services funds in order to provide health services to low-income persons and other persons not eligible for the Medi-Cal program. In furtherance of this intent, all counties shall implement the provisions of this act relating to the medically indigent adults by January 1, 1983. However, counties, at their discretion, may implement the service consolidation provisions of Section 16717 of the Welfare and Institutions Code at any time prior to January 1, 1983, if a contract has been signed pursuant to Section 14005.10 of the Welfare and Institutions Code.

It is further the intent of the Legislature to provide counties with as much flexibility as possible in organizing county health services to serve the population being transferred.

SEC. 87. (a) Any provision which is in conflict with any federal statute or regulation shall be inapplicable to the extent of such conflict, but the provision and the remainder of the provisions shall be unaffected to the extent no conflict exists.

(b) The State Department of Health Services shall seek all federal waivers necessary to implement the provisions. The provisions for which appropriate federal waivers cannot be obtained shall not be implemented, but provisions for which waivers are either obtained or found to be unnecessary shall be unaffected by the inability to obtain federal waivers for the other provisions.

(c) The State Director of Health Services shall adopt regulations implementing the provisions as emergency regulations in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For the purposes of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. Notwithstanding the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, emergency regulations adopted by the Department of Health Services in order to implement the provisions shall not be subject to the review and approval of the Office of Administrative Law. These regulations shall become effective immediately upon filing with the Secretary of State.

(d) 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. 88. Nothing in Section 1251.3 of the Health and Safety Code and Sections 14040 and 14041 of the Welfare and Institutions Code, as amended by this act shall be construed in a manner which interferes with existing contractual rights, and all obligations imposed by this act on the director shall be construed as being consistent with and enforceable under such contracts as may be in force as of the effective date of this act.

Section 14041 of the Welfare and Institutions Code, as added by this act, shall not apply to the contract to provide fiscal intermediary services for the Medi-Cal program between the State Department of Health Services and Computer Sciences Corporation in effect on the effective date of this act.

SEC. 89. The provisions of Section 1251.3 of the Health and Safety Code and Sections 14040 and 14041 of the Welfare and Institutions Code, as amended by this act shall not be construed so as to affect any contract for the provision of dental services entered into pursuant to Article 7 (commencing with Section 14490) of Chapter 8 of Part 3 of Division 9 of the Welfare and Institutions Code.

SEC. 90. Section 28.35 of Chapter 326 of the Statutes of 1982, is amended to read:

Sec. 28.35. The State Department of Health Services shall prepare and submit Medi-Cal program assumptions and estimates to the Department of Finance and the Legislature. The purpose of the

assumptions and estimates shall be to clearly identify changes within the Medi-Cal program which have policy and/or fiscal implications, and to produce reliable forecasts of Medi-Cal expenditures.

Medi-Cal program assumptions and estimates shall be organized by and correspond to Budget Act and/or Budget Bill item numbers, separately identifying expenditures for (a) purchase of medical care and services, (b) rate increases, (c) county eligibility determinations, (d) fiscal intermediary services, and (e) departmental support. Such estimates and assumptions shall indicate state and federal as well as total funds expended.

The State Department of Health Services shall submit, by October 20 and March 1, to the Department of Finance for its approval, all assumptions underlying all Medi-Cal program estimates. The Department of Finance shall approve or modify, in writing, the assumptions underlying all estimates within 10 working days of their receipt. If the Department of Finance does not so approve or modify the assumptions by such date, the assumptions, as presented by the department, shall be deemed to be approved by the Department of Finance as of that date. Assumptions shall be released to the legislative fiscal committees immediately following approval or modification by the Department of Finance.

The Department of Health Services shall submit an estimate of Medi-Cal program expenditures to the Department of Finance within 15 working days from receipt of the approved or modified assumptions. The Department of Finance shall approve or modify the estimate within 15 working days of its submission. If the Department of Finance does not approve or modify the estimate by such date, it shall be deemed to be accepted by the Department of Finance as of that date. All approved estimates and supporting data provided by the Department of Health Services or developed independently by the Department of Finance, shall be made available to the Joint Legislative Budget Committee, Senate Finance and Assembly Ways and Means Committee immediately following approval by the Department of Finance. However, such departmental estimates for health care services with supporting data shall be forwarded to the legislative fiscal committees not later than January 10 and May 15 in the event this information has not been released earlier Estimates for fiscal intermediary services and county administrative activities shall be forwarded to the legislative fiscal committees not later than January 10 and May 1.

Each Medi-Cal assumption shall contain a clear narrative description of the statutory, regulatory, or policy change or other change that has occurred or will occur which effects Medi-Cal program expenditures or which is of policy importance. Each assumption shall include a cost estimate which contains relevant workload, caseload, unit cost and other data or information needed to support the estimate.

The assumptions related to purchase of medical care and services shall include a section with a nontechnical description of the major

variables used to produce a base projection. This section shall further contain an estimate of the fiscal impact of the use of such variables. The estimates related to purchase of medical care and services shall include current and budget year base projections of eligibles, users, expenditures and cost per user by quarter with sufficient past actual data to permit evaluation of such projections. Such projections shall be prepared by service category and aid category. The Department of Finance shall identify a high, mid, and low range of Medi-Cal service expenditures, which shall be accompanied by assumptions, when the estimates are released to the Legislature.

The assumptions and/or estimates related to fiscal intermediary services shall contain a narrative description of how such forecasts are prepared. Sufficient historical workload by claim type and expenditure data shall accompany the forecasts to permit evaluation. Change orders to the fiscal intermediary contract shall be fully described and costs estimated. In addition, important modifications to the Medi-Cal claims processing system not associated with change orders shall be described and, if appropriate, cost and/or savings estimated.

Assumptions and/or estimates related to county Medi-Cal eligibility determination costs shall contain a narrative description of how the forecast was prepared. Current and budget year estimates by county shall be prepared. Such estimates shall compare past actual and projected workload and expenditures in a format which will permit evaluation of forecasts. Expenditures for Los Angeles County hospital eligibility work shall be separately identified. Changes in expenditure estimates for individual counties resulting from allocation of funds or other factors shall be identified in subsequent estimates. Unallocated funds and funds for special projects and/or special problems shall be separately identified. The department shall compare budgeted and actual expenditures by county as soon as the information from county quarterly costs reports becomes available.

The estimates shall compare budgeted to implemented rate increases for the current year. Such comparisons shall be by provider category and shall compare budgeted to implemented increases in terms of percentage increases, date of implementation, and revised estimated cost.

SEC. 91. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to effectuate necessary changes in the Medi-Cal program, it is necessary that this act go into immediate effect.

CHAPTER 1595

An act to amend Section 1422 of the Health and Safety Code, relating to health.

[Approved by Governor September 30, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 1422 of the Health and Safety Code is amended to read:

1422. (a) The Legislature finds and declares that it is the public policy of this state to assure that long-term health care facilities provide the highest level of care possible. The Legislature further finds that inspections are the most effective means of furthering this policy. It is not the intent of the Legislature by the amendment of subdivision (b) enacted at the 1982 portion of the 1981–82 Regular Legislative Session to reduce in any way the resources available to the state department for inspections, but rather to provide the state department with the greatest flexibility to concentrate its resources where they can be most effective.

(b) Without providing notice of these inspections, the state department shall, in addition to any inspections conducted pursuant to complaints filed pursuant to Section 1419, conduct inspections annually, except with regard to those facilities which have no class A or class B violations in the past two inspection years, and the department shall also conduct inspections as may be necessary to assure the health, safety, and security of patients in long-term care health facilities. Every facility shall be inspected at least once every two years.

SEC. 2. The Legislature hereby finds and declares that there are insufficient resources within the State Department of Health Services, Licensing and Certification Division, to focus in-depth investigative attention on those skilled nursing facilities which, based on the number of complaints, the substance of complaints, and survey team reports, constitute a significant threat to the health and safety of the residents in those facilities. It is recognized that the majority of skilled nursing facilities licensed by the state do not fall within this description and that the abusive behavior by a small but significant number of skilled nursing facilities does not reflect on the service and character of the majority of the facilities which fill an important need in the community and are law abiding.

Therefore, the Legislature hereby finds and declares there is a need to identify those few skilled facilities that constitute a significant threat to the health and safety of the residents in order to pursue appropriate criminal prosecution or administrative action, or both, against such facilities.

CHAPTER 1596

An act to add and repeal Section 11019.5 of the Government Code, and to amend Section 5714 of the Welfare and Institutions Code, relating to public funds.

[Approved by Governor September 30, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 11019.5 is added to the Government Code, to read:

11019.5. (a) Notwithstanding any other provision of law, but to the extent consistent with applicable federal law or regulation, any state department specified in subdivision (b), after receiving a request by a board of supervisors of an affected county which has a population of 100,000 or less as of January 1, 1983, and upon determining that advance payment is essential to the effective implementation of a particular program, and further to the extent that funds are available, and not more frequently than once each month, may advance to the county an amount not to exceed one-twelfth of the annual allocations, subventions or reimbursements required for the delivery of services by a county.

(b) The provisions of this section shall apply to the Department of Corrections, the Department of Health Services, and the Department of Mental Health.

(c) The director of each department specified in subdivision (b) shall promulgate regulations and a plan to establish control procedures to define the scope of operational information required from a county in order to guarantee advance payments pursuant to this section. No county may receive an advance payment unless the county has complied with the provisions of the department's plan and regulations. Each department plan shall be approved by the Department of Finance prior to its implementation.

(d) Claim schedules for advance payments shall be presented to the appropriate department in the manner prescribed by the department. Payment of claims shall be made within 60 days after a claim is received by the department.

(e) Each department specified in subdivision (b) shall review periodically and adjust advances to actual expenditures for the claim period. Additionally, each department shall take into consideration the timing of the implementation of new programs in the computation of advances. The authority contained in this chapter shall not supersede or limit any other provision of law authorizing the state to conduct required audits of claims transactions.

(f) A county, upon determining that an advance payment is essential for the effective implementation of a particular program, and to the extent funds are available, and not more frequently than

once each month, may advance to other affected local public agencies located within its jurisdiction (i.e., school districts, special districts, cities, etc.) an amount not to exceed one-twelfth of the annual allocations, reimbursements or subventions required for the delivery of services pursuant to related state and federal laws.

(g) This section shall remain in effect only until January 1, 1986 and as of that date is repealed, unless a later enacted statute chaptered prior to that date extends or deletes that date.

SEC. 2. Section 5714 of the Welfare and Institutions Code is amended to read:

5714. Of the funds allocated to each county in accordance with Sections 5704 to 5708, inclusive, the State Department of Mental Health shall reimburse to each county the amount required by that county to carry out its local mental health activity in accordance with the approved county Short-Doyle plan required by Chapter 2 (commencing with Section 5650) of this part and in accordance with the provisions of Section 5705. So much of each county allocation as is required to care for patients in state hospitals shall be retained by the state and used to support such hospitals. During each fiscal year such reimbursement shall be for one-month periods, commencing with the month of July of the same year.

Claims for reimbursement shall be presented to the State Department of Mental Health within 30 days after the close of the period for which such reimbursement is sought.

At the request of a local mental health director, the State Department of Mental Health may allow the claim for any reimbursement period to be presented within 60 days after the close of the period for which reimbursement is sought if the department finds that the presenting of the claim within the 30 days after the close of such period would create a hardship on the county. The department shall pay a county for reimbursable services rendered within the 60 days of receipt of a claim.

CHAPTER 1597

An act to amend Sections 1422, 1423, 1424, and 1428 of the Health and Safety Code, relating to health care facilities.

[Approved by Governor September 30, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 1422 of the Health and Safety Code is amended to read:

1422. (a) The Legislature finds and declares that it is the public policy of this state to assure that long-term health care facilities provide the highest level of care possible. The Legislature further

finds that inspections are the most effective means of furthering this policy. It is not the intent of the Legislature by the amendment of subdivision (b) enacted at the 1982 portion of the 1981–82 Regular Session to reduce in any way the resources available to the state department for inspections, but rather to provide the state department with the greatest flexibility to concentrate its resources where they can be most effective.

(b) Without providing notice of these inspections, the state department shall, in addition to any inspections conducted pursuant to complaints filed pursuant to Section 1419, conduct inspections annually, except with regard to those facilities which have no class A or class B violations in the past two inspection years, and the department shall also conduct inspections as may be necessary to assure the health, safety, and security of patients in long-term care health facilities. Every facility shall be inspected at least once every two years.

SEC. 2. Section 1423 of the Health and Safety Code is amended to read:

1423. (a) If upon inspection or investigation the director determines that a long-term health care facility is in violation of any statutory provision or rule or regulation relating to the operation or maintenance of such facility, except with respect to violations determined to have only a minimal relationship to safety or health pursuant to Section 1427, the director shall promptly, but not later than 24 hours, excluding Saturday, Sunday, and holidays, after the director determines or has reasonable cause to determine that an alleged violation has occurred, issue a notice to correct the violation and of intent to issue a citation to the licensee. The citation shall be served upon the licensee within three days after completion of the inspection, excluding Saturday, Sunday, and holidays, unless the licensee agrees in writing to an extension of such time. Service shall be effected either personally or by registered or certified mail. A copy of the citation shall also be sent to each complainant. Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the statutory provision, standard, rule or regulation alleged to have been violated, the particular place or area of the facility in which it occurred, as well as the amount of any proposed assessment of a civil penalty. The name of any patient jeopardized by the alleged violation shall not be specified in the citation in order to protect the privacy of the patient. However, at the time the licensee is served with the citation, the licensee shall also be served with a written list of each of the names of the patients alleged to have been jeopardized by the violation, which shall not be subject to disclosure as a public record. The citation shall fix the earliest feasible time for the elimination of the condition constituting the alleged violation, when appropriate.

(b) Where no harm to patients or guests has occurred, a single incident, event, or occurrence shall result in no more than one citation for each regulation violated.

(c) No citation shall be issued for a violation which has been reported by the licensee to the state department, or its designee, as an "unusual occurrence," if all of the following conditions are met:

(1) The violation has not caused harm to any patient or guest, or significantly contributed thereto.

(2) The licensee has promptly taken reasonable measures to correct the violation and to prevent a recurrence.

(3) The unusual occurrence report was the first source of information reported to the state department, or its designee, regarding the violation.

SEC. 3. Section 1424 of the Health and Safety Code is amended to read:

1424. Citations issued pursuant to this chapter shall be classified according to the nature of the violation and shall indicate the classification on the face thereof, as follows:

(a) Class "A" violations are violations which the state department determines present either (1) imminent danger that death or serious harm to the patients or guests of the long-term health care facility would result therefrom, or (2) substantial probability that death or serious physical harm to patients or guests of the long-term health care facility would result therefrom. A physical condition or one or more practices, means, methods, or operations in use in a long-term health care facility may constitute such a violation. The condition or practice constituting a class "A" violation shall be abated or eliminated immediately, unless a fixed period of time, as determined by the state department, is required for correction. A class "A" violation is subject to a civil penalty in an amount not less than one thousand dollars ($1,000) and not exceeding five thousand dollars ($5,000) for each and every violation.

(b) Class "B" violations are violations which the state department determines have a direct or immediate relationship to the health, safety, or security of long-term health care facility patients, other than class "A" violations. A class "B" violation is subject to a civil penalty in an amount not less than fifty dollars ($50) and not exceeding two hundred fifty dollars ($250) for each and every violation. A citation for a class "B" violation shall specify the time within which the violation is required to be corrected.

If a class "B" violation is corrected within the time specified, no civil penalties shall be imposed, unless it is a second or subsequent violation of the same regulation occurring within the period since and including the previous full annual licensing survey inspection or 12 months, whichever is greater. In no case shall the period extend beyond 13 months. At the informal conference, the director's designee may waive or reduce the penalty as specified in subdivision (a) of Section 1428, taking into consideration the seriousness of the previous and present violations, the similarity between the two violations, the extent to which there is a direct relationship to the health and safety or security of patients and the good faith exercised by the licensee in correcting the problem. The decision to waive or

not to waive these penalties shall not be reviewable.

SEC. 4. Section 1428 of the Health and Safety Code is amended to read:

1428. (a) If a licensee desires to contest a citation or the proposed assessment of a civil penalty therefor, the licensee shall within five business days after service of the citation notify the director in writing of his or her request for an informal conference with the designee of the director for the county in which the cited long-term health care facility is located. The director's designee shall hold, within five business days from the receipt of the request, an informal conference, at the conclusion of which he or she may affirm, modify, or dismiss the citation or proposed assessment of a civil penalty. If the director's designee modifies or dismisses the citation or proposed assessment of a civil penalty, he or she shall state with particularity in writing his or her reasons for such action, and shall immediately transmit a copy thereof to each party to the original complaint. If the licensee desires to contest a decision made after the informal conference, the licensee shall inform the director in writing within five business days after he or she receives the decision by the director's designee. If the licensee fails to notify the director in writing that he or she intends to contest the citation or the proposed assessment of a civil penalty therefor or the decision made by a director's designee after an informal conference within the time specified in this subdivision, the citation or the proposed assessment of a civil penalty or the decision by a director's designee after an informal conference shall be deemed a final order of the state department and shall not be subject to further administrative review.

(b) A licensee may, in lieu of contesting a citation pursuant to this section, transmit to the department the minimum amount specified by law for each violation within five business days after the issuance of the citation.

(c) If a licensee notifies the director that he or she intends to contest a citation, the director shall immediately notify the Attorney General. Upon notification, the Attorney General shall promptly take all appropriate action to enforce the citation and recover the civil penalty prescribed thereon, and shall take such other action as the Attorney General shall deem appropriate, in the superior court in the county in which the long-term health care facility is located.

(d) In assessing the civil penalty for each count of a violation, a court shall consider the nature of the violation and the seriousness of the effect of such violation upon the effectuation of the purposes and provisions of this chapter.

(e) An assessment of civil penalties authorized by this chapter shall be trebled and collected, except as provided for by law, for a second or subsequent violation occurring within any 12-month period, if a citation was issued and a civil penalty assessed for the previous violation occurring within such period, without regard to whether the action to enforce the previous citation has become final.

However, the increment to the civil penalty required by this subdivision shall not be due and payable unless and until such previous action has terminated in favor of the state department.

(f) Actions brought under the provisions of this chapter shall be set for trial at the earliest possible date and shall take precedence on the court calendar over all other cases except matters to which equal or superior precedence is specifically granted by law. Times for responsive pleading and for hearing any such proceeding shall be set by the judge of the court with the object of securing a decision as to subject matters at the earliest possible time.

(g) If the director's designee dismisses a citation as provided in subdivision (a), or if a contested citation is dismissed pursuant to court order, the state department shall take action immediately to ensure that the public record reflects in a prominent manner that the citation was dismissed.

(h) Upon a licensee notifying the director of its intent to contest a citation or citations totaling no more than fifteen thousand dollars ($15,000), either the state or the licensee may elect to submit the matter to binding arbitration. The parties shall agree upon an arbitrator designated from the American Arbitration Association in accordance with the association's established rules and procedures. The arbitration hearing shall be set within 45 days of the petitioner's election, but in no event less than 28 days from the date of selection of an arbitrator. The arbitration hearing may be continued up to 15 additional days if necessary at the arbitrator's discretion. The decision of the arbitrator shall be based upon substantive law and shall be binding on all parties, subject to judicial review. This review shall be limited to whether there was substantial evidence to support the decision of the arbitrator.

The arbitrator shall determine which of the parties are financially liable for arbitration costs based upon the position each took at the commencement of the arbitration proceedings compared to the decision of the arbitrator.

The retention of, renewal of, or application for a license to operate a skilled nursing facility or intermediate care facility shall, for purposes of the administration of this chapter, be deemed a written agreement to arbitrate contested citations within the meaning of Title 9 (commencing with Section 1280) of Part 3 of the Code of Civil Procedure. Without extending the time for commencement of these hearings, the provisions of Section 1283.05 of the Code of Civil Procedure shall be applicable to all proceedings to arbitrate citations issued pursuant to this chapter, except that depositions may be noticed and taken without prior approval of the arbitrator.

Penalties paid on violations under this chapter shall be applied against the state department's accounts to offset any costs incurred by the state pursuant to this subdivision. Any costs or penalties assessed pursuant to the provisions of this chapter shall be paid within 30 days of date decision becomes final. If a facility does not comply with this provision, the state department shall withhold any

payment under the Medi-Cal program until the debt is satisfied. No payment shall be withheld if the department determines that it would cause undue hardship to the facility or to patients of the facility.

SEC. 5. The State Department of Health Services shall establish a health facility fee schedule for inclusion with the Budget for the 1983–84 fiscal year, which would structure fees based on the number of violations and the accumulated actual time spent by the department in licensing and monitoring the quality of care provided in each category of the facility.

The State Department of Health Services shall provide a report to the Legislature by January 1, 1984, on the adequacy of the provisions in Section 1 of this bill in relation to the Legislature's intent as expressed in Section 6.

SEC. 6. The Legislature hereby finds and declares that there are insufficient resources within the State Department of Health Services, Licensing and Certification Division, to focus in-depth investigative attention on those skilled nursing facilities which, based on the number of complaints, the substance of complaints, and survey team reports, constitute a significant threat to the health and safety of the residents in those facilities. It is recognized that the majority of skilled nursing facilities licensed by the state do not fall within this description and that the abusive behavior by a small but significant number of skilled nursing facilities does not reflect on the service and character of the majority of the facilities which fill an important need in the community and are law abiding.

Therefore, the Legislature hereby finds and declares there is a need to identify those few skilled facilities that constitute a significant threat to the health and safety of the residents in order to pursue appropriate criminal prosecution or administrative action, or both, against such facilities.

CHAPTER 1598

An act to amend Sections 5263, 5354, and 5362 of, to add Sections 5276.2 and 5651.3 to, to repeal Sections 4023 and 4024 of, and to repeal and add Article 4 (commencing with Section 5250) of Chapter 2 of Part 1 of Division 5 of, the Welfare and Institutions Code, relating to mental health.

[Approved by Governor September 30, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 4023 of the Welfare and Institutions Code is repealed.

SEC. 2. Section 4024 of the Welfare and Institutions Code is

repealed.

SEC. 3. Article 4 (commencing with Section 5250) of Chapter 2 of Part 1 of Division 5 of the Welfare and Institutions Code is repealed.

SEC. 4. Article 4 (commencing with Section 5250) is added to Chapter 2 of Part 1 of Division 5 of the Welfare and Institutions Code, to read:

Article 4. Certification for Intensive Treatment

5250. If a person is detained for 72 hours under the provisions of Article 1 (commencing with Section 5150), or under court order for evaluation pursuant to Article 2 (commencing with Section 5200) or Article 3 (commencing with Section 5225) and has received an evaluation, he or she may be certified for not more than 14 days of intensive treatment related to the mental disorder or impairment by chronic alcoholism, under the following conditions:

(a) The professional staff of the agency or facility providing evaluation services has analyzed the person's condition and has found the person is, as a result of mental disorder or impairment by chronic alcoholism, a danger to others, or to himself or herself, or gravely disabled.

(b) The facility providing intensive treatment is designated by the county to provide intensive treatment, and agrees to admit the person. No facility shall be designated to provide intensive treatment unless it complies with the certification review hearing required by this article. The procedures shall be described in the county Short-Doyle plan as required by Section 5651.3.

(c) The person has been advised of the need for, but has not been willing or able to accept, treatment on a voluntary basis.

5251. For a person to be certified under this article, a notice of certification shall be signed by two people. The first person shall be the professional person, or his or her designee, in charge of the agency or facility providing evaluation services. A designee of the professional person in charge of the agency or facility shall be a physician or a licensed psychologist who has a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders.

The second person shall be a physician or psychologist who participated in the evaluation. The physician shall be, if possible, a board certified psychiatrist. The psychologist shall be licensed and have at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders.

If the professional person in charge, or his or her designee, is the physician who performed the medical evaluation or a psychologist, the second person to sign may be another physician or psychologist unless one is not available, in which case a social worker or a registered nurse who participated in the evaluation shall sign the notice of certification.

5252. A notice of certification is required for all persons certified for 14 days intensive treatment, and shall be in substantially the following form:

The authorized agency providing evaluation services in the County of _____ has evaluated the condition of:

Name _____

Address _____

Age _____

Sex _____

Marital status _____

Religious affiliation _____

We the undersigned allege that the above-named person is, as a result of mental disorder or impairment by chronic alcoholism:

(1) A danger to others.

(2) A danger to himself or herself.

(3) Gravely disabled as defined in paragraph (1) of subdivision (h) or subdivision (*l*) of Section 5008 of the Welfare and Institutions Code.

The specific facts which form the basis for our opinion that the above-named person meets one or more of the classifications indicated above are as follows:

(certifying persons to fill in blanks) _____

_____

_____

[Strike out all inapplicable classifications.]

The above-named person has been informed of this evaluation, and has been advised of the need for, but has not been able or willing to accept treatment on a voluntary basis, or to accept referral to, the following services:

_____

_____

_____

_____

_____

We, therefore, certify the above-named person to receive intensive treatment related to the mental disorder or impairment by chronic alcoholism for no more than 14 days beginning this _____ day of _____, 19__, in the intensive treatment facility herein
(Month)
named _____.

_____
(Date)

Signed _____

Signed _____

Countersigned _____
(Representing facility)

I hereby state that I delivered a copy of this notice this day to the above-named person and that I informed him or her that a certification review hearing will be held within four days and that an

attorney or advocate will visit him or her to provide assistance in preparing for the hearing or to answer questions regarding his or her commitment or to provide other assistance.

Signed _____

5253. A copy of the certification notice shall be personally delivered to the person certified, the person's attorney, or the attorney or advocate designated in Section 5252. The person certified shall also be asked to designate any person whom he or she wishes informed regarding the certification. If he or she is incapable of making this designation at the time of certification, he or she shall be asked to designate a person as soon as he or she is capable.

5254. The person delivering the copy of the notice of certification to the person certified shall, at the time of delivery, inform the person that he or she is entitled to a certification review hearing to be held within four days to determine whether or not probable cause exists to detain the person for intensive treatment related to the mental disorder or impairment by chronic alcoholism. The person certified shall be informed of his or her rights with respect to the hearing, including the right to the assistance of another person to prepare for the hearing or to answer other questions and concerns regarding his or her involuntary commitment or both.

5254.1. The person delivering the copy of the notice of certification to the person certified shall, at the time of delivery, inform the person certified of his or her legal right to a judicial review by habeas corpus, and shall explain that term to the person certified, and inform the person of his or her right to counsel, including court-appointed counsel pursuant to Section 5276.

5255. As soon after the certification as practicable, an attorney or patient advocate shall meet with the person certified to discuss the commitment process and to assist the person in preparing for the certification review hearing or to answer questions or otherwise assist the person as is appropriate.

5256. When a person is certified for intensive treatment pursuant to this article, a certification review hearing shall be held unless judicial review has been requested as provided in Sections 5275 and 5276. The certification review hearing shall be within seven days of the initial detention of the person unless postponed for a period not to exceed 48 hours by request of the person or his or her attorney or advocate.

5256.1. The certification review hearing shall be conducted by either a court-appointed commissioner or a referee, or a certification review hearing officer. The certification review hearing officer shall be either a state qualified administrative law hearing officer, a medical doctor, a licensed psychologist, a registered nurse, a lawyer, a certified law student, or a licensed clinical social worker. Licensed psychologists, licensed clinical social workers, and registered nurses who serve as certification review hearing officers shall have had a minimum of five years experience in mental health. Certification

review hearing officers shall be selected from a list of eligible persons unanimously approved by a panel composed of the local mental health director, the county public defender, and the county counsel or district attorney designated by the county board of supervisors.

The location of the certification review hearing shall be compatible with, and least disruptive of, the treatment being provided to the person certified. In addition, hearings conducted by certification review officers shall be conducted at an appropriate place at the facility where the person certified is receiving treatment.

5256.2. At the certification review hearing, the evidence in support of the certification decision shall be presented by a person designated by the director of the facility. In addition, either the district attorney or the county counsel may, at his or her discretion, elect to present evidence at the certification review hearing.

5256.3. The person certified shall be present at the certification review hearing unless he or she, with the assistance of his or her attorney or advocate, waives his or her right to be present at a hearing.

5256.4. (a) At the certification review hearing, the person certified shall have the following rights:

(1) Assistance by an attorney or advocate.

(2) To present evidence on his or her own behalf.

(3) To question persons presenting evidence in support of the certification decision.

(4) To make reasonable requests for the attendance of facility employees who have knowledge of, or participated in, the certification decision.

(5) If the person has received medication within 24 hours or such longer period of time as the person conducting the hearing may designate prior to the beginning of the hearing, the person conducting the hearing shall be informed of that fact and of the probable effects of the medication.

(b) The hearing shall be conducted in an impartial and informal manner in order to encourage free and open discussion by participants. The person conducting the hearing shall not be bound by rules of procedure or evidence applicable in judicial proceedings.

(c) All evidence which is relevant to establishing that the person certified is or is not as a result of mental disorder or impairment by chronic alcoholism, a danger to others, or to himself or herself, or gravely disabled, may be admitted at the hearing and considered by the hearing officer.

5256.5. If at the conclusion of the certification review hearing the person conducting the hearing finds that there is not probable cause to believe that the person certified is, as a result of a mental disorder or impairment by chronic alcoholism, a danger to others, or to himself or herself, or gravely disabled, then the person certified may no longer be involuntarily detained. Nothing herein shall prohibit the person from remaining at the facility on a voluntary basis or the

facility from providing the person with appropriate referral information concerning mental health services.

5256.6. If at the conclusion of the certification review hearing the person conducting the hearing finds that there is probable cause that the person certified is, as a result of a mental disorder or impairment by chronic alcoholism, a danger to others, or to himself or herself, or gravely disabled, then the person may be detained for involuntary care, protection, and treatment related to the mental disorder or impairment by chronic alcoholism for 14 additional days beyond the end of the initial 72-hour detention period.

5256.7. The person certified shall be given oral notification of the decision at the conclusion of the certification review hearing. As soon thereafter as is practicable, the attorney or advocate for the person certified shall be provided with a written notification of the decision, which shall include a statement of the evidence relied upon and the reasons for the decision. The attorney or advocate shall notify the person certified of the certification review hearing decision and of his or her rights to file a request for release and to have a hearing on the request before the superior court as set forth in Article 5 (commencing with Section 5375).

5256.8. The requirement that there is a certification review hearing in accordance with this article shall apply only to persons certified for intensive treatment on or after January 1, 1983.

5257. During the 14-day additional treatment period, if, in the opinion of the professional person in charge of the facility providing treatment, or his or her designee, the person certified no longer is, as a result of mental disorder or impairment by chronic alcoholism, a danger to others, or to himself or herself, or gravely disabled, then the person's involuntary commitment shall end and the person shall be released. Nothing herein shall prohibit either the person remaining at the facility on a voluntary basis or the facility from providing the person with appropriate referral information concerning mental health services.

Persons who have been certified for 14 days of intensive treatment, and who are not sooner released, shall not be involuntarily detained beyond 14 days unless one of the following applies:

(a) Persons to whom Article 6 (commencing with Section 5300) is applicable.

(b) Persons for whom a temporary conservator is appointed pursuant to Chapter 3 (commencing with Section 5350).

(c) Persons to whom Article 4.5 (commencing with Section 5260) is applicable.

5258. After the involuntary commitment has begun, the total period of detention, including intervening periods of voluntary treatment, shall not exceed the total maximum period during which the person could have been detained, if the person had been detained continuously on an involuntary basis, from the time of initial involuntary commitment.

5259. Nothing in this article shall prohibit the professional person

in charge of a treatment facility, or his or her designee, from permitting a person certified for intensive treatment to leave the facility for short periods during the person's involuntary additional treatment.

5259.1. Any individual who is knowingly and willfully responsible for detaining a person in violation of the provisions of this article is liable to that person in civil damages.

5259.2. Whenever a county designates two or more facilities to provide treatment, and the person to be treated, his or her family, conservator, or guardian expresses a preference for one of these facilities, the professional person certifying the person to be treated shall attempt, if administratively possible, to comply with the preference.

5259.3. The professional person in charge of the facility providing intensive treatment, his or her designee, the court-appointed commissioner or referee, the certification review hearing officer conducting the certification review hearing, and the peace officer responsible for the detainment of the person shall not be held civilly or criminally liable for any action by a person released at or before the end of 14 days pursuant to this article.

SEC. 5. Section 5263 of the Welfare and Institutions Code is amended to read:

5263. Copies of the second notice of certification for imminently suicidal persons, as set forth in Section 5262, shall be filed with the court and personally delivered to the person certified. A copy shall also be sent to the person's attorney, to the district attorney, to the public defender, if any, and to the facility providing intensive treatment.

The person certified shall also be asked to designate any person whom he or she wishes informed regarding his or her certification. If the person certified is incapable of making such a designation at the time of certification, he or she shall be asked to designate such person as soon as he or she is capable.

SEC. 6. Section 5276.2. is added to the Welfare and Institutions Code, to read:

5276.2. In the event that the person, or anyone acting on his or her behalf, withdraws the request for judicial review, a certification review hearing shall be held within four days of the withdrawal of the request, and the procedures in Sections 5255 to 5256.8, inclusive, shall be applicable.

SEC. 7. Section 5354 of the Welfare and Institutions Code is amended to read:

5354. The officer providing conservatorship investigation shall investigate all available alternatives to conservatorship and shall recommend conservatorship to the court only if no suitable alternatives are available. This officer shall render to the court a written report of investigation prior to the hearing. The report to the court shall be comprehensive and shall contain all relevant aspects of the person's medical, psychological, financial, family, vocational

and social condition, and information obtained from the person's family members, close friends, social worker or principal therapist. The report shall also contain all available information concerning the person's real and personal property. The facilities providing intensive treatment or comprehensive evaluation shall disclose any records or information which may facilitate the investigation. If the officer providing conservatorship investigation recommends against conservatorship, he or she shall set forth all alternatives available. A copy of the report shall be transmitted to the individual who originally recommended conservatorship, to the person or agency, if any, recommended to serve as conservator, and to the person recommended for conservatorship. The court may receive the report in evidence and may read and consider the contents thereof in rendering its judgment.

SEC. 8. Section 5362 of the Welfare and Institutions Code is amended to read:

5362. (a) The clerk of the superior court shall notify each conservator, his or her conservatee and the person in charge of the facility in which the person resides, and the conservatee's attorney, at least 60 days before the termination of the one-year period. If the conservator is a private party, the clerk of the superior court shall also notify the mental health director and the county officer providing conservatorship investigation pursuant to Section 5355, at least 60 days before the termination of the one-year period. Notification shall be given in person or by certified mail. The notification shall be in substantially the following form:

In the Superior Court of the State of California
for the County of _____

The people of the State of California No.____
Concerning Notice of Termination
_____. of Conservatorship

The people of the State of California to _____
_____ :

(conservatee, conservatee's attorney, conservator, and professional person in charge of the facility in which the conservatee resides, county mental health director, and county officer providing conservatorship investigation.)

The one-year conservatorship established for _____ pursuant to Welfare and Institutions Code Section _____ on _____ will terminate on _____. If the conservator, _____, wishes to reestablish conservatorship for another year he or she must petition the court by _____. Subject to a request for a court hearing by jury trial the judge may, on his or her own motion, accept or reject the conservator's petition.

If the conservator petitions to reestablish conservatorship the conservatee, the professional person in charge of the facility in which he or she resides, the conservatee's attorney, and, if the conservator is a private party, the county mental health director and the county

officer providing conservatorship investigation shall be notified. If any of them request it, there shall be a court hearing or a jury trial, whichever is requested, on the issue of whether the conservatee is still gravely disabled and in need of conservatorship. If the private conservator does not petition for reappointment, the county officer providing conservatorship investigation may recommend another conservator. Such a petition shall be considered a petition for reappointment as conservator.

(Signed, Judge of the Superior Court)

(b) Subject to a request for a court hearing or jury trial, the judge may, on his or her own motion, accept or reject the conservator's petition.

If the conservator does not petition to reestablish conservatorship at or before the termination of the one-year period, the court shall issue a decree terminating conservatorship. The decree shall be sent to the conservator and his or her conservatee by certified mail and shall be accompanied by a statement of California law as set forth in Section 5368.

SEC. 9. Section 5651.3 is added to the Welfare and Institutions Code, to read:

5651.3. The county Short-Doyle plan shall include a description of the county's procedures for administering the certification review hearings required by Article 4 (commencing with Section 5250) of Chapter 2 of Part 1. The description shall clearly designate the following:

(a) The procedure for selection of the panel of prospective hearing officers, the criteria for selection to the panel, and the methods for funding and training of hearing officers.

(b) A list of hearing officers who comprise the panel.

(c) The frequency and location of certification review hearings.

(d) A list of individuals representing the facilities at certification review hearings.

(e) A list of individuals representing patients at certification review hearings.

(f) A list of each facility in the county designated as a facility to provide intensive treatment and the schedule for certification review hearings at each facility.

SEC. 10. On or before May 1, 1983, the State Department of Mental Health shall submit to the Legislature a summary of the costs to counties in implementing Article 4 (commencing with Section 5250) of Chapter 2 of Part 1 of Division 5 of the Welfare and Institutions Code, as added by Section 4 of this act.

SEC. 11. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may

pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 1599

An act relating to fiscal affairs, and in this connection making an appropriation from state funds to the State Board of Control to pay the claims of the State Board of Control, and in support of the Board of Administration of the Public Employees' Retirement System, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1982. Filed with Secretary of State September 30, 1982]

I am deleting the $400,000 appropriation from the Public Employees' Retirement Fund in augmentation of Item 190-001-830 of the Budget Act of 1981 to the Board of Administration of the Public Employees' Retirement System for expenditures for expenses and costs incurred during the 1981–82 fiscal year contained in Senate Bill No. 1655

The same appropriation is contained in Senate Bill No 1582 (Chapter 1231). With this deletion, I approve Senate Bill No. 1655

EDMUND G. BROWN, JR , Governor

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

SECTION 1. The sum of three million four hundred forty-one thousand six hundred ninety-six dollars and eighty-four cents ($3,441,696.84) is hereby appropriated from the funds indicated to the State Board of Control to pay the claims of the State Board of Control:

General Fund	$2,991,320.47
Bank & Corporation Tax Fund	1,894.67
Contractor's State License Fund	269.50
Fair & Exposition Fund	8.00
Motor Vehicle Fund	91.00
Personal Income Tax Fund	4,589.00
Transportation Fund	
Motor Vehicle Account	16,518.72
Motor Vehicle Account (CHP)	1,000.00
Motor Vehicle Account (DMV)	3,544.00
Motor Vehicle License Fee Account	902.00
State Highway Account	544.00
Transportation Tax Fund	
Motor Vehicle Account	89,184.90
Motor Vehicle Fuel Account	9,714.04
Unemployment Compensation Disability Insurance Fund	1,105.29
Unemployment Fund	97.39
Item 0160-001-001(A), Budget Act of 1982	3,274.34

Item 0820-001-001(G), Budget Act of 1982	4,602.76
Item 0840-001-001(A), Budget Act of 1982.....	32.48
Item 1150-008-128(A), Budget Act of 1982.....	60.00
Item 1230-020-735, Budget Act of 1982	341.87
Item 1510-070-761, Budget Act of 1982	155.52
Item 1760-001-666(A), Budget Act of 1982.....	2,833.58
Item 1960-001-001(A), Budget Act of 1982.....	38.32
Item 2240-001-001(D), Budget Act of 1982	346.02
Item 2290-001-001(C), Budget Act of 1982.....	391.64
Item 2660-001-042(A), Budget Act of 1982.....	5,546.81
Item 2720-001-044(A), Budget Act of 1982.....	800.00
Item 2740-001-044(D), Budget Act of 1982	355.58
Item 3340-001-001(D), Budget Act of 1982	38,428.91
Item 3360-001-019(A), Budget Act of 1982.....	107.20
Item 3790-001-001(A), Budget Act of 1982.....	1,315.84
Item 3790-001-001(B), Budget Act of 1982.....	63.00
Item 3860-001-001(E), Budget Act of 1982.....	559.85
Item 4170-001-001(E), Budget Act of 1982.....	22.75
Item 4200-001-001(C), Budget Act of 1982.....	264.00
Item 4220-001-001, Budget Act of 1982	2,891.00
Item 4260-001-001(K), Budget Act of 1982.....	7,901.35
Item 4300-001-001(C), Budget Act of 1982.....	651.49
Item 4300-011-001(A), Budget Act of 1982.....	66,223.66
Item 4440-001-001(C), Budget Act of 1982.....	5,403.04
Item 4440-101-001(E), Budget Act of 1982.....	624.52
Item 5100-001-870(C), Budget Act of 1982.....	14,573.37
Item 5160-001-001(A), Budget Act of 1982.....	10,009.87
Item 5180-001-001(F), Budget Act of 1982.....	15,244.16
Item 5240-001-001(A), Budget Act of 1982.....	32,548.28
Item 5240-001-001(B), Budget Act of 1982.....	3,100.00
Item 5240-001-001(C), Budget Act of 1982.....	77,987.24
Item 5460-001-001(B), Budget Act of 1982.....	6,262.20
Item 6100-001-001(D), Budget Act of 1982	13,326.55
Item 6610-001-001(A), Budget Act of 1982.....	893.28
Item 6610-001-001(E), Budget Act of 1982.....	583.00
Item 8350-001-001(E), Budget Act of 1982.....	66.00
Item 8570-001-001(H), Budget Act of 1982	2,403.09
Item 8860-001-001(D), Budget Act of 1982	426.73
Item 8940-001-001(A), Budget Act of 1982.....	254.56
Total.....	$3,441,696.84

The sum of four hundred thousand dollars ($400,000) is hereby appropriated from the Public Employees' Retirement Fund in augmentation of Item 190-001-830 of the Budget Act of 1981 to the Board of Administration of the Public Employees' Retirement System for expenditures for expenses and costs incurred during the 1981–82 fiscal year.

SEC. 3. Section 10 of the Assembly Bill 2675 of the 1981–82 Regular Session is amended to read:

Sec. 10. The Legislature finds and declares that Sections 3014, 3015, 3030, 3032, 3034, 3041, 3053, and 3111 of Title 8 of the California Administrative Code do not impose state-mandated costs reimbursable under Section 2231 of the Revenue and Taxation Code.

SEC. 4. Section 11 of Assembly Bill 2675 of the 1981–82 Regular Session is repealed.

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

In order to settle claims against the state and to end a hardship to claimants as quickly as possible, it is necessary for this act to take effect immediately.

CHAPTER 1600

An act to amend Section 14672.9 of the Government Code, relating to state property.

[Approved by Governor September 30, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 14672.9 of the Government Code is amended to read:

14672.9. (a) Notwithstanding Section 14670, the Director of General Services, with the consent of the State Department of Developmental Services, may let in the best interests of the state to a nonprofit corporation, for the purpose of conducting an educational and work program for developmentally disabled and other handicapped persons, and for a period not to exceed 50 years from 1974, real property not exceeding 45.3 acres located within the grounds of the Agnews State Hospital.

(b) The lease authorized by this section shall be subject to periodic review every five years. The review shall require submission of a report every five years by the lessee. The report shall be reviewed by the Director of General Services, who shall assure the state that the original purposes of the lease are being carried out.

(c) Subject to the approval of the Director of General Services and the State Department of Developmental Services, a lease executed under subdivision (a) may be revised to provide any of the following:

(1) That the nonprofit corporation may assign its interest in the leased property, in whole or in part.

(2) That the nonprofit corporation may sublet all or any portion

of the leased property.

(3) That the nonprofit corporation may enter into joint ventures with any other person, firm, partnership, or corporation to construct facilities or to conduct programs and activities on the leased property.

(d) Any revision of the nonprofit corporation's lease pursuant to subdivision (c) shall be subject to the requirement that all activities, assignments, and subleases shall be in furtherance of the purposes specified in subdivision (a).

(e) Any sublease or partial assignment or transfer of the nonprofit corporation's interest in the leased property, whether voluntary, involuntary, or by operation of law, shall not terminate the nonprofit corporation's remaining interest in the leased property.

(f) The lease authorized by this section shall be renegotiated and amended within 12 months of the completion date of any new facility constructed on the leased property.

(g) Any profits to the nonprofit corporation from the proceeds of a sublease executed pursuant to paragraph (2) of subdivision (c) shall be directed into programs for the handicapped or developmentally disabled for the purpose of directly benefiting clients of the nonprofit corporation.

(h) Fifteen percent of the total number of jobs created as a result of the sublease shall be reserved for handicapped employees and placed by the nonprofit corporation.

CHAPTER 1601

An act to amend Section 986 of the Civil Code, relating to works of fine art.

[Approved by Governor September 30, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 986 of the Civil Code is amended to read:

986. (a) Whenever a work of fine art is sold and the seller resides in California or the sale takes place in California, the seller or his agent shall pay to the artist of such work of fine art or to such artist's agent 5 percent of the amount of such sale. The right of the artist to receive an amount equal to 5 percent of the amount of such sale may be waived only by a contract in writing providing for an amount in excess of 5 percent of the amount of such sale. An artist may assign the right to collect the royalty payment provided by this section to another individual or entity. However, the assignment shall not have the effect of creating a waiver prohibited by this subdivision.

(1) When a work of fine art is sold at an auction or by a gallery, dealer, broker, museum, or other person acting as the agent for the

seller the agent shall withhold 5 percent of the amount of the sale, locate the artist and pay the artist.

(2) If the seller or agent is unable to locate and pay the artist within 90 days, an amount equal to 5 percent of the amount of the sale shall be transferred to the Arts Council.

(3) If a seller or his agent fails to pay an artist the amount equal to 5 percent of the sale of a work of fine art by the artist or fails to transfer such amount to the Arts Council, the artist may bring an action for damages within three years after the date of sale or one year after the discovery of the sale, whichever is longer. The prevailing party in any action brought under this paragraph shall be entitled to reasonable attorney fees, in an amount as determined by the court.

(4) Moneys received by the council pursuant to this section shall be deposited in an account in the Special Deposit Fund in the State Treasury.

(5) The Arts Council shall attempt to locate any artist for whom money is received pursuant to this section. If the council is unable to locate the artist and the artist does not file a written claim for the money received by the council within seven years of the date of sale of the work of fine art, the right of the artist terminates and such money shall be transferred to the council for use in acquiring fine art pursuant to the art in public buildings program set forth in Chapter 2.1 (commencing with Section 15813) of Part 10b, Division 3, Title 2, of the Government Code.

(6) Any amounts of money held by any seller or agent for the payment of artists pursuant to this section shall be exempt from attachment or execution of judgment by the creditors of such seller or agent.

(7) Upon the death of an artist, the rights and duties created under this section shall inure to his or her heirs, legatees, or personal representative, until the 20th anniversary of the death of the artist. The provisions of this paragraph shall be applicable only with respect to an artist who dies after January 1, 1983.

(b) Subdivision (a) shall not apply to any of the following:

(1) To the initial sale of a work of fine art where legal title to such work at the time of such initial sale is vested in the artist thereof.

(2) To the resale of a work of fine art for a gross sales price of less than one thousand dollars ($1,000).

(3) Except as provided in paragraph (7) of subdivision (a), to a resale after the death of such artist.

(4) To the resale of the work of fine art for a gross sales price less than the purchase price paid by the seller.

(5) To a transfer of a work of fine art which is exchanged for one or more works of fine art or for a combination of cash, other property, and one or more works of fine art where the fair market value of the property exchanged is less than one thousand dollars ($1,000).

(6) To the resale of a work of fine art by an art dealer to a purchaser within 10 years of the initial sale of the work of fine art by

the artist to an art dealer, provided all intervening resales are between art dealers.

(c) For purposes of this section, the following terms have the following meanings:

(1) "Artist" means the person who creates a work of fine art and who, at the time of resale, is a citizen of the United States, or a resident of the state who has resided in the state for a minimum of two years .

(2) "Fine art" means an original painting, sculpture, or drawing.

(3) "Art dealer" means a person who is actively and principally engaged in or conducting the business of selling works of fine art for which business such person validly holds a sales tax permit.

(d) This section shall become operative on January 1, 1977, and shall apply to works of fine art created before and after its operative date.

(e) If any provision of this section or the application thereof to any person or circumstance is held invalid for any reason, such invalidity shall not affect any other provisions or applications of this section which can be effected, without the invalid provision or application, and to this end the provisions of this section are severable.

(f) The amendments to this section enacted during the 1981–82 Regular Session of the Legislature shall apply to transfers of works of fine art, whether created before or after January 1, 1983, that occur on or after that date.

SEC. 2. Section 986 of the Civil Code is amended to read:

986. (a) Whenever a work of fine art is sold and the seller resides in California or the sale takes place in California, the seller or the seller's agent shall pay to the artist of such work of fine art or to such artist's agent 5 percent of the amount of such sale. The right of the artist to receive an amount equal to 5 percent of the amount of such sale may be waived only by a contract in writing providing for an amount in excess of 5 percent of the amount of such sale. An artist may assign the right to collect the royalty payment provided by this section to another individual or entity. However, the assignment shall not have the effect of creating a waiver prohibited by this subdivision.

(1) When a work of fine art is sold at an auction or by a gallery, dealer, broker, museum, or other person acting as the agent for the seller the agent shall withhold 5 percent of the amount of the sale, locate the artist and pay the artist.

(2) If the seller or agent is unable to locate and pay the artist within 90 days, an amount equal to 5 percent of the amount of the sale shall be transferred to the Arts Council.

(3) If a seller or the seller's agent fails to pay an artist the amount equal to 5 percent of the sale of a work of fine art by the artist or fails to transfer such amount to the Arts Council, the artist may bring an action for damages within three years after the date of sale or one year after the discovery of the sale, whichever is longer. The prevailing party in any action brought under this paragraph shall be

entitled to reasonable attorney fees, in an amount as determined by the court.

(4) Moneys received by the council pursuant to this section shall be deposited in an account in the Special Deposit Fund in the State Treasury.

(5) The Arts Council shall attempt to locate any artist for whom money is received pursuant to this section. If the council is unable to locate the artist and the artist does not file a written claim for the money received by the council within seven years of the date of sale of the work of fine art, the right of the artist terminates and such money shall be transferred to the council for use in acquiring fine art pursuant to the art in public buildings program set forth in Chapter 2.1 (commencing with Section 15813) of Part 10b, Division 3, Title 2 of the Government Code.

(6) Any amounts of money held by any seller or agent for the payment of artists pursuant to this section shall be exempt from enforcement of a money judgment by the creditors of the seller or agent.

(7) Upon the death of an artist, the rights and duties created under this section shall inure to his or her heirs, legatees, or personal representative, until the 20th anniversary of the death of the artist. The provisions of this paragraph shall be applicable only with respect to an artist who dies after January 1, 1983.

(b) Subdivision (a) shall not apply to any of the following:

(1) To the initial sale of a work of fine art where legal title to such work at the time of such initial sale is vested in the artist thereof.

(2) To the resale of a work of fine art for a gross sales price of less than one thousand dollars ($1,000).

(3) Except as provided in paragraph (7) of subdivision (a), to a resale after the death of such artist.

(4) To the resale of the work of fine art for a gross sales price less than the purchase price paid by the seller.

(5) To a transfer of a work of fine art which is exchanged for one or more works of fine art or for a combination of cash, other property, and one or more works of fine art where the fair market value of the property exchanged is less than one thousand dollars ($1,000).

(6) To the resale of a work of fine art by an art dealer to a purchaser within 10 years of the initial sale of the work of fine art by the artist to an art dealer, provided all intervening resales are between art dealers.

(c) For purposes of this section, the following terms have the following meanings:

(1) "Artist" means the person who creates a work of fine art and who, at the time of resale, is a citizen of the United States, or a resident of the state who has resided in the state for a minimum of two years.

(2) "Fine art" means an original painting, sculpture, or drawing.

(3) "Art dealer" means a person who is actively and principally engaged in or conducting the business of selling works of fine art for

which business such person validly holds a sales tax permit.

(d) This section shall become operative on January 1, 1977, and shall apply to works of fine art created before and after its operative date.

(e) If any provision of this section or the application thereof to any person or circumstance is held invalid for any reason, such invalidity shall not affect any other provisions or applications of this section which can be effected, without the invalid provision or application, and to this end the provisions of this section are severable.

(f) The amendments to this section enacted during the 1981–82 Regular Session of the Legislature shall apply to transfers of works of fine art, whether created before or after January 1, 1983, that occur on or after that date.

SEC. 3. Section 986 of the Civil Code is amended to read:

986. (a) Whenever a work of fine art is sold and the seller resides in California or the sale takes place in California, the seller or the seller's agent shall pay to the artist of such work of fine art or to such artist's agent 5 percent of the amount of such sale. The right of the artist to receive an amount equal to 5 percent of the amount of such sale may be waived only by a contract in writing providing for an amount in excess of 5 percent of the amount of such sale. An artist may assign the right to collect the royalty payment provided by this section to another individual or entity. However, the assignment shall not have the effect of creating a waiver prohibited by this subdivision.

(1) When a work of fine art is sold at an auction or by a gallery, dealer, broker, museum, or other person acting as the agent for the seller the agent shall withhold 5 percent of the amount of the sale, locate the artist and pay the artist.

(2) If the seller or agent is unable to locate and pay the artist within 90 days, an amount equal to 5 percent of the amount of the sale shall be transferred to the Arts Council.

(3) If a seller or his agent fails to pay an artist the amount equal to 5 percent of the sale of a work of fine art by the artist or fails to transfer such amount to the Arts Council, the artist may bring an action for damages within three years after the date of sale or one year after the discovery of the sale, whichever is longer. The prevailing party in any action brought under this paragraph shall be entitled to reasonable attorney fees, in an amount as determined by the court.

(4) Moneys received by the council pursuant to this section shall be deposited in an account in the Special Deposit Fund in the State Treasury.

(5) The Arts Council shall attempt to locate any artist for whom money is received pursuant to this section. If the council is unable to locate the artist and the artist does not file a written claim for the money received by the council within seven years of the date of sale of the work of fine art, the right of the artist terminates and such money shall be transferred to the council for use in acquiring fine art

pursuant to the art in public buildings program set forth in Chapter 2.1 (commencing with Section 15813) of Part 10b, Division 3, Title 2 of the Government Code.

(6) Any amounts of money held by any seller or agent for the payment of artists pursuant to this section shall be exempt from attachment or execution of judgment by the creditors of such seller or agent.

(7) Upon the death of an artist, the rights and duties created under this section shall inure to his or her heirs, legatees, or personal representative, until the 20th anniversary of the death of the artist. The provisions of this paragraph shall be applicable only with respect to an artist who dies after January 1, 1983.

(b) Subdivision (a) shall not apply to any of the following:

(1) To the initial sale of a work of fine art where legal title to such work at the time of such initial sale is vested in the artist thereof.

(2) To the resale of a work of fine art for a gross sales price of less than one thousand dollars ($1,000).

(3) Except as provided in paragraph (7) of subdivision (a), to a resale after the death of such artist.

(4) To the resale of the work of fine art for a gross sales price less than the purchase price paid by the seller.

(5) To a transfer of a work of fine art which is exchanged for one or more works of fine art or for a combination of cash, other property, and one or more works of fine art where the fair market value of the property exchanged is less than one thousand dollars ($1,000).

(6) To the resale of a work of fine art by an art dealer to a purchaser within 10 years of the initial sale of the work of fine art by the artist to an art dealer, provided all intervening resales are between art dealers.

(7) To a sale of a work of stained glass artistry where the work has been permanently attached to real property and is sold as part of the sale of the real property to which it is attached.

(c) For purposes of this section, the following terms have the following meanings:

(1) "Artist" means the person who creates a work of fine art and who, at the time of resale, is a citizen of the United States, or a resident of the state who has resided in the state for a minimum of two years.

(2) "Fine art" means an original painting, sculpture, drawing, or mosaic, or an original work of art in glass, clay, textile, fiber, wood, paper, metal, sand, stone, plastic, or other artificial material, or in mixed media.

(3) "Art dealer" means a person who is actively and principally engaged in or conducting the business of selling works of fine art for which business such person validly holds a sales tax permit.

(d) This section shall become operative on January 1, 1977, and shall apply to works of fine art created before and after its operative date

(e) If any provision of this section or the application thereof to any

person or circumstance is held invalid for any reason, such invalidity shall not affect any other provisions or applications of this section which can be effected, without the invalid provision or application, and to this end the provisions of this section are severable.

(f) The amendments to this section enacted during the 1981–82 Regular Session of the Legislature shall apply to transfers of works of fine art, whether created before or after January 1, 1983, that occur on or after that date.

SEC. 4. Section 986 of the Civil Code is amended to read:

986. (a) Whenever a work of fine art is sold and the seller resides in California or the sale takes place in California, the seller or the seller's agent shall pay to the artist of such work of fine art or to such artist's agent 5 percent of the amount of such sale. The right of the artist to receive an amount equal to 5 percent of the amount of such sale may be waived only by a contract in writing providing for an amount in excess of 5 percent of the amount of such sale. An artist may assign the right to collect the royalty payment provided by this section to another individual or entity. However, the assignment shall not have the effect of creating a waiver prohibited by this subdivision.

(1) When a work of fine art is sold at an auction or by a gallery, dealer, broker, museum, or other person acting as the agent for the seller the agent shall withhold 5 percent of the amount of the sale, locate the artist and pay the artist.

(2) If the seller or agent is unable to locate and pay the artist within 90 days, an amount equal to 5 percent of the amount of the sale shall be transferred to the Arts Council.

(3) If a seller or the seller's agent fails to pay an artist the amount equal to 5 percent of the sale of a work of fine art by the artist or fails to transfer such amount to the Arts Council, the artist may bring an action for damages within three years after the date of sale or one year after the discovery of the sale, whichever is longer. The prevailing party in any action brought under this paragraph shall be entitled to reasonable attorney fees, in an amount as determined by the court.

(4) Moneys received by the council pursuant to this section shall be deposited in an account in the Special Deposit Fund in the State Treasury.

(5) The Arts Council shall attempt to locate any artist for whom money is received pursuant to this section. If the council is unable to locate the artist and the artist does not file a written claim for the money received by the council within seven years of the date of sale of the work of fine art, the right of the artist terminates and such money shall be transferred to the council for use in acquiring fine art pursuant to the art in public buildings program set forth in Chapter 2.1 (commencing with Section 15813) of Part 10b, Division 3, Title 2 of the Government Code.

(6) Any amounts of money held by any seller or agent for the payment of artists pursuant to this section shall be exempt from

enforcement of a money judgment by the creditors of the seller or agent.

(7) Upon the death of an artist, the rights and duties created under this section shall inure to his or her heirs, legatees, or personal representative, until the 20th anniversary of the death of the artist. The provisions of this paragraph shall be applicable only with respect to an artist who dies after January 1, 1983.

(b) Subdivision (a) shall not apply to any of the following:

(1) To the initial sale of a work of fine art where legal title to such work at the time of such initial sale is vested in the artist thereof.

(2) To the resale of a work of fine art for a gross sales price of less than one thousand dollars ($1,000).

(3) Except as provided in paragraph (7) of subdivision (a), to a resale after the death of such artist.

(4) To the resale of the work of fine art for a gross sales price less than the purchase price paid by the seller.

(5) To a transfer of a work of fine art which is exchanged for one or more works of fine art or for a combination of cash, other property, and one or more works of fine art where the fair market value of the property exchanged is less than one thousand dollars ($1,000).

(6) To the resale of a work of fine art by an art dealer to a purchaser within 10 years of the initial sale of the work of fine art by the artist to an art dealer, provided all intervening resales are between art dealers.

(7) To a sale of a work of stained glass artistry where the work has been permanently attached to real property and is sold as part of the sale of the real property to which it is attached.

(c) For purposes of this section, the following terms have the following meanings:

(1) "Artist" means the person who creates a work of fine art and who, at the time of resale, is a citizen of the United States, or a resident of the state who has resided in the state for a minimum of two years.

(2) "Fine art" means an original painting, sculpture, drawing, or mosaic, or an original work of art in glass, clay, textile, fiber, wood, paper, metal, sand, stone, plastic, or other artificial material, or in mixed media.

(3) "Art dealer" means a person who is actively and principally engaged in or conducting the business of selling works of fine art for which business such person validly holds a sales tax permit.

(d) This section shall become operative on January 1, 1977, and shall apply to works of fine art created before and after its operative date.

(e) If any provision of this section or the application thereof to any person or circumstance is held invalid for any reason, such invalidity shall not affect any other provisions or applications of this section which can be effected, without the invalid provision or application, and to this end the provisions of this section are severable.

(f) The amendments to this section enacted during the 1981–82

Regular Session of the Legislature shall apply to transfers of works of fine art, whether created before or after January 1, 1983, that occur on or after that date.

SEC. 5. It is the intent of the Legislature that if this bill and Assembly Bill 3299 are both chaptered and become effective January 1, 1983, both bills amend Section 986 of the Civil Code, and this bill is chaptered after Assembly Bill 3299, that amendments to Section 986 proposed by both bills be given effect and incorporated in Section 986 in the form set forth in Section 3 of this act. It is further the intent of the Legislature that Section 986 of the Civil Code, as amended by Section 1 or 3 of this act be further amended on July 1, 1983, the operative date of Assembly Bill 798 (Chapter 497, Statutes 1982), in the form set forth in Section 2 or 4 of this act to incorporate amendments to Section 986 proposed by Assembly Bill 798.

Therefore, if this bill is chaptered and amends Section 986, but Assembly Bill 3299 is not chaptered, or as chaptered does not amend Section 986, Section 1 of this act shall become operative on the effective date of this bill and shall remain in effect until July 1, 1983, at which time Section 986 of the Civil Code, as amended by Section 1 of this act, shall be further amended in the form set forth in Section 2 of this act, and Sections 3 and 4 shall not become operative.

If this bill and Assembly Bill 3299 are both chaptered and become effective January 1, 1983, both bills amend Section 986 of the Civil Code, and this bill is chaptered after Assembly Bill 3299, Section 3 of this act shall become operative on the effective date of this act and shall remain in effect until July 1, 1983, at which time Section 986 of the Civil Code, as amended by Section 3 of this act, shall be further amended in the form set forth in Section 4 of this act, and Sections 1 and 2 shall not become operative.

SEC. 6. The Legislature hereby finds and declares that the business of being an art dealer often requires that the dealer, after the initial purchase of a work of fine art from an artist, hold that work for a period of time prior to resale, during which time the dealer is often engaged in promotional activity on behalf of the artist. Accordingly, the Legislature has added paragraph (6) to subdivision (b) of Section 986 of the Civil Code.

CHAPTER 1602

An act to add Division 32 (commencing with Section 55000) to the Health and Safety Code, relating to buildings.

[Approved by Governor September 30, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Division 32 (commencing with Section 55000) is added to the Health and Safety Code, to read:

DIVISION 32. SEISMIC SAFETY BUILDING REHABILITATION LOANS

PART 1. GENERAL PROVISIONS

55000. The Legislature finds and declares that there exist throughout the state many buildings which are structurally inadequate to safely withstand seismic forces of the magnitude predicted or determined for their locations by seismic safety elements of local general plans. This problem is particularly acute with respect to residential hotels and with respect to commercial buildings in which employees must work or to which the public is invited. The Legislature further finds and declares that rehabilitation of these buildings to meet current standards of earthquake safety is in the public interest, but that private enterprise will be unable in many cases to meet the high cost of making the necessary modifications without the availability of long-term, low-interest loans for the purpose.

It is, therefore, the intent of the Legislature in enacting this division to authorize establishment of local loan programs to serve this need at the lowest possible cost and upon favorable terms so that owners of eligible buildings will be encouraged to make modifications required to assure structural integrity in the event of an earthquake.

55001. As used in this division:

(a) "Bonds" means bonds, notes, or other evidence of indebtedness issued by a local agency pursuant to Part 2 (commencing with Section 55100) of this division, including bonds issued to refund previously issued bonds or other indebtedness.

(b) "Eligible building" means a building existing on the effective date of this section which is identified as hazardous pursuant to Article 4 (commencing with Section 19160) of Chapter 2 of Part 3 of Division 13, with the exception of the following:

(1) Industrial buildings for assembling, fabricating, manufacturing and processing activities.

(2) Structures subject to the provisions of Part 1.5 (commencing with Section 17910) of Division 13, other than a residential hotel or apartment building containing six or more units or a commercial building containing six or more residential units which is identified as hazardous pursuant to this section.

(c) "Eligible costs" means all costs, including costs of design, preparation, and inspection incurred in making structural or other modifications to an eligible building, which are required in order to meet reconstruction standards established by a local ordinance

pursuant to Sections 19162, 19163, and 19163.5, including costs of payments required by Section 7265.3 of the Government Code, and including costs necessary to provide for the reasonable safety of the exterior and interior of the eligible building and of interior fixtures and appurtenances.

(d) "Financing" means a loan made by the local agency pursuant to this division to the owner of an eligible building for eligible costs and which is secured by a deed of trust or mortgage upon the real property improved thereby.

(e) "Local agency" means a city, county, or city and county.

(f) "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 the hotel as their primary residence.

55002. Pursuant to this division, the local agency may provide financing to pay for eligible costs to an owner of an eligible building only if the legislative body of the local agency makes one of the following findings:

(a) The owner to whom financing would be made available pursuant to this division is unable to qualify for or could not afford financing for eligible costs from private lending institutions.

(b) Absent the availability of financing pursuant to this division, the eligible building would be demolished.

(c) Absent the availability of financing pursuant to the division, the costs of modifying the eligible building to meet reconstruction standards, pursuant to Sections 19162, 19163, and 19163.5, would cause severe economic hardship to the businesses in the building.

55003. The local agency may contract with state or federally chartered banks or savings and loan associations for originating or servicing loans authorized by this division.

55004. The local agency shall adopt rules and regulations for the administration of the financing program, which shall include, but not be limited to, borrower eligibility criteria designed to assure the fiscal integrity of the financing program while permitting maximum application to existing buildings which have sufficient economic life to warrant the amount of financing required. The regulations shall specify procedures to be followed in the event of default.

55005. For the purposes of this division, the local agency shall have the following powers in addition to any other powers granted by this division:

(a) To make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this division with any governmental agency, private corporation, or other entity or individual.

(b) To determine the terms and conditions of any mortgage instrument, deed of trust, or promissory note used or executed in

conjunction with financing pursuant to this division.

(c) To employ architects, engineers, attorneys, accountants, construction and financial experts, and other advisers, consultants, and agents as may be necessary in its judgment.

(d) To provide advice, technical information, and consultative and technical service in connection with financing pursuant to this division.

(e) To procure insurance against any loss in connection with its property and other assets, including mortgages and deeds of trust, in the amounts and from insurers as it deems desirable.

(f) To establish, revise from time to time, and charge and collect fees and charges in connection with financing provided by the local agency.

(g) To borrow money and issue bonds, as provided in this division.

(h) To do any and all things necessary or convenient to the exercise of other powers under this division.

55006. The interest rate on financing provided pursuant to this division shall be sufficient and shall be limited to the amount necessary to pay the interest on the bonds issued therefor and to defray costs of administration incurred by the local agency pursuant to this division.

55007. The local agency may conduct a financing program under this division in tandem with a residential rehabilitation financing program under Part 13 (commencing with Section 37910) of Division 24 and may in such case, notwithstanding any other provision of law, issue one form of bond, to be jointly secured as provided in both this division and Part 13 (commencing with Section 37910) of Division 24.

55008. The exercise of the powers specified in this division shall be in all respects for the benefit of the people of the state, for their well-being and prosperity, and for the improvement of their social and economic conditions, and the local agency shall not be required to pay any tax or assessment on any property owned by the local agency under the provisions of this division or upon the income therefrom.

55009. Any bonds issued by the local agency under the provisions of this division, their transfer, and the income therefrom shall at all times be free from all direct and indirect taxation of every kind by the state, including all taxes imposed pursuant to Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code and imposed by cities, counties, cities and counties, or other political subdivisions of this state, except inheritance and gift taxes.

PART 2. BONDS

55100. The local agency may, from time to time, issue its bonds in the principal amount as the local agency shall determine to be necessary to provide sufficient funds for financing under this division and for the payment of interest on bonds of the local agency,

establishment of reserves to secure the bonds, and other expenditures of the local agency incident to, and necessary or convenient to, issuance of the bonds.

Prior to the issuance of any bonds pursuant to this division, the local agency shall submit to the Housing Bond Credit Committee, established pursuant to Section 51360, a statement of purpose for which the bonds are proposed to be issued and the amount of the proposed issuance. The Housing Bond Credit Committee shall review every statement submitted to it by a local agency pursuant to this section. 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 this section, the proposed issuance shall be deemed approved by the committee.

The aggregate amount of all bonds approved by the Housing Bond Credit Committee pursuant to this section shall not exceed two hundred million dollars ($200,000,000). The committee shall reserve seventy-five million dollars ($75,000,000), which shall not be allocated for 24 months after the effective date of this division. No agency shall initially receive an allocation exceeding fifty million dollars ($50,000,000). If an initial request exceeds one hundred twenty-five million dollars ($125,000,000), the committee shall reduce all requests on the basis of the ratio of eligible buildings in the jurisdiction to the estimated number of eligible buildings in the state as determined by the Seismic Safety Commission until one hundred twenty-five million dollars ($125,000,000) is reached. Twenty-four months after the effective date of this division, the committee may allocate any remaining funds. Funds shall first be allocated to any local agency that has not received an allocation. If these requests exceed the available funds, the committee shall reduce all requests on the basis of the ratio of eligible buildings in the jurisdiction to the estimated number of eligible buildings in the state, as determined by the Seismic Safety Commission. If there are funds remaining after allowing for requests by local agencies that have not previously received an allocation, any local agency which had previously received an allocation may request further allocations. Any allocations made to local agencies that have previously received allocations shall be made only on the basis of the ratio of eligible buildings in the jurisdiction to the estimated number of eligible buildings in the state, as determined by the Seismic Safety Commission. Eligible buildings in the jurisdiction shall be determined on the basis of an inventory. After that authorization has been exhausted, all further proposals for issuance of bonds pursuant to this division shall be deemed disapproved by the committee.

The local agency shall reimburse the Housing Bond Credit Committee for all administrative costs incurred by the committee

pursuant to this section.

55101. The bonds shall be authorized by resolution or resolutions of the legislative body of the local agency, shall bear such date or dates, and shall mature at the time or times as the resolution or resolutions may provide, except that no bond shall mature more than 40 years from the date of its issuance. The bonds may be issued as serial bonds or as term bonds, or as a combination thereof, and, notwithstanding any other provision of law, the amount of principal of, or interest on, bonds maturing at each date of maturity need not be equal. The bonds shall bear interest at the rate or rates, be in the denominations, be in the form, either coupon or registered, carry the registration privileges, be executed in the manner, be payable in the medium of payment at the place or places within or without the state, and be subject to the terms of redemption as the resolution or resolutions may provide.

The bonds may be sold at public or private sale in the manner and upon the terms as may be provided in the resolution or by separate resolution. Pending the preparation of definitive bonds, interim receipts or certificates in the form and with any provisions as may be provided in the resolution, may be issued to the purchaser or purchasers of bonds sold pursuant to this division. The bonds and interim receipts or certificates shall be deemed to be securities and negotiable instruments within the meaning of, and for all the purposes of, the California Uniform Commercial Code, subject to the provisions for registration thereof contained in the resolution.

55102. The local agency may, from time to time, issue (1) bonds to renew bonds and (2) other bond obligations to pay bonds including the interest thereon, and, whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured.

55103. Any resolution or resolutions authorizing any bonds or issue thereof may contain provisions, which shall be a part of the contract or contracts with the holders thereof, as to:

(a) Pledging all or any part of the revenues accruing to the local agency pursuant to this division to secure the payment of the bonds or any issue thereof, subject to any agreements with bondholders as may then exist.

(b) Pledging all or any part of the assets of the local agency under this division, including mortgages and obligations securing the same, to secure the payment of the bonds or any issue thereof, subject to any agreements with bondholders as may then exist.

(c) The use and disposition of the gross income from financing obligations owned by the local agency and payment of principal of financing obligations owned by the local agency.

(d) The setting aside of reserves or sinking funds and the regulation and disposition thereof.

(e) Limitations on the purposes to which the proceeds of a sale of bonds may be applied and pledging the proceeds to secure the payment of the bonds or of any issue thereof.

(f) Limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured, and the refunding of outstanding bonds.

(g) The procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which the consent may be given.

(h) Limitations on the amount of money to be expended by the local agency for operating expenses of the local agency under this division.

(i) Vesting in a trustee or trustees any property, rights, powers, and duties in trust as the local agency may determine, which may include any or all of the rights, powers, and duties of the trustee appointed on behalf of the bondholders pursuant to this part and limiting or abrogating the right of the bondholders to appoint a trustee or limiting the rights, powers, and duties of the trustee.

(j) Defining the acts or omissions to act which shall constitute a default in the obligations and duties of the local agency to the holders of the bonds and providing for the rights and remedies of the holders of the bonds in the event of a default. However, the rights and remedies shall not be inconsistent with the general laws of the state and the other provisions of this division.

(k) Any other matters, of like or different character, which in any way affect the security, protection, or investment return of the holders of the bonds.

55104. Any resolution or resolutions authorizing any bonds or issue thereof shall specify the extent to which revenues resulting from financing provided with proceeds of the bonds so authorized are to be used to secure the bonds and the extent to which the revenues may be used for other purposes.

55105. Any pledge made by the local agency shall be valid and binding from the time when the pledge is made. The revenues, moneys, or property so pledged and thereafter received by the local agency shall immediately be subject to the lien of the pledge without any physical delivery thereof or further act, and the lien of the 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 the parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

55106. Bond underwriters and consultants may be selected by the local agency.

55107. Neither the members of the legislative body of the local agency, nor any official or employee thereof, nor any other person executing the bonds shall be subject to any personal liability or accountability by reason of the issuance thereof.

55108. Any resolution authorizing any bonds or issue thereof may designate a trustee for the local agency and holders of its bonds, and shall in such case prescribe the duties of the trustee with respect to

the issuance, authentication, sale, and delivery of the bonds, the payment of principal and interest thereof, and the redemption of bonds.

The legislative body of the local agency may provide by a resolution for the deposit of all revenues pledged for the security of the bonds in one or more separate accounts under the control of the trustee. The money in the accounts shall be disbursed only as provided in the resolution.

The resolution may authorize the trustee to act on behalf of the holders of bonds, or any stated percentage thereof, for the purpose of exercising and prosecuting on behalf of the holders of the bonds any rights and remedies as may be available to the holders.

55109. The trustee acting on behalf of bondholders shall have and possess all the powers necessary or convenient for the exercise of any functions specifically set forth in this part or incident to the general representation of bondholders in the enforcement and protection of their rights.

55110. Whether or not the bonds are of the form and character as to be negotiable instruments under, or subject to, the terms of the California Uniform Commercial Code, the bonds and any security instruments underlying the bonds are hereby made negotiable instruments within the meaning of, and for all the purposes of, the California Uniform Commercial Code, subject to the provisions for registration of the bonds contained in the resolution.

55111. In the event any person whose signature appears on the bonds ceases to hold office prior to delivery of the bonds, the signature shall nevertheless be valid and sufficient for all purposes, the same as if the person had remained in office until the delivery.

55112. The local agency may create one or more bond reserve accounts to secure payments of the principal of, and interest and sinking fund payments on, any bonds or any issuance thereof, as specified in the resolution authorizing the bonds.

55113. The local agency may provide for the issuance of refunding bonds for the purpose of refunding any bonds then outstanding which have been issued under the provisions of this part, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of the bonds. The issuance of refunding bonds, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties, and obligations of the local agency in respect of the same shall be governed by the provisions of this part which relate to the issuance of bonds, insofar as the provisions may be appropriate therefor.

55114. Refunding bonds may be sold or exchanged for outstanding bonds issued under this part and, if sold, the proceeds thereof may be applied, in addition to any other authorized purposes, to the purchase, redemption, or payment of the outstanding bonds. Pending the application of the proceeds of any refunding bonds, with any other available moneys, (1) to the payment of the principal, accrued interest, and any redemption premium on the bonds being

refunded, (2) to the payment of any interest on the refunding bonds, or (3) to any expenses incurred in connection with refunding, the proceeds may be invested in any obligations permitted under the bond resolution authorizing the issuance of refunding bonds.

55115. The state does hereby pledge to and agree with the holders of any bonds issued under this part that the state will not limit or alter the rights hereby vested in the local agency to fulfill the terms of any agreements made with the holders thereof or in any way impair the rights and remedies of the holders until the bonds, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the holders, are fully met and discharged. The local agency is authorized to include this pledge and agreement of the state in any agreement with the holders of the bonds.

55116. All bonds issued pursuant to this division shall be limited obligations of the local agency issuing the same, payable solely out of the revenues and receipts derived from or with respect to financing under this division 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 division has the right to compel any exercise of the taxing power of a local agency to pay the bonds, the interest or redemption premium, if any, thereon, and the bonds shall not constitute an indebtedness of the issuing local agency 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 local agency or any agency or subdivision thereof with respect to the payment of the bonds. It shall be plainly stated on the face of each bond that it has been issued under the provisions of this divison and that it does not constitute an indebtedness of the local agency issuing the bond or a loan of credit thereof within the meaning of any constitutional or statutory provisions.

55117. The bonds shall be legal investments in which all public officers and public bodies of this state, its political subdivisions, all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, banking institutions, including savings and loan associations, building and loan associations, trust companies, savings banks and savings associations, investment companies and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or in other obligations of the state, may properly and legally invest funds, including capital, in their control or belonging to them. The bonds may be used by any such private financial institution, person, or association as security for public deposits. The bonds are also hereby made securities which may properly and legally be

deposited with and received by all public officers and bodies of the state or any agency or political subdivision of the state and all municipalities and public corporations for any purpose for which the deposit of bonds or other obligations of the state is now or may hereafter be authorized by law, including deposits to secure public funds.

CHAPTER 1603

An act to amend Sections 6305, 6306, 6307, 6316, 6327, 6328, 6329, and 6365 of, to add Sections 6303.1, 6303.2, 6303.3, 6305.1, 6305.2, 6329.1, 6329.2, 6365.2, 6365.3, 6365.4, and 6365.5 to, and to repeal Sections 6365.1, 6365.2, and 6365.3 of, the Elections Code, relating to elections.

[Approved by Governor September 30, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 6303.1 is added to the Elections Code, to read:

6303.1. (a) Participation in the delegate selection process in primaries and caucuses shall be restricted to Democratic voters only who publicly declare their party preference as Democratic supporters and whose affidavits of registration declare the Democratic Party as their party affiliation. At no stage of the delegate selection process shall any person be required, directly or indirectly, to pay a cost or fee as a condition for participating in the delegate selection process.

(b) No person shall participate or vote in the nominating process for the Democratic presidential candidate who also participates in the nominating processes of any other party in the same presidential election year.

SEC. 2. Section 6303.2 is added to the Elections Code, to read:

6303.2. All official party meetings and events related to the national convention delegate selection process, including caucuses, conventions, committee meetings, filing dates, and party enrollment periods shall be scheduled for dates, times, and public places which are consistent with this chapter and which would be most likely to encourage the participation of all Democrats.

SEC. 3. Section 6303.3 is added to the Elections Code, to read:

6303.3. (a) In the selection of the state's delegation as a whole, consideration shall be given to achieving the goals of the State Democratic Party's affirmative action plan.

(b) There shall be approximately equal division between delegate men and delegate women and alternate men and alternate women in the national convention delegation.

SEC. 4. Section 6305 of the Elections Code is amended to read:

6305. (a) The chairperson of the Democratic State Central Committee shall notify the Secretary of State on or before the first of February immediately preceding the presidential primary as to the number of delegates and alternates to represent the state in the next national convention of the Democratic Party.

(b) The chairperson shall notify each statewide-elected officeholder, each Member of the Legislature, each United States Senator from California, and each Member of the House of Representatives from California who is affiliated with the Democratic Party as to the officeholder's right to serve as an unpledged add-on delegate to the Democratic National Convention.

(c) The chairperson shall also notify the Secretary of State at the time prescribed in subdivision (a) as to the number of delegates which may be selected from each state Assembly district in connection with the presidential primary. The number of delegates which may be selected from each Assembly district shall be based on a formula which apportions 75 percent of the state's base delegation allocated by the Democratic National Committee, among the Assembly districts in a manner which gives equal weight to the average vote for the Democratic candidates in the two most recent presidential elections and to Democratic Party registration or enrollment as of the first of January immediately preceding the presidential primary.

The number of delegates allocated to each Assembly district shall be rounded off to the nearest whole integer. The remaining delegates and alternates shall be selected pursuant to Article 10 (commencing with Section 6365).

(d) Of the delegates and alternates apportioned to each Assembly district, one-half shall be selected by a caucus pursuant to Section 6329.1 and one-half shall be elected by a direct vote on the presidential primary ballot pursuant to Section 6329.2.

SEC. 5. Section 6305.1 is added to the Elections Code, to read:

6305.1. (a) All persons wishing to be elected to a district-level or at-large delegate or alternate position shall file a statement of candidacy designating the presidential or uncommitted preference of the delegate candidate, and a signed pledge of support for the presidential candidate the person favors, if any, with the state party chair by a time specified by the party chair.

(b) If persons eligible for pledged party and elected official delegate positions have not made known their presidential preference under subdivision (a), their preferences shall be ascertained through alternative procedure established by the Democratic State Party. An alternative system may have a later deadline for submitting a pledge of support than the regular procedure.

SEC. 6. Section 6305.2 is added to the Elections Code, to read:

6305.2. The proportions of alternate delegates elected at the district level, at-large, and as unpledged and pledged add-on party

and elected officials alternates shall be the same as the proportions of delegates elected in those categories.

Members of Congress elected as delegates under the provisions of Section 6365.3 shall not be entitled to an alternate.

SEC. 7. Section 6306 of the Elections Code is amended to read:

6306. The notification of the number of delegates and alternates shall be in substantially the following form:

Statement of Number of Delegates and Alternates to Democratic National Convention and of Number of Delegates to Be Selected from Assembly Districts

To the Secretary of State
Sacramento, California

You are hereby notified that the number of delegates and alternates to represent the State of California in the next national convention of the Democratic Party is _____.

You are hereby notified that the number of delegates which may be selected from all Assembly districts as a part of the delegation to the national convention of the Democratic Party is _____.

Dated this _____ day of _____, 19__.

_____
Chairperson of the State Central Committee of the Democratic Party.

SEC. 8. Section 6307 of the Elections Code is amended to read:

6307. If the chairperson of the Democratic State Central Committee fails to file the notice required by Section 6305 with the Secretary of State, the Secretary of State shall ascertain the total number of delegates from the call for the national convention issued by the National Committee of the Democratic Party and shall compute the number of delegates which may be selected from each Assembly district from the formula specified in Section 6305.

SEC. 9. 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 Assembly 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. 10. Section 6327 of the Elections Code is amended to read:

6327. Each steering committee shall be responsible for the circulation of nomination papers of candidates who seek to qualify under Article 4 (commencing with Section 6315) of this chapter and

groups proposing uncommitted delegations, including the appointment of verification deputies. Each steering committee shall appoint a caucus organizer for each Assembly district and shall perform the duties required of it by this chapter.

SEC. 11. 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 Assembly 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 _____ Assembly 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. 12. Section 6329 of the Elections Code is amended to read:

6329. 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 Assembly 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.

SEC. 13. Section 6329.1 is added to the Elections Code, to read:

6329.1. On the first Sunday in May of the presidential primary year, a caucus shall be convened in each Assembly district in the state, by the chair of the State Democratic Party, or his or her designee, for the purpose of electing delegates and alternates. In the event of the failure of the appropriate person to call the caucus, the chair of the State Democratic Party shall call the caucus. The person calling the caucus, or his or her designee, shall preside over the caucus as temporary chair until such time as a permanent chair is elected by the caucus.

Each caucus shall elect a slate of four delegate nominees in each Assembly district representing the presidential candidate or uncommitted preference receiving the most votes among caucus participants.

The delegate nominees shall be ranked in the manner specified by the State Democratic Party's affirmative action plan. The ranking shall then be transmitted to the steering committee of the candidate or uncommitted delegation.

Each participant at each caucus shall reside in and be a registered Democrat of the Assembly district of the caucus he or she attends and each shall sign a statement of support for a presidential candidate or uncommitted delegation.

Within five days after the names of elected delegate nominees are transmitted, the steering committee of each candidate or uncommitted delegation shall select the number of delegates which were to be elected in each Assembly district caucus. That selection shall be at the sole discretion of the steering committee, but priority

shall be given in order to achieve the goals of the State Democratic Party's affirmative action plan. Immediately thereafter, the chairperson of the steering committee shall file with the Secretary of State a statement containing the names of delegates and alternates elected in each Assembly district caucus. In all cases, the names filed for each Assembly district shall be equal to one-half the number of delegates and alternates allotted to each Assembly district pursuant to Article 2 (commencing with Section 6305).

SEC. 14. Section 6329.2 is added to the Elections Code, to read:

6329.2. One-half of the delegates and alternates apportioned to each Assembly district shall be voted upon directly on the presidential primary ballot. Each delegate candidate shall be identified on the ballot according to his or her presidential or uncommitted preference.

On or before the first of April preceding the presidential primary, the chairperson of each steering committee in consultation with the chairperson of the State Democratic Party shall select a slate of delegate nominees in each Assembly district equal to the number of delegates and alternates to be voted upon at the primary. The slate of delegates shall be ranked and selected according to the State Democratic Party's affirmative action plan. Immediately thereafter, the chairperson of each steering committee shall transmit the slate of delegates and alternates to the Secretary of State and each county clerk or registrar of voters. Only the names transmitted shall appear on the primary ballot.

The vote for each delegate nominee shall be added to all other delegate nominees with the same candidate or uncommitted preference in each Assembly district.

All individual candidates for delegate or alternate pledged to the candidate or uncommitted preference receiving the highest total votes in the district shall be deemed the elected delegates for that district.

SEC. 15. Section 6365 of the Elections Code is amended to read:

6365. On or before the Wednesday preceding the third Saturday following the presidential primary election, the steering committee of each candidate or uncommitted delegation shall announce the names of the state Assembly district delegates and alternate delegates.

SEC. 16. Section 6365.1 of the Elections Code is repealed.

SEC. 17. Section 6365.2 of the Elections Code is repealed.

SEC. 18. Section 6365.2 is added to the Elections Code, to read:

6365.2. Twenty-five percent of the state's base delegation shall be elected at-large. In addition, elected and party officers who are pledged or unpledged shall be selected as add-on delegates in the manner provided in this article.

At-large and pledged add-on delegates shall be awarded to candidates proportionately reflecting the strength of support a candidate or uncommitted delegation has received statewide in the presidential primary election.

On the second Saturday following the presidential primary election, the State Democratic Party 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 delegate candidates and alternate candidates shall be considered bona fide supporters, unless rejected in accordance with the provisions set forth in Section 6329.

SEC. 19. Section 6365.3 of the Elections Code is repealed.

SEC. 20. Section 6365.3 is added to the Elections Code, to read:

6365.3. (a) After the election of district-level delegates and prior to selection of at-large delegates, the executive committee shall select party leaders and elected officials to serve as unpledged add-on delegates. The executive committee, in consultation with the steering committees of candidates, shall select additional pledged add-on delegates. The add-on delegates shall be equal in number to 10 percent of the district and at-large delegates, and the add-on delegates shall be selected from party leaders and elected officials.

(b) The selection process to be used in selecting unpledged party and elected official "add-on" delegates shall be as follows:

(1) The state chairperson and vice-chairperson of the State Democratic Party shall serve as unpledged members of the delegation.

(2) After receipt from the Democratic National Committee of names of members of Congress selected to serve as members of the unpledged delegation, the executive committee shall select the balance of the unpledged delegation, in the following order:

(A) Democratic Governor and Democratic large-city mayors, as the latter term is defined by the executive committee.

(B) Statewide elected officials; state legislators; members of the Democratic National Committee not previously selected; members of Congress not previously selected; and other party and elected officials.

(C) In selecting these delegates, the executive committee shall include women and minorities.

(c) Following the selection of unpledged add-on delegates, pledged party and elected official delegates are to be selected subject to the following procedures:

(1) Persons shall be considered for these positions in the same priority order as set forth in paragraph (2) of subdivision (a).

(2) Delegate slots shall be allocated according to the statewide primary vote as specified in Section 6365.2.

(3) Persons seeking these delegate slots shall sign a pledge of support for a presidential candidate.

(d) As used in this article "executive committee" shall consist of seven members. Three members shall be selected by the Democratic caucus of the state Senate and three members shall be selected by the Democratic caucus of the Assembly. The chair of the State Democratic Party shall also be a member.

SEC. 21. Section 6365.4 is added to the Elections Code, to read:

6365.4. (a) On or before the Monday preceding the third Saturday following the primary, the Secretary of State, in consultation with the chair of the State Democratic Party shall announce the number of at-large delegates and alternates to which each candidate or unpledged delegation is entitled based on the statewide primary vote.

(b) On the third Saturday following the presidential primary election, the steering committees of the candidates and uncommitted delegations and the executive committee shall meet at the time and place specified by the chairperson of the State Democratic Party in consultation with the chair of each steering committee, to elect at-large delegates. The chairperson of the State Democratic Party shall serve as chair of the meeting until the selection process is completed.

(c) Persons shall be selected as at-large delegates in the following priority order:

(1) State legislators and statewide elected officials who have not previously been selected.

(2) Members of Congress and party officials who have not previously been selected.

(3) Other persons eligible for at-large delegate positions.

(d) The selection of persons for at-large delegate positions shall be used, if necessary, to achieve equal division of positions between men and women and the representational goals established in the State Democratic Party's affirmative action plan.

(e) 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.

SEC. 22. Section 6365.5 is added to the Elections Code, to read:

6365.5. The provisions of this chapter shall be the sole source of procedures for selecting the California Democratic delegation to the Democratic National Convention. Rules or bylaws, or both, of the Democratic State Central Committee shall be superseded by the provisions of this chapter.

CHAPTER 1604

An act to amend Sections 17073, 17214, 17215, and 17215.1 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 30, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 17073 of the Revenue and Taxation Code is amended to read:

17073. (a) Except as provided in subdivision (b), for purposes of this part the term "taxable income" means gross income, minus the deductions allowed by this part, other than the standard deduction allowed by Article 4 (Section 17171 and following).

(b) In the case of an individual electing to use the standard deduction provided in Article 4 (Section 17171 and following), for purposes of this part the term "taxable income" means adjusted gross income, minus that standard deduction and the deduction set forth by subdivision (c).

(c) The deduction allowed by Section 17214 (relating to contributions of gifts), as adjusted pursuant to Sections 17214.1 to 17216.2, inclusive. The provisions of this subdivision shall not apply to contributions made after December 31, 1986.

SEC. 2. Section 17214 of the Revenue and Taxation Code is amended to read:

17214. In computing taxable income there shall be allowed as a deduction, in case of an individual, contributions or gifts, payment of which is made within the taxable year to or for the use of:

(a) The United States, a possession of the United States, any state, or any political subdivision thereof, or the District of Columbia, but only if the contribution or gift is made for exclusively public purposes.

(b) A corporation, or trust, or community chest, fund or foundation—

(1) Created or organized in the United States or in any possession thereof, or under the law of the United States, any state, the District of Columbia, or any possession of the United States;

(2) Organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals;

(3) No part of the net earnings of which inures to the benefit of any private shareholder or individual; and

(4) Which is not disqualified for tax exemption under Section 23701d by reason of attempting to influence legislation, and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office. A contribution or gift by a corporation to a trust, chest, fund, or foundation shall be deductible by reason of this paragraph only if it is to be used within the United States or any of its possessions exclusively for purposes specified in paragraph (2).

(c) A post or organization of war veterans, or an auxiliary unit or society of, or trust or foundation for, any such post or organization—

(1) Organized in the United States or any of its possessions, and

(2) No part of the net earnings of which inures to the benefit of any private shareholder or individual.

(d) In the case of a contribution or gift by an individual, a domestic fraternal society, order, or association, operating under the lodge system, but only if such contribution or gift is to be used exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals.

(e) A cemetery company owned and operated exclusively for the benefit of its members, or any corporation chartered solely for burial purposes as a cemetery corporation and not permitted by its charter to engage in any business not necessarily incident to that purpose, if such company or corporation is not operated for profit and no part of the net earnings of such company or corporation inures to the benefit of any private shareholder or individual.

(f) For purposes of this section, payment of a charitable contribution which consists of a future interest in tangible personal property shall be treated as made only when all intervening interests in, and rights to the actual possession or enjoyment of the property have expired or are held by persons other than the taxpayer or those standing in a relationship to the taxpayer described in Section 17288. For purposes of the preceding sentence, a fixture which is intended to be severed from the real property shall be treated as tangible personal property.

(g) In the case of an individual who does not itemize his or her deductions for the taxable year, the amount allowable as a deduction under this section shall be taken into account as a direct deduction under Section 17073. That deduction shall be limited to the applicable percentage as set forth in subdivision (b) of Section 17215.

SEC. 3. Section 17215 of the Revenue and Taxation Code is amended to read:

17215. (a) Except as provided in subdivision (b), deductions for contributions or gifts shall be allowed to an amount which in all cases listed in Section 17214 combined does not exceed 20 percent of the taxpayer's adjusted gross income. The contributions or gifts shall be allowed as deductions only if verified under rules and regulations prescribed by the Franchise Tax Board.

(b) For purposes of subdivision (g) of Section 17214, the applicable percentage of the amount allowable under subdivision (a) shall be determined under the following table:

For taxable years beginning in—	The applicable percentage is—
1984	25
1985	50
1986 or thereafter	100

(1) In the case of a taxable year beginning before 1985, the portion of the amount allowable under Section 17214 to which the applicable percentage shall be applied, shall not exceed three hundred dollars

($300) for taxable years beginning in 1984.

(2) In the case of a married individual filing a separate return, the limit under paragraph (1) shall be one hundred fifty dollars ($150).

SEC. 4. Section 17215.1 of the Revenue and Taxation Code is amended to read:

17215.1. (a) In the case of an individual, if the amount of charitable contributions described in subdivision (b) payment of which is made within a taxable year (hereinafter in this paragraph referred to as the "contribution year") exceeds 20 percent of the taxpayer's adjusted gross income (computed without regard to the taxpayer's charitable contributions) for such year, such excess shall be treated as a charitable contribution described in subdivision (b) paid in each of the five succeeding taxable years in order of time, but, with respect to any such succeeding taxable year, only to the extent of the lesser of the two following amounts:

(1) The amount by which 20 percent of the taxpayer's adjusted gross income for such succeeding taxable year exceeds the sum of the charitable contributions described in subdivision (b) payment of which is made by the taxpayer within such succeeding taxable year (determined without regard to this section) and the charitable contributions described in subdivision (b) payment of which was made in taxable years before the contribution year which are treated under this section as having been paid in such succeeding taxable year; or

(2) In the case of the first succeeding taxable year, the amount of such excess, and in the case of the second, third, fourth, or fifth succeeding taxable year, the portion of such excess not treated under this section as a charitable contribution described in subdivision (b) paid in any taxable year intervening between the contribution year and such succeeding taxable year.

(b) Any charitable contribution to—

(1) A church or a convention or association of churches,

(2) An educational organization which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on,

(3) An organization the principal purpose or functions of which are the providing of medical or hospital care or medical education or medical research, if the organization is a hospital, or if the organization is a medical research organization directly engaged in the continuous active conduct of medical research in conjunction with a hospital, and during the calendar year in which the contribution is made such organization is committed to spend such contributions for such research before January 1 of the fifth calendar year which begins after the date such contribution is made,

(4) An organization which normally receives a substantial part of its support (exclusive of income received in the exercise or performance by such organization of its charitable, educational, or other purpose or function constituting the basis for its exemption

under Section 501(a) of the Internal Revenue Code or Section 23701 of this code) from the United States or any state or political subdivision thereof or from direct or indirect contributions from the general public, and which is organized and operated exclusively to receive, hold, invest, and administer property and to make expenditures to or for the benefit of a college or university which is an organization referred to in paragraph (2) of this subdivision and which is an agency or instrumentality of a state or political subdivision thereof, or which is owned or operated by a state or political subdivision thereof or by an agency or instrumentality of one or more states or political subdivisions,

(5) A governmental unit referred to in subdivision (a) of Section 17214,

(6) An organization referred to in subdivision (b) of Section 17214 which normally receives a substantial part of its support (exclusive of income received in the exercise or performance by such organization of its charitable, educational, or other purpose or function constituting the basis for its exemption under Section 501(a) of the Internal Revenue Code or Section 23701 of this code) from a governmental unit referred to in subdivision (a) of Section 17214 or from direct or indirect contributions from the general public,

(7) A private foundation described in Section 170(b)(1)(E) of the Internal Revenue Code, or

(8) An organization described in Section 509(a)(2) or (3) of the Internal Revenue Code.

SEC. 5. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, the provisions of this act shall be applied in the computation of taxes for taxable years beginning on or after January 1, 1984.

CHAPTER 1605

An act to amend Sections 91501, 91503, 91504, 91522, 91526, 91527, 91529, 91530, 91531, 91532, 91533, 91535, 91536, 91537, 91540, 91542, 91543, 91555, 91570, 91571, 91573, and 91574 of, to add Sections 91525.5 and 91537.5 to, and to repeal Title 10 (commencing with Section 91500) of, the Government Code, and to amend Section 44534 and to repeal Section 44523 of the Health and Safety Code, relating to economic development.

[Approved by Governor September 30, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Title 10 (commencing with Section 91500) of the Government Code shall remain in effect only until January 1, 1987, and on that date is repealed unless a later enacted statute which is chaptered on or before that date deletes or extends that date.

SEC. 1.3. Section 91501 of the Government Code is amended to read:

91501. The Legislature hereby finds that it is necessary and essential that the state, in cooperation with the federal government, use all practical means and measures to promote and enhance economic development and increase opportunities for useful employment. The Legislature further finds the alternative method of financing provided in this title will benefit economically distressed communities with concentrated unemployment by employing a labor force from those communities and areas where persons are displaced due to industrial failures. The Legislature further finds that the alternative method of financing provided in this title will benefit economically distressed areas of the state and localities which are making diligent efforts to maintain and provide services to existing companies and to prevent the loss of existing jobs. The Legislature further finds that the alternative method of financing provided in this title will benefit those projects which would employ persons living within an economically distressed area, or projects which are partially funded by a job creation grant from the United States Department of Labor, the United States Department of Housing and Urban Development, or the Economic Development Administration of the United States Department of Commerce. The Legislature further finds and determines that industry within this state needs and requires new methods to finance the capital outlays required to acquire, construct, or rehabilitate facilities which will increase employment opportunities or otherwise contribute to economic development, and the alternate method of financing provided in this division is in the public interest and serves a public purpose and will promote the health, welfare, and safety of the citizens of the State of California.

SEC. 1.5. Section 91503 of the Government Code is amended to read:

91503. The property acquired pursuant to the provisions of this article shall be suitable for, or shall evidence an obligation respecting, certain activities or uses. The activities or uses shall include one or more of the activities or uses described in subdivision (a) and, unless incidental to such an activity or use, shall not include any of the activities described in (and not excepted from) subdivision (b).

(a) (1) Industrial uses including, without limitation, assembling, fabricating, manufacturing, or processing activities with respect to any products of agriculture, forestry, mining, or manufacture.

(2) Energy development, production, collection, conversion (from one form of energy to another), storage, or conservation activities, or energy transmission, transportation, or conveyance as distinguished from distribution activities.

(b) (1) Residential real property for family unit or other housing activities;

(2) Sports activities;

(3) Convention or trade show activities;

(4) Airport, dock, wharve, mass commuting, or parking activities, or storage or training activities related to any thereof;

(5) Sewage or solid waste disposal activities or electric energy or gas furnishing activities, except any such activities if the property acquired is suitable for one or more of the activities described in paragraph (2) of subdivision (a);

(6) Air or water pollution control activities;

(7) Water furnishing activities;

(8) Telephone or community television furnishing activities;

(9) Industrial park land development activities;

(10) Any activities of persons qualifying as exempt persons under Section 501 of the Internal Revenue Code of 1954, as amended, undertaken by such persons, other than activities constituting an unrelated trade or business as described in Section 513 of that code.

SEC. 2. Section 91504 of the Government Code is amended to read:

91504. Unless the context otherwise requires, the definitions in this article shall govern the construction of this title, as follows:

(a) "Acquire" and its variants means acquire, construct, improve, furnish, equip, repair, reconstruct or rehabilitate.

(b) "Administration expenses" means the reasonable and necessary expenses incurred by an authority in the administration of the provisions of this title, including, without limitation, fees and costs of paying agents, trustees, attorneys, consultants, and others.

(c) "Authority" means any industrial development authority established pursuant to the provisions of this title.

(d) "Board" means the board of directors of an authority.

(e) "Bonds" means the revenue obligations, inclusive of principal (premium, if any) and interest authorized to be issued by any authority under this title, including a single bond, a promissory note or notes, including bond anticipation notes, or other instruments evidencing an indebtedness or obligation.

(f) "Bond proceeds" means all amounts received by an authority upon sale or other disposition of any bonds.

(g) "Commission" means the California Industrial Development Financing Advisory Commission established pursuant to Article 3 (commencing with Section 91550).

(h) "Company" means a person, partnership, corporation, whether for profit or not, trust, or other private enterprise of whatever legal form, for which a project is undertaken or proposed to be undertaken pursuant to this title or which is in possession of property owned by an authority, and may include more than a single enterprise.

(i) "Cost" as applied to any project, may embrace:

(1) The cost of construction, improvement, repair, and

reconstruction.

(2) The cost of acquisition, including rights in land and other property, both real and personal and improved and unimproved, and franchises, and disposal rights.

(3) The cost of demolishing, removing, or relocating any building or structures on lands so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved or relocated.

(4) The cost of machinery, equipment and furnishings, of engineering and architectural surveys, plans, and specifications, and of transportation and storage until the facility is operational.

(5) The cost of agents or consultants, including, without limitation, legal, financial, engineering, accounting, and auditing, necessary or incident to a project and of the determination as to the feasibility or practicability of undertaking such project.

(6) The cost of financing, interest prior to, during, and for a reasonable period after completion of a project, and reserves for principal and interest and for extensions, enlargements, additions, repairs, replacements, renovations, and improvements.

(7) The cost of acquiring or refinancing existing obligations incident to the undertaking and carrying out, including the financing, of a project, and the reimbursement to any governmental entity or agency, or any company, of expenditures made by or on behalf of such entity, agency, or company that are costs of such project hereunder, without regard to whether or not such expenditures may have been made before or after the adoption of a resolution of intention with respect to that project by an authority.

(8) The cost of making relocation assistance payments as provided by Chapter 16 (commencing with Section 7260) of Division 7 of Title 1.

"Cost" shall not otherwise embrace working capital.

(j) "Facilities" means property suitable for any one or more of the activities or uses described in Section 91503 and includes incidental facilities.

(k) "Governing body" means the board of supervisors, or city council, as the case may be.

(*l*) "Indenture" means any mortgage, deed of trust, trust indenture, security agreement, or other instrument relating to establishing a lien or security interest in, or on, property, any pledge or other instrument relating to the possession of property, and any assignment or other instrument relating to establishing any right, title, or interest in, or related to, property, including the revenues therefrom, given by an authority to a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the state, or bondholder or agent, for the security of its bonds and the benefit of the bondholders.

(m) "Proceedings" means the actions taken by an authority in undertaking, carrying out, and completing a project, including, without limitation, the project agreements, indenture, bonds, and

resolutions.

(n) "Project" means the acquisition of facilities by the issuance of bonds upon the application of and to be repaid by payments from a company for the purposes of this title.

(o) "Project agreements" means the agreements between an authority and a company respecting a project, and may include, without limitation, leases, subleases, options, and installment or other contracts of purchase or sale, loan, or guaranty agreements, notes, mortgages, deeds of trust, and security agreements.

(p) "Property" means any land, air rights, water rights, disposal rights, improvements, buildings or other structures, and any personal property, and includes, but is not limited to, machinery and equipment, whether or not in existence or under construction, and interests in any of the foregoing, or promissory notes or other obligations of any kind respecting such interests.

(q) "Public agency" means any county, city and county, or city.

(r) "Revenues" means all rents, purchase payments, and other income derived by an authority from, or with respect to, the sale, lease, or other voluntary or involuntary disposition of, or repayment of loans with respect to, property, bond proceeds, and any receipts derived from the deposit or investment of any such income or proceeds in any fund or account of an authority, but does not include receipts designated to cover administration expenses.

SEC. 3. Section 91522 of the Government Code is amended to read:

91522. (a) All powers vested in authorities shall be exercisable as their respective boards shall provide, solely in the accomplishment of the purposes of authorities.

(b) A board shall consist of any authorized number of directors not less than three. The authorized number of directors shall be established by resolution of the governing body from time to time, except that when the resolution provided for by Section 91523 shall have been adopted, the authorized number of directors shall be the same as the authorized number of members of the governing body.

(c) Each director shall reside within the territory of the public agency and, unless the resolution provided for by Section 91523 has been adopted, shall not be an officer or employee of the public agency. Failure of a director to reside within the territory of the public agency or the existence of an official or employment relationship with the public agency shall not affect the validity of any project agreements, indentures, bonds or other proceedings or actions taken by an authority or public agency.

(d) Unless the resolution provided for by Section 91523 has been adopted, the directors shall be appointed by the governing body and they shall be appointed in such a manner that they shall hold office for overlapping terms. At the time of the appointment of the first directors, the governing body shall divide the directors into three groups containing as nearly equal whole numbers as possible. The first term of the directors included in the first group shall be

approximately one year, the first term of the directors included in the second group shall be approximately two years, the first term of the directors included in the third group shall be approximately three years, as determined by the governing body, and thereafter the terms of all directors shall be three years. Directors shall be eligible for reappointment for an unlimited number of terms.

(e) The directors shall serve without compensation, except that they may be reimbursed for their actual and necessary expenses incurred in the performance of their duties, or at the discretion of the governing body, may receive a reasonable per diem payment and mileage charge as reimbursement for living and traveling expenses incurred in the performance of duties away from the principal office. In addition, at the discretion of the governing body, they may also receive a reasonable mileage charge as reimbursement for traveling expenses to and from the principal office of the authority or the place of meeting, if other than at the principal office.

(f) Should the authorized number of directors be increased by a resolution authorized by subdivision (b), the additional directors shall be appointed for terms such that, when the number of directors is divided into three groups containing as nearly equal whole numbers as possible, the expiration of the first terms of the additional directors shall coincide with the expiration of the current terms of the directors within the same group. Should the authorized number of directors be reduced by such a resolution, the reduction shall be accomplished in accordance with the same criterion, except that a reduction, the effect of which would be to shorten the tenure of any director, shall not become effective until vacancy or expiration of term.

(g) Vacancies shall be filled by appointment of the governing body for the unexpired term, unless the authorized number of directors is reduced as provided in subdivision (f).

(h) A director's tenure shall continue until his successor has been appointed and qualified; provided, however, that a director may be removed from office by the governing body for cause after notice and opportunity for hearing.

SEC. 4. Section 91525.5 is added to the Government Code, to read:

91525.5. A member of the board or other officer of an authority or a member of the governing body who has any financial interest, other than an interest as defined by Section 1091 or 1091.5, in any project, project agreement, indenture, bonds, or the sale thereof, shall fully disclose the nature of the interest to the board, or governing body, and shall not cast a vote upon any matter concerning that project, project agreement, indenture, bonds, or the sale thereof, in any manner whatsoever, except that the presence of the member may be considered in determining the existence of a quorum.

SEC. 5. Section 91526 of the Government Code is amended to read:

91526. An authority may:

(a) Sue and be sued in its own name.

(b) Have an official seal.

(c) Have perpetual succession.

(d) Make and execute contracts and other instruments and documents.

(e) Make, amend, and repeal bylaws governing procedures and meetings of the board and the duties of its officers, and make, amend, and repeal rules, regulations, and policies governing the transaction of its business and the exercise of its powers.

(f) Use premises of, subject to the regulation thereof by, the public agency.

(g) Administer its funds and deposit, invest, and reinvest funds in the types of securities or obligations permitted the public agency in accordance with law.

(h) Use discretion in the undertaking of projects, including the establishment of reasonable priorities and criteria among the types and locations of projects and regarding companies.

SEC. 6. Section 91527 of the Government Code is amended to read:

91527. Authorities shall have all powers necessary or appropriate for carrying out the purposes of this title including, without limitation, the following powers, together with all powers incidental thereto:

(a) To acquire property by purchase, exchange, gift, lease, contract, or otherwise, except by eminent domain. The power to acquire real property shall not be exercised for other than authority use except pursuant to project agreement or indenture.

(b) To maintain property.

(c) To dispose of property by lease, sale, exchange, donation, release, relinquishment, or otherwise.

(d) With respect to property, to: (1) charge and collect rent under any lease; (2) sell at public or private sale, with or without public notice; (3) sell at a discount or below appraised value or for a nominal consideration, only; (4) sell on an installment payment or a conditional sales basis; (5) convey, or provide for the transfer of, property without further act of the authority, upon exercise of an option; (6) sell at a fixed or formula price, and receive for any such sale the note or notes of a company and mortgages, deeds of trust, or other security agreements respecting such property.

(e) To acquire and hold property, including funds, project agreements and other obligations of any kind, and pledge, encumber or assign the same, or the revenues therefrom or any portion of such revenues, or other rights, whether then owned or possessed, or thereafter acquired, for the benefit of the bondholders, and as security or additional security for any bonds or the performance of obligations under an indenture.

(f) To provide for the advance of bond proceeds and other funds pursuant to project agreements as necessary to pay or reimburse for

project costs.

(g) To exercise all rights and to perform all obligations of the authority under the project agreements and indenture, including the right, upon any event of default by or the failure to comply with any of the obligations thereof by the lessee, purchaser, or other company thereunder, to dispose of all or part of the property to the extent authorized by the project agreements or indenture.

(h) To borrow money and issue its bonds for the purpose of paying all or any part of the costs of a project, and for any other authorized purpose, as provided in this title.

(i) To contract and pay compensation for professional, financial, and other services.

(j) To refund outstanding bonds of the authority without regard to the purposes of this title when the board determines that such refunding will be of benefit to a company or holders of such bonds, subject to the provisions of the proceedings.

(k) To invest, deposit, and reinvest funds under the control of an authority and bond proceeds in the types of securities or obligations authorized, pending application thereof to the purposes authorized by, subject to the provisions of, the proceedings.

(*l*) To acquire insurance against any liability or loss in connection with property, in such amounts as it deems desirable.

(m) To expressly waive any immunity of the political subdivisions of this state provided by the Constitution or laws of the United States of America to taxation by the United States of interest on bonds issued by an authority, in obtaining federal benefits.

(n) To fund administration expenses (1) by the establishment and collection of an application fee in an amount not to exceed one-fourth of 1 percent of the estimated maximum amount of bonds proposed by an application to be issued, but not less than one thousand two hundred fifty dollars ($1,250), (2) by the acceptance of funds and other aid from the public agency and from other governmental sources authorized to provide such funds or aid, (3) by the acceptance of contributions from business, trade, labor, community, and other associations, and (4) by other authorized means.

SEC. 7. Section 91529 of the Government Code is amended to read:

91529. Companies may apply for financing pursuant to this article by filing with an authority an application therefor which includes all of the following:

(a) Such financial, legal, and other information as is required by an authority.

(b) An estimate of the amount of bonds proposed to be issued, of the sources of amounts otherwise required for the project, and an itemization of the estimated cost and any other expenses which aggregate not less than the estimated amount of bonds.

(c) Sufficient other information as is necessary to the determinations required to be made by subdivision (c) of Section

91530.

An application may be amended, supplemented or clarified from time to time, with such information as is required for the making of the determinations desired at the time in accordance with commission procedures.

SEC. 8. Section 91530 of the Government Code is amended to read:

91530. (a) Applications for projects or companies not in accordance with the reasonable priorities and criteria which an authority may establish need not be accepted and further processed by an authority.

(b) Acceptance of any application in no way obligates an authority to adopt a resolution of intention or undertake the project proposed.

(c) Upon acceptance of any application and request of a company, the board shall determine whether it is likely that the undertaking of the project by the authority will be a substantial factor in the accrual of one or more of the public benefits from the use of the facilities as proposed in the application, whether the activities or uses are in accord with Section 91503, and whether the project is otherwise in accord with the purposes and requirements of this title.

(d) Upon affirmative determinations under subdivision (c), the board may express the present intention of the authority to issue bonds in connection with the project and shall evidence the same by the adoption of a resolution of intention to undertake the project. The resolution of intention shall briefly describe the facilities, state the estimated principal amount of the bond issue (which estimate shall not limit the amount of bonds which may be issued), and identify the company that is the applicant, and may include other provisions as the board shall prescribe.

(e) A notice of the filing of an application, naming the company that is the applicant, briefly describing the facilities, stating the estimated principal amount of the bond issue and referring to the application for further particulars, shall be published by the secretary of the authority pursuant to Section 6061, and in the event the facilities are proposed to be located in a city and the project is proposed to be undertaken by an authority the jurisdiction of which is countywide, a copy of the notice shall be mailed by the secretary of the authority to the governing body of such city. Any amendment, supplement or clarification of an application which changes the company that is the applicant, the description of the facilities, or the estimated principal amount of the bond issue, as previously noticed, shall be noticed in the same manner.

(f) A copy of the application shall be filed with the public agency. The authority shall not issue bonds with respect to any project unless the public agency shall approve, conditionally or unconditionally, the project, including the issuance of bonds therefor. Action to approve or disapprove a project shall be taken within 45 days of the filing with the public agency. Certification of approval or disapproval shall be

made by the clerk of the public agency to the authority.

(g) A resolution of intention may be revoked, amended, supplemented or clarified by the board, at any time prior to entry into the project agreements. The project agreements, indenture, bonds and other proceedings shall be consistent with the resolution of intention, and shall supersede it except to the extent otherwise expressed.

SEC. 9. Section 91531 of the Government Code is amended to read:

91531. (a) At any time following adoption of the resolution of intention, the board shall request that the commission make the determinations authorized by this section and shall provide for transmission to the commission of the fee required by the commission and such information as may be required by the commission.

(b) The commission shall review the submission and shall, by express findings on the basis of the submission, determine compliance with the following criteria:

(1) Public benefits, determined in accordance with the policy stated in Section 91502.1, from the use of the facilities likely will substantially exceed any public detriment from issuance of bonds in the estimated principal amount proposed in the application.

(2) Neither the completion of the project nor the operation of the facilities will have the proximate effect of relocation of any substantial operations of the company from one area of the state to another or in the abandonment of any substantial operations of the company within other areas of the state, or, if the completion or operation will have either of the effects, then the completion or operation is reasonably necessary to prevent the relocation of any substantial operations of the company from an area within the state to an area outside the state.

(3) The proposed issuance of bonds qualifies for issuance under the provisions of Article 5 (commencing with Section 91570).

(c) Written notification of the determinations of the commission shall be given the authority.

(d) Upon failure of the commission to make determinations as to compliance with the criteria within 60 days of the receipt of the submission, unless the time is extended by written consent of the authority, the commission shall lose jurisdiction to make the determinations, and the authority shall determine compliance with the criteria.

(e) A proposed issuance of refunding bonds shall be evaluated solely under the requirement of paragraph (3) of subdivision (b), upon request of the board following the determination provided for in subdivision (j) of Section 91527.

(f) Determinations of the commission or of an authority as provided in subdivision (j) of Section 91527, Section 91530, and this section shall be final and conclusive.

(g) The authority shall not deliver bonds for the project until this

section has been complied with.

(h) It is the intention of the Legislature that submissions be reviewed by the commission individually and not comparatively and that determinations be made generally in the order of receipt of the submissions. To the extent consistent with accomplishment of the public purposes as provided in Section 91502, priority consideration shall be given submissions on behalf of small and medium-size companies. To the extent that the public benefits finding under paragraph (1) of subdivision (b) of this section is based on employment benefits under paragraph (1) of subdivision (b) of Section 91502.1, the following considerations, as alternatives to each other, may in accordance with the submission, additionally be considered in making such finding:

(1) The willingness of the company to provide for the screening for employment of (i) individuals affected by industrial relocations or abandonments, (ii) new entrants or reentrants to the workforce, (iii) unemployed or partially unemployed individuals who are registered for work at a public employment office or other approved place pursuant to Section 1253 of the Unemployment Insurance Code, or (iv) individuals participating in job training or placement programs directly calculated to increase employability or improve the employment of such individuals.

(2) The location of the facilities in or conveniently accessible to a portion of the workforce residing within an economically distressed area of the state or an area of the state affected by industrial depression or decline.

An adverse finding shall not be made merely because each of such alternative considerations is inapplicable if the facilities are located in or are conveniently accessible to a portion of the workforce residing within a pocket of economic distress or an area of the state largely rural in character.

SEC. 10. Section 91532 of the Government Code is amended to read:

91532. (a) The commission may provide, by regulation, that at the option of an authority, the commission will make determinations pursuant to subdivision (b) of Section 91531 under any of the three criteria, separately, without at the same time making determinations under the remaining criteria.

(b) In the event an authority elects to request determinations under less than all of the three criteria, the 60-day period of subdivision (d) of Section 91531 is applicable only to determinations under the designated criteria and the commission retains jurisdiction to make determinations under the remaining criteria, upon request, and prior to the expiration of a 60-day period applicable to each separate determination requested.

(c) The commission may provide that at the option of an authority, the commission will make a determination with regard to the qualification of bonds for issuance under the provisions of Article 5 (commencing with Section 91570), upon the basis of statements

and descriptions. In such event bonds shall not be delivered in return for the purchase price until the submission is supplemented with proposed forms of project agreements, indentures and other proceedings not differing substantially from the statements and descriptions.

(d) An authority acting pursuant to subdivision (d) of Section 91531 may follow the same procedures as are followed by the commission pursuant to this section.

SEC. 11. Section 91533 of the Government Code is amended to read:

91533. Authorities shall undertake projects by entry into project agreements in substance not inconsistent with the following:

(a) The company shall comply with (or cause to be complied with) all legal requirements relating to the project and the operation, repair and maintenance of the facilities, including (1) obtaining any rezonings or variances, building, development, and other permits and approvals, and licenses and other entitlements for use, without regard to any exemption for public projects; and (2) securing the issuance of any certificates of need, convenience, and necessity or other certificates or franchises; and shall provide satisfactory evidence of compliance.

(b) The company shall comply with all conditions imposed by the public agency in its approval of the project pursuant to subdivision (f) of Section 91530.

(c) The company shall provide, or cause to be provided by others, all amounts required for the project and all property relating to the project which are not to be provided as or by expenditure of bond proceeds, and in the case of any such amounts and property which the company proposes to cause to be provided by others, as by contract, grant, subsidy, loan, or other form of assistance, shall provide satisfactory evidence that such amounts and property will be provided when required.

(d) Expenditure of bond proceeds shall be supervised to assure proper application to the project.

(e) The company shall at its own expense insure, repair, and maintain the facilities, pay such taxes with respect to its interests in the property relating to the project as the provisions of Division 1 (commencing with Section 101) of the Revenue and Taxation Code require, and pay assessments and other public charges secured by liens, upon such interests as constitute the tax base for property taxation on the same basis as other property, or shall cause the same to be provided by others to the satisfaction of the authority.

(f) The amounts payable under the project agreements to or for the benefit of an authority shall in the aggregate not be less than amounts sufficient (1) to pay any bonds that shall be issued by the authority to pay the cost of the project, (2) to maintain any required reserves, (3) to make payments as may be required into any sinking fund or other similar fund, and (4) to pay those administration expenses which relate to the administration of the project

agreements, the indenture, and the bonds.

(g) The term shall extend at least until the date on which all such bonds and all other obligations incurred by an authority in connection with a project shall have been paid in full or adequate funds for such payment shall have been otherwise provided.

(h) Such additional provisions as in the determination of the board are necessary or appropriate to effectuate the purposes of this article, including provisions:

(1) For payments under the project agreements which include amounts for administration expenses in addition to the amounts which the agreement is required to obligate the company or others to pay;

(2) For payment before a facility exists or becomes functional, or after a facility has ceased to exist or be functional to any extent and from any cause;

(3) For payment whether or not the company is in possession or is entitled to be in possession of the facilities or for payment in the event of sale or other transfer of ownership of or the encumbering of the facilities;

(4) Relating to the carrying out and completion of the project, including the allocation of responsibility between the authority and the company regarding the acquisition of property, the making of other purchases, the contracting for construction of the facilities, with or without competitive bidding, and the payment therefor and the designation of particular deposits or investments otherwise authorized for the deposit, investment, and reinvestment of revenues;

(5) That some or all of the obligations of a company shall be unconditional and shall be binding and enforceable in all circumstances whatsoever notwithstanding any other provision of law;

(6) Relating to the use, maintenance, repair, insurance, and replacement of property relating to the project, such as the authority and the company deem necessary for the protection of themselves or others, including, but not limited to, liability insurance, and indemnification in the event of default; and

(7) Defining events of default and providing remedies therefor, which may include an acceleration of future payments thereunder.

(i) The company shall provide for the payment of relocation assistance as provided by Chapter 16 (commencing with Section 7260) of Division 7 of Title 1, and shall reimburse the authority or the public agency, as the case may be, for relocation assistance services, and notwithstanding any other provision of this title, the authority shall determine that such services are provided and that relocation assistance payments are made.

(j) Notwithstanding any other provision of this title, projects undertaken and carried out pursuant to this title shall be consistent with the requirements of the general plan as contained in Article 5 (commencing with Section 65300) of Chapter 3 of Title 7 at the time

of entry into the project agreement, or in the event inconsistent at that time, then at the time of delivery of any bonds.

(k) The company may, pursuant to project agreements, provide or cause to be provided other security, such as, but not limited to, an agreement of guaranty, either of itself or another person, or other consideration directly to the bondholders, their agent or the trustee under an indenture, and neither the company nor any such other person, shall be precluded by the project agreements from having other contractual relationships with those bondholders, agent or trustee.

(*l*) Authorities shall require, whether or not authorities, companies, or others are the contract awarding bodies, that on any construction, improvement, reconstruction, or rehabilitation financed in whole or in part by means of bonds issued pursuant to this title, the resolution of intention for which is adopted on or after January 1, 1983, all workers employed in such work, exclusive of maintenance work, shall be paid not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the work is performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work. Those rates shall be determined by the Director of the Department of Industrial Relations in accordance with the standards set forth in Section 1773 of the Labor Code. The director's determination shall be final, and Sections 1773.1, 1773.5, 1774 and 1776 (excepting subdivision (f)) of the Labor Code shall apply.

SEC. 12. Section 91535 of the Government Code is amended to read:

91535. (a) All bonds issued by an authority in connection with a project shall be special obligations, only, of the authority, payable solely out of the revenues or out of the other sources specified in the proceedings.

(b) The bonds prescribed by subdivision (a) may:

(1) Be executed and delivered by the authority at any time and from time to time;

(2) Be in such type and denominations and of such terms and maturities;

(3) Be in registered or bearer form either as to principal or interest or both and carry such conversion and reconversion privileges;

(4) Be payable as term bonds or in such installments and at such time or times not exceeding 40 years from the date thereof;

(5) Be payable in such mediums and at such place or places within or without the state;

(6) Be sold below par or face value thereof, but the sale price shall not be less than 95 percent of the par or face value of the bond;

(7) Be exchangeable for, or issuable in lieu of, such bonds;

(8) Be issuable in temporary form pending preparation of and exchange for definitive bonds; and

(9) Be executed by such officers, be authenticated, and contain

such provisions not inconsistent with this article; all as shall be provided in the proceedings.

(c) If deemed advisable by the board, there may be retained in or granted by the proceedings an option to redeem or to cause to be redeemed prior to maturity all or any part of any bonds as may be specified in such proceedings, at such price or prices and after such notice or notices and on such terms and conditions as may be set forth in such proceedings and as may be briefly recited in the bond. Nothing in this title shall be construed to confer on an authority or any bondholder or trustee any right or option to redeem or cause the redemption of any bonds, except as may be provided in the proceedings under which they shall have been issued.

(d) Issuance by an authority of one or more issues of bonds for one or more purposes shall not preclude it from issuing other bonds in connection with the same project or any other project, subject to such agreements with bondholders as may then exist.

(e) Any bonds of an authority at any time outstanding may at any time, and from time to time, be refunded, including the payment of any redemption premium and accrued interest to the date of redemption, by an authority by the issuance of its refunding bonds in such amount as the board may deem necessary or appropriate. Bonds may be issued as one issue for refunding and other authorized purposes. Any refunding may be effected whether the bonds to be refunded shall have then matured or shall thereafter mature, either by sale of the refunding bonds and the application of the proceeds to the payment, purchase or redemption of the bonds to be refunded thereby or to the deposit or investment in securities or obligations yielding amounts sufficient to pay or redeem the bonds to be refunded thereby, or by the exchange of the refunding bonds for the bonds to be refunded thereby or bonds and claims with the consent of the holders of the bonds so to be refunded and with such cash or property adjustments as may be agreed, and regardless of whether or not the bonds proposed to be refunded shall be payable at the same date or different dates or shall be due serially or otherwise.

(f) Each bond shall be deemed to be an investment security under the Uniform Commerical Code and a negotiable instrument, subject only to any provisions thereof for registration or other provisions restricting transfer, and shall be deemed to have been issued for an authorized purpose of the authority in exercise of the powers granted by this article, provided that the board so determines in the proceedings and such determination is recited in the bond.

SEC. 13. Section 91536 of the Government Code is amended to read:

91536. In the discretion of an authority, any bonds issued under the provisions of this title may be secured by an indenture. Such indenture may vest in bondholders the right to remove and appoint a new trustee or agent. The trustee or agent may at any time own all or any part of the bonds, unless otherwise provided in the indenture. Such indenture may vest in such trustee, bondholder, or

agent, as provided therein, property, rights, powers and duties, and may pledge, encumber, or assign the revenues, the project agreements and any other rights as security for the bonds and for the benefit of the bondholders, subject to such agreements with bondholders as may then exist. Such indenture may contain covenants of the authority as to the acquisition of property, the disposition of any property, or part thereof, the subjecting of additional property thereto or to the lien thereof, the issuance of additional bonds, the custody, deposit, investment and application of all moneys, the creation and maintenance of reserves, the disposition of insurance or condemnation proceeds, and the use of surplus bond proceeds. Any such indenture may define events of default thereunder, which may include events of default of a company under the project agreements, may specify the action to be taken by the trustee, bondholder, or agent upon an event of default, may set forth the rights and remedies of the bondholders and of the trustee or agent, and may, in the case of a trustee, restrict the individual right of action by bondholders. In addition, any such indenture may contain such other provisions as the board may deem reasonable and proper and which relate in any way to the security or protection of bondholders. All expenses incurred in carrying out the provisions of such indenture shall be treated as an administration expense. Any lien or other interest established by any indenture shall be valid and binding from the date thereof, and any revenues or amounts to cover administration expenses thereafter received by, or on behalf of, an authority or trustee or agent thereunder shall immediately be subject to the lien thereof or other interest established thereby without any further act, which lien or other interest shall be valid and binding as against all persons, irrespective of notice, without any filing or recording except a filing in the records of the authority. If so provided in the indenture, all or designated revenues shall further be deemed to be trust funds and shall be held and applied solely as provided in such indenture, and no bondholder shall, as such, be in any manner obligated to see to the proper application thereof.

SEC. 14. Section 91537 of the Government Code is amended to read:

91537. The issuance of bonds shall be authorized by resolution of the board adopted at any time following the determinations provided for in subdivision (j) of Section 91527 or Section 91530. The resolution may, as the board deems advisable and in accordance with the provisions of this article, provide for, or authorize the execution of a loan agreement, the repayment obligation of which is evidenced by the bonds, providing for, or authorize the execution of an indenture providing for:

(a) The fixing and collection of revenues;

(b) The creation and maintenance of special funds, including reserve and sinking funds;

(c) Limitations on expenditures of bond proceeds;

(d) The procedure, if any, by which any contract represented by

bonds may be amended or abrogated;

(e) The acts and omissions which shall constitute, and the rights and remedies available, in an event of default. In such an event of default, the obligations of the authority may be enforced, as appropriate, by mandamus, by the appointment of a receiver, by foreclosure or sale, by injunction, by specific performance, by equitable relief, or by any one or more of such remedies or any other remedy; and

(f) Any additional matters authorized to be included in an indenture or which relate to the security, protection, or return of bondholders.

SEC. 15. Section 91537.5 is added to the Government Code, to read:

91537.5. The bonds may bear interest on such amount or amounts, payable at such time or times, evidenced in such manner and at such rate or rates as shall be established by or pursuant to a method approved by the board, but the maximum rate of interest to be paid on the bonds shall not exceed 12 percent per annum or such higher rate as is at the time of accrual of interest then stated in Section 53531 or other applicable law, except that the maximum rate of interest to be paid on the bonds may exceed such rate in the event interest may be or become taxable by the United States. In the event interest may be or become taxable, the maximum rate of interest to be paid on the bonds shall not exceed 5 percent per annum, plus the rate prevailing on the 25th day of the month preceding the date of acceptance by the authority of an offer to purchase the bonds, as 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 amended. If there is no single determinable rate of advances, the closest counterpart of that rate shall be designated by the Superintendent of Banks, unless some other person or agency is delegated this authority by the Legislature.

SEC. 16. Section 91540 of the Government Code is amended to read:

91540. (a) All property, revenues, and funds, owned or possessed by an authority for the purposes of this title, shall be exempt from levy and sale by virtue of execution or other judicial process. Execution or other judicial process shall not issue against such property, revenues, or funds nor shall any judgment against an authority be a charge or lien upon such property, revenues, or funds.

(b) This section does not apply to or limit the right of obligees to enforce, as appropriate, any indenture or the right of obligees to pursue any remedies for the enforcement of any assignment by an authority of or any pledge or lien given by an authority on revenues, project agreements, administration expenses or any other assets.

(c) This section does not apply to interests of companies.

SEC. 17. Section 91542 of the Government Code is amended to read:

91542. At such time as all obligations under the project

agreements respecting any particular project have been satisfied or otherwise discharged or adequately provided for and all the bonds issued to finance such project have been repaid or payment thereof has been adequately provided for, and all other obligations of the authority of any nature whatsoever with respect to such project have been satisfied or otherwise discharged or adequately provided for, the authority is authorized to execute such deeds and conveyances as may be necessary to convey the funds and property provided by the project agreements to be conveyed to the company and shall deliver and pay over to the public agency any remaining funds and properties of the authority which were derived from or are attributable to such project.

SEC. 18. Section 91543 of the Government Code is amended to read:

91543. All general or special laws or parts thereof inconsistent with this title shall be inapplicable to the exercise of any of the powers conferred under the provisions of this title. Without limiting the generality of the foregoing, the provisions of Divisions 3 (commencing with Section 11000), 4 (commencing with Section 16100), and 5 (commencing with Section 18000) of Title 2 of this code, relating to the executive department of the state, and of Division 13 (commencing with Section 21000) of the Public Resources Code, shall not be applicable to authorities.

SEC. 19. Section 91555 of the Government Code is amended to read:

91555. The commission may:

(a) Assist authorities in the planning, preparation, marketing, and sale of industrial development revenue bonds to reduce cost, protect the issuer's credit, and determine public benefits and detriments.

(b) Collect, maintain, and provide financial, economic, governmental, and social data on local government units pertinent to their ability to administer industrial development revenue bonds.

(c) Prepare guidelines or assist in preparation of informational documents necessary for such offerings.

(d) Collect, maintain, and provide information on debt authorized, sold and outstanding, and serve as a clearinghouse for local issues of industrial development revenue bonds.

(e) Maintain contact with municipal bond underwriters, credit rating agencies, investors, and others to improve the market for local government debt issues.

(f) Undertake or commission studies on methods to reduce the costs of state and local issues.

(g) Recommend changes in state law and local practices to improve the sale and servicing of such local bonds.

SEC. 20. Section 91570 of the Government Code is amended to read:

91570. (a) The commission established by Article 3 (commencing with Section 91550) shall review each issue of bonds and shall determine whether the issue is qualified for issuance under

the provisions of this article. Upon failure of the commission to make determinations, the authority shall do so in its stead as provided in subdivision (d) of Section 91531.

(b) No bonds shall be delivered by an authority in return for the purchase price unless the bond issue has been qualified under this article and no notification of the suspension or revocation of that qualification has been received by the authority which has not been vacated or modified so that the bonds qualify for issuance.

SEC. 21. Section 91571 of the Government Code is amended to read:

91571. (a) All issues of bonds may be qualified for issuance under this section.

(b) The commission may refuse to qualify an issue unless it finds that the proposed issuance is fair, just, and equitable to a purchaser of the bonds, and that the bonds proposed to be issued and the methods to be used by an authority in issuing them are not such as, in its opinion, will work a fraud upon the purchaser thereof.

(c) The commission may impose when qualifying an issue under this section conditions imposing a legend condition restricting the transferability thereof, impounding the proceeds from the sale thereof, or any other condition, if the commission finds that without the condition the issuance will be unfair, unjust, or inequitable to a purchaser of the bonds. The commission may in its discretion modify or remove any of the conditions when, in its opinion, they are no longer necessary or appropriate.

(d) The commission may refuse to qualify an issue of bonds under this section which is proposed to be issued in exchange for one or more outstanding bonds, or bonds and claims, or partly in the exchange and partly for cash or property, unless it approves the terms and conditions of the issuance and exchange and the fairness of the terms and conditions, and may hold a hearing upon the fairness of the terms and conditions, at which all persons to whom it is proposed to issue bonds or to deliver any other consideration in the exchange have the right to appear.

(e) The commission may refuse to qualify an issue unless it finds that the bonds issued in connection with the project by the authority will be adequately secured and the revenues and other funds applicable to the payment of the bonds are, or upon the acquisition of the facilities which the bonds finance, will be sufficient to pay the principal of and the interest on the bonds.

SEC. 22. Section 91573 of the Government Code is amended to read:

91573. (a) The aggregate amount of bonds qualified pursuant to this title shall not exceed two hundred fifty million dollars ($250,000,000) per calendar year, commencing January 1, 1983.

(b) Each authority shall file with the commission reports at those times which are required by the commission, setting forth with respect to each project the bonds of an issue qualified by the commission or the authority, the bonds which have been issued and

the dates of delivery and receipt of the purchase prices thereof, and the passage of the period or periods for lapse of qualification.

(c) Bonds may be delivered in return for the purchase price within a six-month period of the making of the determinations required to be made pursuant to Section 91531 or the making of the last determinations to be made pursuant to Section 91532, unless extended for a definite period by further commission action or further authority action in the event the determinations were made by an authority pursuant to subdivision (d) of Section 91531. The unissued amount of a qualification lapses upon the expiration of such period or periods.

SEC. 23. Section 91574 of the Government Code is amended to read:

91574. (a) Neither (1) the fact that an application for qualification has been filed nor (2) the fact that an issue of bonds has been qualified constitutes a finding by the authority or commission that any document filed in connection with the qualification is true, complete, or not misleading. No such fact means that the commission has passed in any way upon the merits of or recommended or given approval to any issue of bonds except as provided in subdivision (d) of Section 91571.

(b) It is unlawful to make or cause to be made to any purchaser any representation inconsistent with subdivision (a).

(c) Every notification of qualification issued by the commission shall recite that the qualification is permissive only, and does not constitute a recommendation or endorsement of the bonds so qualified.

SEC. 24. Section 44523 of the Health and Safety Code is repealed.

SEC. 25. Section 44534 of the Health and Safety Code is amended to read:

44534. (a) The authority shall take initial action on any completed application for financing submitted to it by a participating party at the next meeting of the authority which occurs more than 10 days following receipt of such application.

(b) The authority shall take final action with regard to the issuance of bonds or notes to lend financial assistance to a participating party within 60 days of receipt by the authority of a request from such participating party for the issuance of bonds or notes.

A request from a participating party for final approval of the issuance of bonds or notes shall be accompanied by evidence of fulfillment of all conditions to the issuance of such bonds or notes and by copies of forms of all principal legal documents to be approved by the authority, which must be satisfactory in form and substance to the Attorney General.

(c) The authority may give final approval for the issuance of bonds or notes upon such terms as it deems necessary and desirable. The authority may, in its discretion, give final approval to the issuance of bonds or notes prior to receipt of the certificate described

in subdivision (b) of Section 44533.

CHAPTER 1606

An act to add Section 24701 to the Education Code, relating to public retirement systems, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 24701 is added to the Education Code, to read:

24701. (a) Annual cost-of-living adjustments for retirants, disabilitants, and beneficiaries in excess of the 2-percent adjustment authorized by Section 22131 may be included as a General Fund appropriation in the annual Budget Act. In the annual budget submitted to the Legislature, the Governor shall include a budget item equal to 5 percent of the average annualized statewide increase in payroll for certificated personnel over the three previous school years among school districts, county offices of education, and community college districts.

The amount submitted in the Budget Act pursuant to this section shall be considered as part of the overall budget allocations to the public schools and community colleges.

(b) The annual appropriation shall be made to the State Teachers' Retirement System on July 1, and shall be placed in a segregated account called the Retirees' Purchasing Power Protection Account. The proceeds of that account are continuously appropriated and shall be distributed annually in quarterly payments commencing on September 1 to retirants, disabilitants, and beneficiaries as follows:

(1) The proceeds shall be allocated among those retirants, disabilitants, and beneficiaries whose allowances, after applying the 2-percent adjustment authorized by Section 22131, remain below 75 percent of the amount that would be paid had the original allowance been increased by increases in the index then being used by the Department of Finance to measure changes in the cost of living. In any year in which the purchasing power of the allowances of all retirants, disabilitants, and beneficiaries equals not less than 75 percent and additional funds remain from the allocation authorized by this section, those funds shall be allocated by the board to general accounts to reduce the unfunded actuarial liability of the fund.

(2) In calculating the amount to be allocated to each retirant, disabilitant, and beneficiary, the board shall determine the percentage of purchasing power that can be provided with each annual appropriation and shall allocate to each retirant, disabilitant,

and beneficiary an allowance equal to that percentage of purchasing power.

(3) The board may deduct from the annual appropriation an amount necessary for administrative expenses to implement this section.

(c) The board shall inform each recipient of benefits under subdivision (b) that the increases are not cumulative, not part of the base retirement allowance, and will be available only as appropriated annually in the state Budget Act.

(d) The adjustments authorized by this section shall not be included in the base allowance for purposes of calculating the 2-percent adjustment authorized by Section 22131.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

This bill would establish a process whereby certain cost-of-living increases of retired certificated and classified school employees would be tied to the Governor's Budget and subject to legislative scrutiny during the budget approval process. In order to meet the deadlines of the budget process, it is necessary that this act take effect immediately.

CHAPTER 1607

An act to amend Section 2016 of the Fish and Game Code, relating to fish and game, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 2016 of the Fish and Game Code is amended to read:

2016. It is unlawful to enter any lands under cultivation or enclosed by a fence, belonging to, or occupied by, another, or to enter any uncultivated or unenclosed lands, including lands temporarily inundated by waters flowing outside the established banks of a river, stream, slough, or other waterway, where signs forbidding trespass are displayed at intervals not less than three to the mile along all exterior boundaries and at all roads and trails entering such lands, for the purpose of discharging any firearm or taking or destroying any mammal or bird, including any waterfowl, on such lands without having first obtained written permission from the owner of such lands, or his agent, or the person in lawful possession thereof. Such signs may be of any size and wording, other

than the wording required for signs under Section 2017, which will fairly advise persons about to enter the land that the use of such land is so restricted.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that the provisions of this act take effect prior to the opening of the hunting season and thereby provide needed protection to privately owned lands, it is necessary that the provisions of this act take effect immediately.

CHAPTER 1608

An act to amend Section 11018.5 of the Business and Professions Code, relating to subdivided lands.

[Approved by Governor September 30, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 11018.5 of the Business and Professions Code is amended to read:

11018.5. With respect to the subdivisions and interests of the type described in Section 11004.5, and in addition to the other grounds for denial of a public report as set forth in this code, the commissioner shall issue a public report if the commissioner finds the following with respect to any such subdivision or interest:

(a) (1) Reasonable arrangements have been made to assure completion of the subdivision and all offsite improvements included in the offering.

(2) If the condominium or community apartment project, stock cooperative or planned development, or premises or facilities within the common area are not completed prior to the issuance of a final subdivision public report on the project, the subdivider shall specify a reasonable date for completion and shall comply with one of the following conditions:

(A) Arranges for lien and completion bond or bonds in an amount and subject to such terms, conditions and coverage as the commissioner may approve to assure completion of the improvements lien free.

(B) All funds from the sale of lots or parcels or such portions thereof as the commissioner shall determine are sufficient to assure construction of the improvement or improvements, shall be impounded in a neutral escrow depository acceptable to the commissioner until the improvements have been completed and all applicable lien periods have expired; provided, however, the

commissioner determines the time for the completion is reasonable.

(C) An amount sufficient to cover the costs of construction shall be deposited in a neutral escrow depository acceptable to the commissioner under a written agreement providing for disbursements from such escrow as work is completed.

(D) If the project is a condominium situated on a single parcel as shown on an approved final subdivision map, arrange for (i) lien and completion bond or bonds in an amount sufficient to assure lien-free completion of all common area improvements not located in a residential structure, and (ii) placement of all funds, or such portions thereof as the commissioner shall determine are sufficient, from the sales of condominium interests in a neutral escrow depository acceptable to the commissioner. The funds for purchase or lease of the condominium interest shall remain in the escrow account until the residential structure in which the purchaser's separate unit is located has been completed, and all lien periods applicable to the purchaser's separate and undivided interests in the entire project arising out of the work of improvement performed by either the subdivider or any successor in interest to the subdivider have expired or have been insured against in a manner satisfactory to the commissioner.

(E) Such other alternative plan as may be approved by the commissioner.

(b) The deeds, conveyances, leases, subleases, or instruments or assignment to be used are adequate to transfer to the purchasers the legal interests and uses which the owner or subdivider represents the purchasers will receive.

(c) After transfer of title to the first lot, apartment, or condominium in the subdivision to any purchaser, the provisions of the declaration of restrictions, articles of incorporation, bylaws, management contracts (and the provisions of any and all other documents establishing, in whole or in part, the plan for use, enjoyment, maintenance, and preservation of the subdivision) as last submitted to the commissioner prior to issuance of the final public report, shall be binding upon the purchaser and occupant of every other lot, apartment, or condominium in the subdivision, including, except with regard to a limited-equity housing cooperative or a time-share project, purchasers acquiring title by foreclosure, whether judicial or nonjudicial, or by deed in lieu thereof, under any mortgage or deed of trust, whether or not the mortgage or deed of trust was recorded prior to recordation of the covenants, conditions and restrictions applicable to such first lot, apartment, or condominium.

(d) Reasonable arrangements have been made for delivery of control over the subdivision and all offsite land and improvements included in the offering, to the purchasers of lots, apartments, or condominiums in such subdivision.

(e) Reasonable arrangements have been or will be made as to the interest of each of the purchasers of lots, apartments, or

condominiums in the subdivision with respect to the management, maintenance, preservation, operation, use, right of resale, and control of their lots, apartments, or condominiums, and such other areas or interests, whether or not within, or pertaining to, areas within the boundaries of the subdivision, as have been or will be made subject to the plan of control proposed by the owner and subdivider, and which are included in the offering.

"Purchaser," as used in this section, shall include within its meaning a lessee of the legal interests described in Section 11003 of this code.

CHAPTER 1609

An act to amend Sections 986, 987, and 997 of the Civil Code, relating to fine art.

[Approved by Governor September 30, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 986 of the Civil Code is amended to read:

986. (a) Whenever a work of fine art is sold and the seller resides in California or the sale takes place in California, the seller or his agent shall pay to the artist of such work of fine art or to such artist's agent 5 percent of the amount of such sale. The right of the artist to receive an amount equal to 5 percent of the amount of such sale is not transferable and may be waived only by a contract in writing providing for an amount in excess of 5 percent of the amount of such sale.

(1) When a work of art is sold at an auction or by a gallery, dealer, broker, museum, or other person acting as the agent for the seller the agent shall withhold 5 percent of the amount of the sale, locate the artist and pay the artist.

(2) If the seller or agent is unable to locate and pay the artist within 90 days, an amount equal to 5 percent of the amount of the sale shall be transferred to the Arts Council.

(3) If a seller or his agent fails to pay an artist the amount equal to 5 percent of the sale of a work of fine art by the artist or fails to transfer such amount to the Arts Council, the artist may bring an action for damages within three years after the date of sale or one year after the discovery of the sale, whichever is longer.

(4) Moneys received by the council pursuant to this section shall be deposited in an account in the Special Deposit Fund in the State Treasury.

(5) The Arts Council shall attempt to locate any artist for whom money is received pursuant to this section. If the council is unable to locate the artist and the artist does not file a written claim for the

money received by the council within seven years of the date of sale of the work of fine art, the right of the artist terminates and such money shall be transferred to the operating fund of the council as reimbursement to fund programs of the council.

(6) Any amounts of money held by any seller or agent for the payment of artists pursuant to this section shall be exempt from enforcement of a money judgment by the creditors of the seller or agent.

(b) Subdivision (a) shall not apply to any of the following:

(1) To the initial sale of a work of fine art where legal title to such work at the time of such initial sale is vested in the artist thereof.

(2) To the resale of a work of fine art for a gross sales price of less than one thousand dollars ($1,000).

(3) To a resale after the death of such artist.

(4) To the resale of the work of fine art for a gross sales price less than the purchase price paid by the seller.

(5) To a transfer of a work of fine art which is exchanged for one or more works of fine art or for a combination of cash, other property, and one or more works of fine art where the fair market value of the property exchanged is less than one thousand dollars ($1,000).

(6) To a sale of a work of stained glass artistry where the work has been permanently attached to real property and is sold as part of the sale of the real property to which it is attached.

(c) For purposes of this section, the following terms have the following meanings:

(1) "Artist" means the person who creates a work of fine art.

(2) "Fine art" means an original painting, sculpture, or drawing, or an original work of art in glass.

(d) This section shall become operative on January 1, 1977, and shall apply to works of fine art created before and after its operative date.

(e) If any provision of this section or the application thereof to any person or circumstance is held invalid for any reason, such invalidity shall not affect any other provisions or applications of this section which can be effected, without the invalid provision or application, and to this end the provisions of this section are severable.

SEC. 1.5. Section 986 of the Civil Code is amended to read:

986. (a) Whenever a work of fine art is sold and the seller resides in California or the sale takes place in California, the seller or the seller's agent shall pay to the artist of such work of fine art or to such artist's agent 5 percent of the amount of such sale. The right of the artist to receive an amount equal to 5 percent of the amount of such sale may be waived only by a contract in writing providing for an amount in excess of 5 percent of the amount of such sale. An artist may assign the right to collect the royalty payment provided by this section to another individual or entity. However, the assignment shall not have the effect of creating a waiver prohibited by this subdivision.

(1) When a work of fine art is sold at an auction or by a gallery,

dealer, broker, museum, or other person acting as the agent for the seller the agent shall withhold 5 percent of the amount of the sale, locate the artist and pay the artist.

(2) If the seller or agent is unable to locate and pay the artist within 90 days, an amount equal to 5 percent of the amount of the sale shall be tranferred to the Arts Council.

(3) If a seller or the seller's agent fails to pay an artist the amount equal to 5 percent of the sale of a work of fine art by the artist or fails to transfer such amount to the Arts Council, the artist may bring an action for damages within three years after the date of sale or one year after the discovery of the sale, whichever is longer. The prevailing party in any action brought under this paragraph shall be entitled to reasonable attorney fees, in an amount as determined by the court.

(4) Moneys received by the council pursuant to this section shall be deposited in an account in the Special Deposit Fund in the State Treasury.

(5) The Arts Council shall attempt to locate any artist for whom money is received pursuant to this section. If the council is unable to locate the artist and the artist does not file a written claim for the money received by the council within seven years of the date of sale of the work of fine art, the right of the artist terminates and such money shall be transferred to the council for use in acquiring fine art pursuant to the Art in Public Buildings program set forth in Chapter 2.1 (commencing with Section 15813) of Part 10b of Division 3 of Title 2, of the Government Code.

(6) Any amounts of money held by any seller or agent for the payment of artists pursuant to this section shall be exempt from enforcement of a money judgment by the creditors of the seller or agent.

(7) Upon the death of an artist, the rights and duties created under this section shall inure to his or her heirs, legatees, or personal representative, until the 20th anniversary of the death of the artist. The provisions of this paragraph shall be applicable only with respect to an artist who dies after January 1, 1983.

(b) Subdivision (a) shall not apply to any of the following:

(1) To the initial sale of a work of fine art where legal title to such work at the time of such initial sale is vested in the artist thereof.

(2) To the resale of a work of fine art for a gross sales price of less than one thousand dollars ($1,000).

(3) Except as provided in paragraph (7) of subdivision (a), to a resale after the death of such artist.

(4) To the resale of the work of fine art for a gross sales price less than the purchase price paid by the seller.

(5) To a transfer of a work of fine art which is exchanged for one or more works of fine art or for a combination of cash, other property, and one or more works of fine art where the fair market value of the property exchanged is less than one thousand dollars ($1,000).

(6) To the resale of a work of fine art by an art dealer to a

purchaser within 10 years of the initial sale of the work of fine art by the artist to an art dealer, provided all intervening resales are between art dealers.

(7) To a sale of a work of stained glass artistry where the work has been permanently attached to real property and is sold as part of the sale of the real property to which it is attached.

(c) For purposes of this section, the following terms have the following meanings:

(1) "Artist" means the person who creates a work of fine art and who, at the time of resale, is a citizen of the United States, or a resident of the state who has resided in the state for a minimum of two years .

(2) "Fine art" means an original painting, sculpture, or drawing, or an original work of art in glass.

(3) "Art dealer" means a person who is actively and principally engaged in or conducting the business of selling works of fine art for which business such person validly holds a sales tax permit.

(d) This section shall become operative on January 1, 1977, and shall apply to works of fine art created before and after its operative date.

(e) If any provision of this section or the application thereof to any person or circumstance is held invalid for any reason, such invalidity shall not affect any other provisions or applications of this section which can be effected, without the invalid provision or application, and to this end the provisions of this section are severable.

(f) The amendments to this section enacted during the 1981–82 Regular Session of the Legislature shall apply to transfers of works of fine art, when created before or after January 1, 1983, that occur on or after that date.

SEC. 2. Section 987 of the Civil Code is amended to read:

987. (a) The Legislature hereby finds and declares that the physical alteration or destruction of fine art, which is an expression of the artist's personality, is detrimental to the artist's reputation, and artists therefore have an interest in protecting their works of fine art against such alteration or destruction; and that there is also a public interest in preserving the integrity of cultural and artistic creations.

(b) As used in this section:

(1) "Artist" means the individual or individuals who create a work of fine art.

(2) "Fine art" means an original painting, sculpture, or drawing, or an original work of art in glass, of recognized quality, but shall not include work prepared under contract for commercial use by its purchaser.

(3) "Person" means an individual, partnership, corporation, association or other group, however organized.

(4) "Frame" means to prepare, or cause to be prepared, a work of fine art for display in a manner customarily considered to be appropriate for a work of fine art in the particular medium.

(5) "Restore" means to return, or cause to be returned, a

deteriorated or damaged work of fine art as nearly as is feasible to its original state or condition, in accordance with prevailing standards.

(6) "Conserve" means to preserve, or cause to be preserved, a work of fine art by retarding or preventing deterioration or damage through appropriate treatment in accordance with prevailing standards in order to maintain the structural integrity to the fullest extent possible in an unchanging state.

(c) (1) No person, except an artist who owns and possesses a work of fine art which the artist has created, shall intentionally commit, or authorize the intentional commission of, any physical defacement, mutilation, alteration, or destruction of a work of fine art.

(2) In addition to the prohibitions contained in paragraph (1), no person who frames, conserves, or restores a work of fine art shall commit, or authorize the commission of, any physical defacement, mutilation, alteration, or destruction of a work of fine art by any act constituting gross negligence. For purposes of this section, the term "gross negligence" shall mean the exercise of so slight a degree of care as to justify the belief that there was an indifference to the particular work of fine art.

(d) The artist shall retain at all times the right to claim authorship, or, for just and valid reason, to disclaim authorship of his or her work of fine art.

(e) To effectuate the rights created by this section, the artist may commence an action to recover or obtain any of the following:

(1) Injunctive relief.

(2) Actual damages.

(3) Punitive damages. In the event that punitive damages are awarded, the court shall, in its discretion, select an organization or organizations engaged in charitable or educational activities involving the fine arts in California to receive such damages.

(4) Reasonable attorneys' and expert witness fees.

(5) Any other relief which the court deems proper.

(f) In determining whether a work of fine art is of recognized quality, the trier of fact shall rely on the opinions of artists, art dealers, collectors of fine art, curators of art museums, and other persons involved with the creation or marketing of fine art.

(g) The rights and duties created under this section:

(1) Shall, with respect to the artist, or if any artist is deceased, his heir, legatee, or personal representative, exist until the 50th anniversary of the death of such artist.

(2) Shall exist in addition to any other rights and duties which may now or in the future be applicable.

(3) Except as provided in paragraph (1) of subdivision (h), may not be waived except by an instrument in writing expressly so providing which is signed by the artist.

(h) (1) If a work of fine art cannot be removed from a building without substantial physical defacement, mutilation, alteration, or destruction of such work, the rights and duties created under this

section, unless expressly reserved by an instrument in writing signed by the owner of such building and properly recorded, shall be deemed waived. Such instrument, if properly recorded, shall be binding on subsequent owners of such building.

(2) If the owner of a building wishes to remove a work of fine art which is a part of such building but which can be removed from the building without substantial harm to such fine art, the rights and duties created under this section shall apply unless the owner has diligently attempted without success to notify the artist, or, if the artist is deceased, his heir, legatee, or personal representative, in writing of his intended action affecting the work of fine art, or unless he did provide notice and that person failed within 90 days either to remove the work or to pay for its removal. If such work is removed at the expense of the artist, his heir, legatee, or personal representative, title to such fine art shall pass to that person.

(3) Nothing in this subdivision shall affect the rights of authorship created in subdivision (d) of this section.

(i) No action may be maintained to enforce any liability under this section unless brought within three years of the act complained of or one year after discovery of such act, whichever is longer.

(j) This section shall become operative on January 1, 1980, and shall apply to claims based on proscribed acts occurring on or after that date to works of fine art whenever created.

(k) If any provision of this section or the application thereof to any person or circumstance is held invalid for any reason, such invalidity shall not affect any other provisions or applications of this section which can be effected without the invalid provision or application, and to this end the provisions of this section are severable.

SEC. 2.5. Section 987 of the Civil Code is amended to read:

987. (a) The Legislature hereby finds and declares that the physical alteration or destruction of fine art, which is an expression of the artist's personality, is detrimental to the artist's reputation, and artists therefore have an interest in protecting their works of fine art against such alteration or destruction; and that there is also a public interest in preserving the integrity of cultural and artistic creations.

(b) As used in this section:

(1) "Artist" means the individual or individuals who create a work of fine art.

(2) "Fine art" means an original painting, sculpture, or drawing, or an original work of art in glass, of recognized quality, but shall not include work prepared under contract for commercial use by its purchaser.

(3) "Person" means an individual, partnership, corporation, association or other group, however organized.

(4) "Frame" means to prepare, or cause to be prepared, a work of fine art for display in a manner customarily considered to be appropriate for a work of fine art in the particular medium.

(5) "Restore" means to return, or cause to be returned, a deteriorated or damaged work of fine art as nearly as is feasible to

its original state or condition, in accordance with prevailing standards.

(6) "Conserve" means to preserve, or cause to be preserved, a work of fine art by retarding or preventing deterioration or damage through appropriate treatment in accordance with prevailing standards in order to maintain the structural integrity to the fullest extent possible in an unchanging state.

(7) "Commercial use" means fine art created under a work-for-hire arrangement for use in advertising, magazines, newspapers, or other print and electronic media.

(c) (1) No person, except an artist who owns and possesses a work of fine art which the artist has created, shall intentionally commit, or authorize the intentional commission of, any physical defacement, mutilation, alteration, or destruction of a work of fine art.

(2) In addition to the prohibitions contained in paragraph (1), no person who frames, conserves, or restores a work of fine art shall commit, or authorize the commission of, any physical defacement, mutilation, alteration, or destruction of a work of fine art by any act constituting gross negligence. For purposes of this section, the term "gross negligence" shall mean the exercise of so slight a degree of care as to justify the belief that there was an indifference to the particular work of fine art.

(d) The artist shall retain at all times the right to claim authorship, or, for just and valid reason, to disclaim authorship of his or her work of fine art.

(e) To effectuate the rights created by this section, the artist may commence an action to recover or obtain any of the following:

(1) Injunctive relief.

(2) Actual damages.

(3) Punitive damages. In the event that punitive damages are awarded, the court shall, in its discretion, select an organization or organizations engaged in charitable or educational activities involving the fine arts in California to receive such damages.

(4) Reasonable attorneys' and expert witness fees.

(5) Any other relief which the court deems proper.

(f) In determining whether a work of fine art is of recognized quality, the trier of fact shall rely on the opinions of artists, art dealers, collectors of fine art, curators of art museums, and other persons involved with the creation or marketing of fine art.

(g) The rights and duties created under this section:

(1) Shall, with respect to the artist, or if any artist is deceased, his heir, legatee, or personal representative, exist until the 50th anniversary of the death of such artist.

(2) Shall exist in addition to any other rights and duties which may now or in the future be applicable.

(3) Except as provided in paragraph (1) of subdivision (h), may not be waived except by an instrument in writing expressly so providing which is signed by the artist.

(h) (1) If a work of fine art cannot be removed from a building

without substantial physical defacement, mutilation, alteration, or destruction of such work, the rights and duties created under this section, unless expressly reserved by an instrument in writing signed by the owner of such building and properly recorded, shall be deemed waived. Such instrument, if properly recorded, shall be binding on subsequent owners of such building.

(2) If the owner of a building wishes to remove a work of fine art which is a part of such building but which can be removed from the building without substantial harm to such fine art, and in the course of or after removal, the owner intends to cause or allow the fine art to suffer physical defacement, mutilation, alteration, or destruction, the rights and duties created under this section shall apply unless the owner has diligently attempted without success to notify the artist, or, if the artist is deceased, his heir, legatee, or personal representative, in writing of his intended action affecting the work of fine art, or unless he did provide notice and that person failed within 90 days either to remove the work or to pay for its removal. If such work is removed at the expense of the artist, his heir, legatee, or personal representative, title to such fine art shall pass to that person.

(3) Nothing in this subdivision shall affect the rights of authorship created in subdivision (d) of this section.

(i) No action may be maintained to enforce any liability under this section unless brought within three years of the act complained of or one year after discovery of such act, whichever is longer.

(j) This section shall become operative on January 1, 1980, and shall apply to claims based on proscribed acts occurring on or after that date to works of fine art whenever created.

(k) If any provision of this section or the application thereof to any person or circumstance is held invalid for any reason, such invalidity shall not affect any other provisions or applications of this section which can be effected without the invalid provision or application, and to this end the provisions of this section are severable.

SEC. 3. Section 997 of the Civil Code is amended to read:

997. In this state, for any purpose, porcelain painting and stained glass artistry shall be considered a fine art and not a craft.

SEC. 4. It is the intent of the Legislature, if this bill and Senate Bill 1759 are both chaptered and become effective January 1, 1983, both bills amend Section 986 of the Civil Code, and this bill is chaptered after Senate Bill 1759, that the amendments to Section 986 proposed by both bills be given effect and incorporated in Section 986 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 1759 are both chaptered and become effective January 1, 1983, both amend Section 986, and this bill is chaptered after Senate Bill 1759, in which case Section 1 of this act shall not become operative.

SEC. 5. It is the intent of the Legislature, if this bill and Senate Bill 1757 are both chaptered and become effective January 1, 1983, both bills amend Section 987 of the Civil Code, and this bill is

chaptered after Senate Bill 1757, that the amendments to Section 987 proposed by both bills be given effect and incorporated in Section 987 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 Senate Bill 1757 are both chaptered and become effective January 1, 1983, both amend Section 987, and this bill is chaptered after Senate Bill 1757, in which case Section 2 of this act shall not become operative.

CHAPTER 1610

An act to amend Section 15930 of, and to add Sections 15927.1 and 15930.1 to, the Government Code, and to amend Section 5 of Chapter 502 of the Statutes of 1982, relating to transportation.

[Approved by Governor September 30, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 15927.1 is added to the Government Code, to read:

15927.1. It is the intent of the Legislature that funds appropriated pursuant to this part shall be in addition to, and not a substitute for, existing state, federal and other funds for the support of ridesharing programs in California.

SEC. 2. Section 15930 of the Government Code, as added by Chapter 502 of the Statutes of 1982, is amended to read:

15930. The funds appropriated pursuant to Section 15929 shall be allocated by the secretary as follows:

(a) To the department for its planning activities not payable from the State Highway Account in the State Transportation Fund and for its statewide ridesharing planning responsibilities. The allocation under this subdivision shall not exceed 1 percent of the total funds appropriated for the purposes of this part.

(b) To each transportation planning agency and each county transportation commission for the planning and implementation of ridesharing programs, an amount determined on the basis of the following two equally weighted factors:

(1) The population of the area under the jurisdiction of the entity to the total state population.

(2) The population of the urbanized areas under the jurisdiction of the entity to the total state population in urbanized areas.

The allocation for purposes of this subdivision shall not be less than 85 percent of the total funds appropriated for the purposes of this part.

(c) Funds not allocated under subdivision (a) or (b) shall be allocated to the department for the planning and implementation of ridesharing programs.

The secretary shall allocate any moneys appropriated for the Ridesharing and Alternative Transportation Fund, which are not transferred pursuant to subdivisions (a), (b), and (d) of Section 5 of the act that added this section to the Government Code, only with the approval of the California Transportation Commission.

To the maximum extent possible, funds allocated pursuant to this section shall be used for implementing ridesharing programs rather than planning and related functions.

SEC. 3. Section 15930.1 is added to the Government Code, to read:

15930.1. To the maximum extent possible, funds allocated pursuant to Section 15930 shall be used for implementing ridesharing programs rather than planning and related functions.

SEC. 4. Section 5 of Chapter 502 of the Statutes of 1982 is amended to read:

Sec. 5. (a) For the 1982–83 fiscal year, the sum equal to the increased revenues anticipated as a result of the provisions of Section 2 of this act, not to exceed six million dollars ($6,000,000), shall be transferred from the General Fund to the Ridesharing and Alternative Transportation Fund established by Section 1 of this act.

(b) On July 1, 1983, the Controller shall transfer six million dollars ($6,000,000) from the General Fund to the Ridesharing and Alternative Transportation Fund established by Section 1 of this act in anticipation of increased revenues as a result of the provisions of Section 2 of this act.

(c) On May 1, 1984, and on every May 1 thereafter, through May 1, 1988, the Franchise Tax Board shall provide to the Controller an estimate of the net revenue gain to the General Fund resulting from the amendments to Section 17204 of the Revenue and Taxation Code made by Section 2 of this act. The estimate shall include, but is not limited to, all of the following:

(1) An estimate of the revenue gain or loss to the General Fund which would have resulted if Section 2 of this act had not been enacted.

(2) A separate estimate of the revenue gain or loss to the General Fund resulting from each of the following provisions of Section 17204 of the Revenue and Taxation Code contained in Section 2 of this act:

(A) Subparagraph (B) of paragraph (4) of subdivision (a).

(B) Subparagraph (C) of paragraph (4) of subdivision (a).

(C) Subparagraph (E) of paragraph (4) of subdivision (a).

(d) On July 1, 1984, and on every July 1 thereafter, through July 1, 1987, the Controller shall transfer each fiscal year from the General Fund to the Ridesharing and Alternative Transportation Fund an amount equal to the net anticipated gain to the General Fund resulting from the provisions of Section 2 of this act, as estimated by the Franchise Tax Board pursuant to subdivision (c). The transfer shall not exceed six million dollars ($6,000,000) in any fiscal year.

CHAPTER 1611

An act to amend Sections 1805.1 and 1810.2 of the Civil Code, relating to consumer credit, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 1805.1 of the Civil Code, as added by Section 9 of Chapter 129 of the Statutes of 1982, is amended to read:

1805.1. (a) The dollar amount of the finance charge shown pursuant to item (b) of Section 1803.3 shall not exceed the greater of:

(1) (A) With respect to a retail installment contract for the sale of household furniture, furnishings, or appliances by a seller whose gross sales during the immediately preceding 12-month period have not exceeded ten million dollars ($10,000,000), eleven-twelfths of 1 percent on so much of the unpaid balance as does not exceed three thousand dollars ($3,000) plus an amount which does not exceed two-thirds of 1 percent of that portion of the unpaid balance which exceeds three thousand dollars ($3,000), multiplied by the number of months (computed on the basis of a full month for any fractional-month period in excess of 15 days) elapsing between the date of the contract and the due date of the last installment; or

(B) With respect to all other retail installment contracts, eleven-twelfths of 1 percent on so much of the unpaid balance as does not exceed one thousand dollars ($1,000) plus an amount which shall not exceed two-thirds of 1 percent of that portion of the unpaid balance which exceeds one thousand dollars ($1,000), multiplied by the number of months (computed on the basis of a full month for any fractional month period in excess of 15 days) elapsing between the date of the contract and the due date of the last installment; or

(2) If the finance charge is determined by the precomputed basis, twelve dollars ($12) but if the due date of the last installment of the contract is eight months or less after its effective date, ten dollars ($10); or

(3) If the finance charge, or a portion thereof, is determined by the simple-interest basis:

(A) Ten dollars ($10) if the unpaid balance does not exceed five hundred dollars ($500), (B) twenty-five dollars ($25) if the unpaid balance exceeds five hundred dollars ($500), but does not exceed one thousand dollars ($1,000), (C) fifty dollars ($50) if the unpaid balance exceeds one thousand dollars ($1,000), but does not exceed two thousand dollars ($2,000), or (D) seventy-five dollars ($75) if the unpaid balance exceeds two thousand dollars ($2,000).

(b) The holder of the contract shall not charge, collect or receive

a finance charge which exceeds the dollar amount shown pursuant to item (b) of Section 1803.3, except to the extent (1) caused by the holder's receipt of one or more payments under a contract which provides for determination of the finance charge or a portion thereof on the 365-day basis at a time or times other than as originally scheduled, whether or not the parties enter into an agreement pursuant to Section 1807.1, (2) permitted by paragraph (2), (3), or (4) of subdivision (c) of Section 226.17 of Regulation Z, or (3) permitted by Section 1805.8.

(c) If the finance charge or a portion thereof is determined by the simple-interest basis and the amount of the unpaid balance exceeds five thousand dollars ($5,000), the holder of the contract may, in lieu of its right to a minimum finance charge under item (3) of subdivision (a), charge, receive or collect on the date of the contract an administrative finance charge not to exceed seventy-five dollars ($75) provided that the sum of any such administrative finance charge and the portion of the finance charge determined by the simple-interest basis shall not exceed the maximum total finance charge permitted by item (1) of subdivision (a). Any administrative finance charge which is charged, received or collected by a holder shall be deemed a finance charge earned on the date of the contract.

This section shall remain in effect only until January 1, 1984, and as of that date is repealed.

SEC. 2. Section 1805.1 of the Civil Code, as added by Section 10 of Chapter 129 of the Statutes of 1982, is amended to read:

1805.1. (a) The dollar amount of the finance charge shown pursuant to item (b) of Section 1803.3 shall not exceed the greater of:

(1) Five-sixths of 1 percent on so much of the unpaid balance as does not exceed one thousand dollars ($1,000) plus an amount which shall not exceed two-thirds of 1 percent of that portion of the unpaid balance which exceeds one thousand dollars ($1,000), multiplied by the number of months (computed on the basis of a full month for any fractional month period in excess of 15 days) elapsing between the date of the contract and the due date of the last installment; or

(2) If the finance charge is determined by the precomputed basis, twelve dollars ($12) but if the due date of the last installment of the contract is eight months or less after its effective date, ten dollars ($10); or

(3) If the finance charge, or a portion thereof, is determined by the simple-interest basis:

(A) Ten dollars ($10) if the unpaid balance does not exceed five hundred dollars ($500), (B) twenty-five dollars ($25) if the unpaid balance exceeds five hundred dollars ($500), but does not exceed one thousand dollars ($1,000), (C) fifty dollars ($50) if the unpaid balance exceeds one thousand dollars ($1,000), but does not exceed two thousand dollars ($2,000), or (D) seventy-five dollars ($75) if the unpaid balance exceeds two thousand dollars ($2,000).

(b) The holder of the contract shall not charge, collect or receive

a finance charge which exceeds the dollar amount shown pursuant to item (b) of Section 1803.3, except to the extent (1) caused by the holder's receipt of one or more payments under a contract which provides for determination of the finance charge or a portion thereof on the 365-day basis at a time or times other than as originally scheduled, whether or not the parties enter into an agreement pursuant to Section 1807.1, (2) permitted by paragraph (2), (3), or (4) of subdivision (c) of Section 226.17 of Regulation Z, or (3) permitted by Section 1805.8.

(c) If the finance charge or a portion thereof is determined by the simple-interest basis and the amount of the unpaid balance exceeds five thousand dollars ($5,000), the holder of the contract may, in lieu of its right to a minimum finance charge under item (3) of subdivision (a), charge, receive, or collect on the date of the contract an administrative finance charge not to exceed seventy-five dollars ($75), provided that the sum of any such administrative finance charge and the portion of the finance charge determined by the simple-interest basis shall not exceed the maximum total finance charge permitted by item (1) of subdivision (a). Any administrative finance charge which is charged, received or collected by a holder shall be deemed a finance charge earned on the date of the contract.

This section shall become operative on January 1, 1984.

SEC. 3. Section 1810.2 of the Civil Code, as amended by Section 3 of Chapter 1146 of the Statutes of 1981, is amended to read:

1810.2. Subject to the other provisions of this article, the seller or holder of a retail installment account may charge, receive and collect the finance charge authorized by this chapter.

(a) (1) With respect to a retail installment account the outstanding balance of which was incurred only as a result of retail installment sales of household furniture, furnishings, or appliances by a seller whose gross sales during the 12-month period immediately preceding the imposition of the finance charge have not exceeded ten million dollars ($10,000,000), the finance charge shall not exceed the following rates computed on the outstanding balances from month to month:

(A) On so much of the outstanding balance as does not exceed three thousand dollars ($3,000), 1.6 percent.

(B) If the outstanding balance is more than three thousand dollars ($3,000), 1 percent on the excess over three thousand dollars ($3,000) of the outstanding balance.

(C) If the finance charge so computed is less than one dollar ($1) for any month, one dollar ($1).

(2) With respect to all other retail installment accounts, the finance charge shall not exceed the following rates computed on the outstanding balances from month to month:

(A) On so much of the outstanding balance as does not exceed one thousand dollars ($1,000), 1.6 percent.

(B) If the outstanding balance is more than one thousand dollars ($1,000), 1 percent on the excess over one thousand dollars ($1,000)

of the outstanding balance.

(C) If the finance charge so computed is less than one dollar ($1) for any month, one dollar ($1).

(b) The finance charge may be computed on a schedule of fixed amounts if as so computed it is applied to all amounts of outstanding balances equal to the fixed amounts minus a differential of not more than five dollars ($5), provided that it is also applied to all amounts of outstanding balances equal to the fixed amount plus at least the same differential.

(c) If a seller or holder of a retail installment account increases its finance charge rate, then the increased rate may only be applied to balances consisting of purchases or other charges incurred on or after the effective date of the increase. For purposes of determining the balances to which the increased rate applies, all payments and other credits may be deemed to be applied to the balance existing prior to the change in rate until that balance is paid in full.

This section shall remain in effect only until January 1, 1984, and as of that date is repealed.

SEC. 4. Section 1810.2 of the Civil Code, as amended by Section 2 of Chapter 26 of the Statutes of 1981, is amended to read:

1810.2. Subject to the other provisions of this article, the seller or holder of a retail installment account may charge, receive and collect the finance charge authorized by this chapter. The finance charge shall not exceed the following rates computed on the outstanding balances from month to month:

(a) On so much of the outstanding balance as does not exceed one thousand dollars ($1,000), 1½ percent.

(b) If the outstanding balance is more than one thousand dollars ($1,000), 1 percent on the excess over one thousand dollars ($1,000) of the outstanding balance.

(c) If the finance charge so computed is less than one dollar ($1) for any month, one dollar ($1).

(d) The finance charge may be computed on a schedule of fixed amounts if as so computed it is applied to all amounts of outstanding balances equal to the fixed amounts minus a differential of not more than five dollars ($5), provided that it is also applied to all amounts of outstanding balances equal to the fixed amount plus at least the same differential.

This section shall become operative on January 1, 1984.

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

The Retail Credit Advisory Committee, created by Chapter 3 (commencing with Section 1812.40) of Title 2 of Part 4 of Division 3 of the Civil Code, issued its final report on June 30, 1982. In order to give the Legislature adequate time to study this report and enact appropriate legislation before the temporary rate ceilings for retail installment contracts and retail installment accounts are repealed by

their own terms, it is necessary that this act take effect immediately.

CHAPTER 1612

An act to add Section 67132 to the Government Code, relating to Lake Tahoe regional planning.

[Approved by Governor September 30, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 67132 is added to the Government Code, to read:

67132. (a) The Legislature finds that on the date on which the agency is deactivated, as provided in Section 67131, various matters involving the agency, such as litigation, and arrangements for disposition of agency assets, will be pending and unresolved. In order to provide for bringing such matters to an orderly, timely, and equitable conclusion, the Legislature hereby declares that it is necessary to designate a successor to the agency for the sole and exclusive purpose of winding up these matters.

(b) For the sole and exclusive purpose of winding up such matters as may be pending and unresolved when the agency is deactivated as provided in Section 67131, the Secretary of the Resources Agency is hereby designated as the legal successor to the agency. For this sole purpose, the Secretary of the Resources Agency shall have the same powers and duties as the agency and the members of the governing body thereof, and all the following additional powers and duties:

(1) To exchange, sell, or otherwise dispose of all property, of the deactivated agency.

(2) To compromise and settle claims of every nature.

(3) To sue and be sued in the same manner and to the same extent as the deactivated agency and the members of the governing body thereof.

(4) To have custody of and responsibility for, the disposition of the records of the agency. In this connection the Secretary of the Resources Agency may at his or her discretion, transfer to the Tahoe Regional Planning Agency any agency records which are not needed for purposes of winding up agency matters which may be pending and unresolved.

The powers and duties specified in this subdivision shall commence on the date on which the agency is deactivated, as provided in Section 67131, and shall continue thereafter until such time as the affairs of the agency have been completely wound up.

(c) The Secretary of the Resources Agency shall designate an agent to serve as his or her administrative representative within the region for the convenience of persons having a need to contact the

secretary with respect to matters which may be pending and unresolved when the agency is deactivated. The agency shall be either the Tahoe Regional Planning Agency or one or more of the cities or counties within the region, provided that the Tahoe Regional Planning Agency or the respective cities and counties agree and consent thereto. The agency shall not exercise independent discretion with respect to matters associated with winding up pending and unresolved matters, but shall perform only those functions specifically authorized by the Secretary of the Resources Agency.

(d) In all legal matters and litigation arising from the delegation of powers and duties to the Secretary of the Resources Agency pursuant to subdivision (b), the secretary shall be represented by the Attorney General. In addition, after deactivation of the agency has occurred, the Attorney General shall also represent any former member of the governing body of the agency or former agency employee for purposes of Sections 825 and 995. The cost of the representation required by this subdivision shall be a charge against the budget of the Secretary of the Resources Agency and funds therefor shall be included in the secretary's budget.

(e) All assets of the agency shall be held by the Secretary of the Resources Agency to satisfy claims against the agency or against former board members or employees thereof as provided in Sections 825 and 995. When all such claims have been satisfied, any remaining assets shall be transferred to the General Fund.

(f) Nothing in this section shall be construed as creating any liability on behalf of the State of California for any act or omission of the agency.

CHAPTER 1613

An act to amend Sections 1805.1 and 1810.2 of the Civil Code, and to amend Section 6 of Chapter 1146 of the Statutes of 1981, relating to consumer credit, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 1805.1 of the Civil Code, as added by Section 8 of Chapter 129 of the Statutes of 1982, is amended to read:

1805.1. (a) The dollar amount of the finance charge shown pursuant to item (j) of Section 1803.3 shall not exceed the greater of:

(1) (A) With respect to a retail installment contract by a seller whose total gross sales in an individual outlet have not exceeded twenty million dollars ($20,000,000) during the immediately

preceding 12-month period and whose gross sales in household furniture, furnishings, or appliances during the immediately preceding 12-month period exceeded 80 percent of its total gross sales, eleven-twelfths of 1 percent on so much of the unpaid balance as does not exceed three thousand dollars ($3,000) plus an amount which does not exceed two-thirds of 1 percent of that portion of the unpaid balance which exceeds three thousand dollars ($3,000), multiplied by the number of months (computed on the basis of a full month for any fractional month period in excess of 15 days) elapsing between the date of the contract and the due date of the last installment; or

(B) With respect to all other retail installment contracts, eleven-twelfths of 1 percent on so much of the unpaid balance as does not exceed one thousand dollars ($1,000) plus an amount which shall not exceed two-thirds of 1 percent of that portion of the unpaid balance which exceeds one thousand dollars ($1,000), multiplied by the number of months (computed on the basis of a full month for any fractional month period in excess of 15 days) elapsing between the date of the contract and the due date of the last installment; or

(2) If the finance charge is determined by the precomputed basis, twelve dollars ($12) but if the due date of the last installment of the contract is eight months or less after its effective date, ten dollars ($10); or

(3) If the finance charge, or a portion thereof, is determined by the simple-interest basis:

(A) Ten dollars ($10) if the unpaid balance does not exceed five hundred dollars ($500), (B) twenty-five dollars ($25) if the unpaid balance exceeds five hundred dollars ($500), but does not exceed one thousand dollars ($1,000), (C) fifty dollars ($50) if the unpaid balance exceeds one thousand dollars ($1,000), but does not exceed two thousand dollars ($2,000), or (D) seventy-five dollars ($75) if the unpaid balance exceeds two thousand dollars ($2,000).

(b) The holder of the contract shall not charge, collect or receive a finance charge which exceeds the dollar amount shown pursuant to item (j) of Section 1803.3, except to the extent caused by (1) the holder's receipt of one or more payments under a contract which provides for determination of the finance charge or a portion thereof on the 365-day basis at a time or times other than as originally scheduled, whether or not the parties enter into an agreement pursuant to Section 1807.1, (2) the use of estimations in the providing of the disclosures required by this chapter to the extent permitted by Regulation Z, or (3) as permitted by Section 1805.8.

(c) If the finance charge or a portion thereof is determined by the simple-interest basis and the amount of the unpaid balance exceeds five thousand dollars ($5,000), the holder of the contract may, in lieu of its right to a minimum finance charge under item (3) of subdivision (a), charge, receive or collect on the date of the contract an administrative finance charge not to exceed seventy-five dollars ($75) provided that the sum of any such administrative finance

charge and the portion of the finance charge determined by the simple-interest basis shall not exceed the maximum total finance charge permitted by item (1) of subdivision (a). Any administrative finance charge which is charged, received or collected by a holder shall be deemed a finance charge earned on the date of the contract.

This section shall remain in effect only until October 1, 1982, and as of that date is repealed.

SEC. 1.5. Section 1805.1 of the Civil Code, as added by Section 9 of Chapter 129 of the Statutes of 1982, is amended to read:

1805.1. (a) The dollar amount of the finance charge shown pursuant to item (b) of Section 1803.3 shall not exceed the greater of:

(1) (A) With respect to a retail installment contract by a seller whose total gross sales in an individual outlet have not exceeded twenty million dollars ($20,000,000) during the immediately preceding 12-month period and whose gross sales in household furniture, furnishings, or appliances during the immediately preceding 12-month period exceeded 80 percent of its total gross sales, eleven-twelfths of 1 percent on so much of the unpaid balance as does not exceed three thousand dollars ($3,000) plus an amount which does not exceed two-thirds of 1 percent of that portion of the unpaid balance which exceeds three thousand dollars ($3,000), multiplied by the number of months (computed on the basis of a full month for any fractional-month period in excess of 15 days) elapsing between the date of the contract and the due date of the last installment; or

(B) With respect to all other retail installment contracts, eleven-twelfths of 1 percent on so much of the unpaid balance as does not exceed one thousand dollars ($1,000) plus an amount which shall not exceed two-thirds of 1 percent of that portion of the unpaid balance which exceeds one thousand dollars ($1,000), multiplied by the number of months (computed on the basis of a full month for any fractional month period in excess of 15 days) elapsing between the date of the contract and the due date of the last installment; or

(2) If the finance charge is determined by the precomputed basis, twelve dollars ($12) but if the due date of the last installment of the contract is eight months or less after its effective date, ten dollars ($10); or

(3) If the finance charge, or a portion thereof, is determined by the simple-interest basis:

(A) Ten dollars ($10) if the unpaid balance does not exceed five hundred dollars ($500), (B) twenty-five dollars ($25) if the unpaid balance exceeds five hundred dollars ($500), but does not exceed one thousand dollars ($1,000), (C) fifty dollars ($50) if the unpaid balance exceeds one thousand dollars ($1,000), but does not exceed two thousand dollars ($2,000), or (D) seventy-five dollars ($75) if the unpaid balance exceeds two thousand dollars ($2,000).

(b) The holder of the contract shall not charge, collect or receive a finance charge which exceeds the dollar amount shown pursuant

to item (b) of Section 1803.3, except to the extent (1) caused by the holder's receipt of one or more payments under a contract which provides for determination of the finance charge or a portion thereof on the 365-day basis at a time or times other than as originally scheduled, whether or not the parties enter into an agreement pursuant to Section 1807.1, (2) permitted by paragraph (2), (3), or (4) of subdivision (c) of Section 226.17 of Regulation Z, or (3) permitted by Section 1805.8.

(c) If the finance charge or a portion thereof is determined by the simple-interest basis and the amount of the unpaid balance exceeds five thousand dollars ($5,000), the holder of the contract may, in lieu of its right to a minimum finance charge under item (3) of subdivision (a), charge, receive or collect on the date of the contract an administrative finance charge not to exceed seventy-five dollars ($75) provided that the sum of any such administrative finance charge and the portion of the finance charge determined by the simple-interest basis shall not exceed the maximum total finance charge permitted by item (1) of subdivision (a). Any administrative finance charge which is charged, received or collected by a holder shall be deemed a finance charge earned on the date of the contract.

This section shall remain in effect only until October 1, 1982, and as of that date is repealed.

SEC. 1.7. Section 1805.1 of the Civil Code, as added by Section 9 of Chapter 129 of the Statutes of 1982, is amended to read:

1805.1. (a) The dollar amount of the finance charge shown pursuant to item (b) of Section 1803.3 shall not exceed the greater of:

(1) (A) With respect to a retail installment contract by a seller whose total gross sales in an individual outlet have not exceeded twenty million dollars ($20,000,000) during the immediately preceding 12-month period and whose gross sales in household furniture, furnishings, or appliances during the immediately preceding 12-month period exceeded 80 percent of its total gross sales, eleven-twelfths of 1 percent on so much of the unpaid balance as does not exceed three thousand dollars ($3,000) plus an amount which does not exceed two-thirds of 1 percent of that portion of the unpaid balance which exceeds three thousand dollars ($3,000), multiplied by the number of months (computed on the basis of a full month for any fractional-month period in excess of 15 days) elapsing between the date of the contract and the due date of the last installment; or

(B) With respect to all other retail installment contracts, eleven-twelfths of 1 percent on so much of the unpaid balance as does not exceed one thousand dollars ($1,000) plus an amount which shall not exceed two-thirds of 1 percent of that portion of the unpaid balance which exceeds one thousand dollars ($1,000), multiplied by the number of months (computed on the basis of a full month for any fractional month period in excess of 15 days) elapsing between the date of the contract and the due date of the last installment; or

(2) If the finance charge is determined by the precomputed basis, twelve dollars ($12) but if the due date of the last installment of the contract is eight months or less after its effective date, ten dollars ($10); or

(3) If the finance charge, or a portion thereof, is determined by the simple-interest basis:

(A) Ten dollars ($10) if the unpaid balance does not exceed five hundred dollars ($500), (B) twenty-five dollars ($25) if the unpaid balance exceeds five hundred dollars ($500), but does not exceed one thousand dollars ($1,000), (C) fifty dollars ($50) if the unpaid balance exceeds one thousand dollars ($1,000), but does not exceed two thousand dollars ($2,000), or (D) seventy-five dollars ($75) if the unpaid balance exceeds two thousand dollars ($2,000).

(b) The holder of the contract shall not charge, collect or receive a finance charge which exceeds the dollar amount shown pursuant to item (b) of Section 1803.3, except to the extent (1) caused by the holder's receipt of one or more payments under a contract which provides for determination of the finance charge or a portion thereof on the 365-day basis at a time or times other than as originally scheduled, whether or not the parties enter into an agreement pursuant to Section 1807.1, (2) permitted by paragraph (2), (3), or (4) of subdivision (c) of Section 226.17 of Regulation Z, or (3) permitted by Section 1805.8.

(c) If the finance charge or a portion thereof is determined by the simple-interest basis and the amount of the unpaid balance exceeds five thousand dollars ($5,000), the holder of the contract may, in lieu of its right to a minimum finance charge under item (3) of subdivision (a), charge, receive or collect on the date of the contract an administrative finance charge not to exceed seventy-five dollars ($75) provided that the sum of any such administrative finance charge and the portion of the finance charge determined by the simple-interest basis shall not exceed the maximum total finance charge permitted by item (1) of subdivision (a). Any administrative finance charge which is charged, received or collected by a holder shall be deemed a finance charge earned on the date of the contract.

This section shall remain in effect only until January 1, 1984, and as of that date is repealed.

SEC. 2. Section 1810.2 of the Civil Code, as amended by Section 3 of Chapter 1146 of the Statutes of 1981, is amended to read:

1810.2. Subject to the other provisions of this article, the seller or holder of a retail installment account may charge, receive and collect the finance charge authorized by this chapter.

(a) (1) With respect to a retail installment account the outstanding balance of which was incurred by a seller whose total gross sales in an individual retail outlet have not exceeded twenty million dollars ($20,000,000) during the immediately preceding 12-month period and whose gross sales in household furniture, furnishings, or appliances during the immediately preceding 12-month period exceeded 80 percent of its total gross sales, the

finance charge shall not exceed the following rates computed on the outstanding balances from month to month:

(A) On so much of the outstanding balance as does not exceed three thousand dollars ($3,000), 1.6 percent.

(B) If the outstanding balance is more than three thousand dollars ($3,000), 1 percent on the excess over three thousand dollars ($3,000) of the outstanding balance.

(C) If the finance charge so computed is less than one dollar ($1) for any month, one dollar ($1).

(2) With respect to all other retail installment accounts, the finance charge shall not exceed the following rates computed on the outstanding balances from month to month:

(A) On so much of the outstanding balance as does not exceed one thousand dollars ($1,000), 1.6 percent.

(B) If the outstanding balance is more than one thousand dollars ($1,000), 1 percent on the excess over one thousand dollars ($1,000) of the outstanding balance.

(C) If the finance charge so computed is less than one dollar ($1) for any month, one dollar ($1).

(b) The finance charge may be computed on a schedule of fixed amounts if as so computed it is applied to all amounts of outstanding balances equal to the fixed amounts minus a differential of not more than five dollars ($5), provided that it is also applied to all amounts of outstanding balances equal to the fixed amount plus at least the same differential.

(c) If a seller or holder of a retail installment account increases its finance charge rate, then the increased rate may only be applied to balances consisting of purchases or other charges incurred on or after the effective date of the increase. For purposes of determining the balances to which the increased rate applies, all payments and other credits may be deemed to be applied to the balance existing prior to the change in rate until that balance is paid in full.

This section shall remain in effect only until October 1, 1982, and as of that date is repealed.

SEC. 2.5. Section 1810.2 of the Civil Code, as amended by Section 3 of Chapter 1146 of the Statutes of 1981, is amended to read:

1810.2. Subject to the other provisions of this article, the seller or holder of a retail installment account may charge, receive and collect the finance charge authorized by this chapter.

(a) (1) With respect to a retail installment account the outstanding balance of which was incurred by a seller whose total gross sales in an individual retail outlet have not exceeded twenty million dollars ($20,000,000) during the immediately preceding 12-month period and whose gross sales in household furniture, furnishings, or appliances during the immediately preceding 12-month period exceeded 80 percent of its total gross sales, the finance charge shall not exceed the following rates computed on the outstanding balances from month to month:

(A) On so much of the outstanding balance as does not exceed

three thousand dollars ($3,000), 1.6 percent.

(B) If the outstanding balance is more than three thousand dollars ($3,000), 1 percent on the excess over three thousand dollars ($3,000) of the outstanding balance.

(C) If the finance charge so computed is less than one dollar ($1) for any month, one dollar ($1).

(2) With respect to all other retail installment accounts, the finance charge shall not exceed the following rates computed on the outstanding balances from month to month:

(A) On so much of the outstanding balance as does not exceed one thousand dollars ($1,000), 1.6 percent.

(B) If the outstanding balance is more than one thousand dollars ($1,000), 1 percent on the excess over one thousand dollars ($1,000) of the outstanding balance.

(C) If the finance charge so computed is less than one dollar ($1) for any month, one dollar ($1).

(b) The finance charge may be computed on a schedule of fixed amounts if as so computed it is applied to all amounts of outstanding balances equal to the fixed amounts minus a differential of not more than five dollars ($5), provided that it is also applied to all amounts of outstanding balances equal to the fixed amount plus at least the same differential.

(c) If a seller or holder of a retail installment account increases its finance charge rate, then the increased rate may only be applied to balances consisting of purchases or other charges incurred on or after the effective date of the increase. For purposes of determining the balances to which the increased rate applies, all payments and other credits may be deemed to be applied to the balance existing prior to the change in rate until that balance is paid in full.

This section shall remain in effect only until January 1, 1984, and as of that date is repealed.

SEC. 3. Section 6 of Chapter 1146 of the Statutes of 1981 is amended to read:

Sec. 6. The Legislature hereby finds and declares that sellers whose total gross sales in an individual outlet have not exceeded twenty million dollars ($20,000,000) during the immediately preceding 12-month period and whose gross sales in household furniture, furnishings, or appliances during the immediately preceding 12-month period exceeded 80 percent of its total gross sales, are experiencing difficulty in borrowing money at prime interest rates which results in these sellers being unable to sell furniture, furnishings, and appliances on credit at competitive prices. The Legislature, as a result, finds and declares that the amendments to Sections 1805.1 and 1810.2 of the Civil Code made by this act which accord preferential treatment to sellers whose total gross sales in an individual outlet have not exceeded twenty million dollars ($20,000,000) during the immediately preceding 12-month period and whose gross sales in household furniture, furnishings, or appliances during the immediately preceding 12-month period

exceeded 80 percent of its total gross sales, are necessary and desirable in order to ensure that these sellers may continue to sell, and consumers may continue to purchase, furniture, furnishings, and appliances on credit at competitive prices.

SEC. 4. It is the intent of the Legislature, if this bill and Assembly Bill 2671 are both chaptered and become effective on or before January 1, 1983, both bills amend Section 1805.1 of the Civil Code, as added by Section 9 of Chapter 129 of the Statutes of 1982, and this bill is chaptered after Assembly Bill 2671, that Section 1805.1 of the Civil Code, as added by Section 9 of Chapter 129 of the Statutes of 1982, as amended by Section 1 of Assembly Bill 2671, be further amended on the effective date of this act in the form set forth in Section 1.7 of this act to incorporate the changes in Section 1805.1 of the Civil Code, as added by Section 9 of Chapter 129 of the Statutes of 1982, proposed by this bill. Therefore, if this bill and Assembly Bill 2671 are both chaptered and become effective on or before January 1, 1983, and Assembly Bill 2671 is chaptered before this bill and amends Section 1805.1 of the Civil Code, as added by Section 9 of Chapter 129 of the Statutes of 1982, Section 1.7 of this act shall become operative on the effective date of this act and Section 1.5 of this act shall not become operative.

SEC. 5. It is the intent of the Legislature, if this bill and Assembly Bill 2671 are both chaptered and become effective on or before January 1, 1983, both bills amend Section 1810.2 of the Civil Code, as amended by Section 3 of Chapter 1146 of the Statutes of 1981, and this bill is chaptered after Assembly Bill 2671, that Section 1810.2 of the Civil Code, as amended by Section 3 of Chapter 1146 of the Statutes of 1981, as amended by Section 3 of Assembly Bill 2671, 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 1810.2 of the Civil Code, as amended by Section 3 of Chapter 1146 of the Statutes of 1981, proposed by this bill. Therefore, if this bill and Assembly Bill 2671 are both chaptered and become effective on or before January 1, 1983, and Assembly Bill 2671 is chaptered before this bill and amends Section 1810.2 of the Civil Code, as amended by Section 3 of Chapter 1146 of the Statutes of 1981, Section 2.5 of this act shall become operative on the effective date of this act and Section 2 of this act shall not become operative.

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

In order to affect provisions which apply only until October 1, 1982, it is necessary for this act to take effect immediately.

CHAPTER 1614

An act to repeal and add Sections 1805.1 and 1810.2 of the Civil Code, relating to retail installment sales.

[Approved by Governor September 30, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 1805.1 of the Civil Code, as added by Section 10 of Chapter 129 of the Statutes of 1982, is repealed.

SEC. 2. Section 1805.1 of the Civil Code, as amended by Section 1 of Assembly Bill No. 2671 of the 1981–82 Regular Session of the Legislature, is repealed.

SEC. 2.5. Section 1805.1 of the Civil Code, as amended by Section 1.7 of Senate Bill No. 1595 of the 1981–82 Regular Session of the Legislature, is repealed.

SEC. 3. Section 1805.1 is added to the Civil Code, to read:

1805.1. (a) The dollar amount of the finance charge shown pursuant to item (b) of Section 1803.3 shall not exceed the greater of:

(1) Eleven-twelfths of 1 percent on so much of the unpaid balance as does not exceed three thousand dollars ($3,000) plus an amount which shall not exceed two-thirds of 1 percent on that portion of the unpaid balance which exceeds three thousand dollars ($3,000), multiplied by the number of months, computed on the basis of a full month for any fractional month period in excess of 15 days, elapsing between the date of the contract and the due date of the last installment; or

(2) If the finance charge is determined by the precomputed basis, twelve dollars ($12) but if the due date of the last installment of the contract is eight months or less after its effective date, ten dollars ($10); or

(3) If the finance charge, or a portion thereof, is determined by the simple-interest basis:

(A) Ten dollars ($10) if the unpaid balance does not exceed five hundred dollars ($500), (B) twenty-five dollars ($25) if the unpaid balance exceeds five hundred dollars ($500), but does not exceed one thousand dollars ($1,000), (C) fifty dollars ($50) if the unpaid balance exceeds one thousand dollars ($1,000), but does not exceed two thousand dollars ($2,000), or (D) seventy-five dollars ($75) if the unpaid balance exceeds two thousand dollars ($2,000).

(b) The holder of the contract shall not charge, collect or receive a finance charge which exceeds the dollar amount shown pursuant to item (b) of Section 1803.3, except to the extent (1) caused by the holder's receipt of one or more payments under a contract which provides for determination of the finance charge or a portion thereof on the 365-day basis at a time or times other than as originally

scheduled, whether or not the parties enter into an agreement pursuant to Section 1807.1, (2) permitted by paragraph (2), (3), or (4) of subdivision (c) of Section 226.17 of Regulation Z, or (3) permitted by Section 1805.8.

(c) If the finance charge or a portion thereof is determined by the simple-interest basis and the amount of the unpaid balance exceeds five thousand dollars ($5,000), the holder of the contract may, in lieu of its right to a minimum finance charge under item (3) of subdivision (a), charge, receive, or collect on the date of the contract an administrative finance charge not to exceed seventy-five dollars ($75), provided that the sum of any such administrative finance charge and the portion of the finance charge determined by the simple-interest basis shall not exceed the maximum total finance charge permitted by item (1) of subdivision (a). Any administrative finance charge which is charged, received or collected by a holder shall be deemed a finance charge earned on the date of the contract.

This section shall remain in effect only until January 1, 1984, and as of that date is repealed.

SEC. 4. Section 1805.1 is added to the Civil Code, to read:

1805.1. (a) The dollar amount of the finance charge shown pursuant to item (b) of Section 1803.3 shall not exceed the greater of:

(1) Five-sixths of 1 percent on so much of the unpaid balance as does not exceed one thousand dollars ($1,000) plus an amount which shall not exceed two-thirds of 1 percent of that portion of the unpaid balance which exceeds one thousand dollars ($1,000), multiplied by the number of months (computed on the basis of a full month for any fractional month period in excess of 15 days) elapsing between the date of the contract and the due date of the last installment; or

(2) If the finance charge is determined by the precomputed basis, twelve dollars ($12) but if the due date of the last installment of the contract is eight months or less after its effective date, ten dollars ($10); or

(3) If the finance charge, or a portion thereof, is determined by the simple-interest basis:

(A) Ten dollars ($10) if the unpaid balance does not exceed five hundred dollars ($500), (B) twenty-five dollars ($25) if the unpaid balance exceeds five hundred dollars ($500), but does not exceed one thousand dollars ($1,000), (C) fifty dollars ($50) if the unpaid balance exceeds one thousand dollars ($1,000), but does not exceed two thousand dollars ($2,000), or (D) seventy-five dollars ($75) if the unpaid balance exceeds two thousand dollars ($2,000).

(b) The holder of the contract shall not charge, collect or receive a finance charge which exceeds the dollar amount shown pursuant to item (b) of Section 1803.3, except to the extent (1) caused by the holder's receipt of one or more payments under a contract which provides for determination of the finance charge or a portion thereof on the 365-day basis at a time or times other than as originally scheduled, whether or not the parties enter into an agreement

pursuant to Section 1807.1, (2) permitted by paragraph (2), (3), or (4) of subdivision (c) of Section 226.17 of Regulation Z, or (3) permitted by Section 1805.8.

(c) If the finance charge or a portion thereof is determined by the simple-interest basis and the amount of the unpaid balance exceeds five thousand dollars ($5,000), the holder of the contract may, in lieu of its right to a minimum finance charge under item (3) of subdivision (a), charge, receive, or collect on the date of the contract an administrative finance charge not to exceed seventy-five dollars ($75), provided that the sum of any such administrative finance charge and the portion of the finance charge determined by the simple-interest basis shall not exceed the maximum total finance charge permitted by item (1) of subdivision (a). Any administrative finance charge which is charged, received or collected by a holder shall be deemed a finance charge earned on the date of the contract.

This section shall become operative on January 1, 1984.

SEC. 5. Section 1810.2 of the Civil Code, as amended by Section 2 of Chapter 26 of the Statutes of 1981, is repealed.

SEC. 6. Section 1810.2 of the Civil Code, as amended by Section 3 of Assembly Bill 2671 of the 1981–82 Regular Session of the Legislature, is repealed.

SEC. 6.5. Section 1810.2 of the Civil Code, as amended by Section 2.5 of Senate Bill No. 1595 of the 1981–82 Regular Session of the Legislature, is repealed.

SEC. 7. Section 1810.2 is added to the Civil Code, to read:

1810.2. Subject to the other provisions of this article, the seller or holder of a retail installment account may charge, receive and collect the finance charge authorized by this chapter. The finance charge shall not exceed the following rates computed on the outstanding balances from month to month:

(a) On so much of the outstanding balance as does not exceed three thousand dollars ($3,000), 1.6 percent.

(b) If the outstanding balance is more than three thousand dollars ($3,000), 1 percent on the excess over three thousand dollars ($3,000) of the outstanding balance.

(c) If the finance charge so computed is less than one dollar ($1) for any month, one dollar ($1).

(d) The finance charge may be computed on a schedule of fixed amounts if as so computed it is applied to all amounts of outstanding balances equal to the fixed amounts minus a differential of not more than five dollars ($5), provided it is also applied to all amounts of outstanding balances equal to the fixed amount plus at least the same differential.

This section shall remain in effect only until January 1, 1984, and as of that date is repealed.

SEC. 8. Section 1810.2 is added to the Civil Code, to read:

1810.2. Subject to the other provisions of this article, the seller or holder of a retail installment account may charge, receive and collect the finance charge authorized by this chapter. The finance charge

shall not exceed the following rates computed on the outstanding balances from month to month:

(a) On so much of the outstanding balance as does not exceed one thousand dollars ($1,000), 1½ percent.

(b) If the outstanding balance is more than one thousand dollars ($1,000), 1 percent on the excess over one thousand dollars ($1,000) of the outstanding balance.

(c) If the finance charge so computed is less than one dollar ($1) for any month, one dollar ($1).

(d) The finance charge may be computed on a schedule of fixed amounts if as so computed it is applied to all amounts of outstanding balances equal to the fixed amounts minus a differential of not more than five dollars ($5), provided that it is also applied to all amounts of outstanding balances equal to the fixed amount plus at least the same differential.

This section shall become operative on January 1, 1984.

SEC. 9. (a) It is the intent of the Legislature that Sections 2 and 6 of this act shall become operative only if this bill and Assembly Bill 2671 are both chaptered and become effective on or before January 1, 1983, and this bill is chaptered last, and Senate Bill 1595 is not chaptered, in which case Sections 1, 2.5, 4, 5, 6.5, and 8 of this act shall not become operative.

(b) It is further the intent of the Legislature that Sections 2.5 and 6.5 of this act shall become operative only if this bill, Assembly Bill 2671, and Senate Bill 1595 are all chaptered and become effective on or before January 1, 1983, and this bill is chaptered last, in which case Sections 1, 2, 4, 5, 6, and 8 of this act shall not become operative.

CHAPTER 1615

An act to amend Sections 7137 and 7138 of the Business and Professions Code, relating to contractors, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 7137 of the Business and Professions Code is amended to read:

7137. The amount of the fees prescribed by this chapter is that fixed by the following schedule:

(a) The application fee for an original license in a single classification is one hundred fifty dollars ($150).

The application fee for each additional classification applied for in connection with an original license is fifty dollars ($50).

The application fee for each additional classification pursuant to Section 7059 is fifty dollars ($50).

The application fee to replace a responsible managing officer or employee pursuant to Section 7068.2 is fifty dollars ($50).

(b) The fee for rescheduling an examination for an applicant who has applied for an original license, additional classification, or a change of responsible managing officer or responsible managing employee, is fifty dollars ($50).

(c) The initial license fee for an active or inactive license is one hundred fifty dollars ($150).

(d) The renewal fee for an active license is two hundred dollars ($200).

The renewal fee for an inactive license is fifty dollars ($50).

(e) The delinquency fee is an amount equal to 50 percent of the renewal fee, but not more than twenty-five dollars ($25), subject to the provisions of Section 163.5.

(f) The registration fee for a home improvement salesman is fifty dollars ($50).

(g) The renewal fee for a home improvement salesman registration is seventy five dollars ($75).

SEC. 2. Section 7137 of the the Business and Professions Code is amended to read:

7137. The amount of the fees prescribed by this chapter is that fixed by the following schedule:

(a) The application fee for an original license in a single classification is one hundred fifty dollars ($150).

The application fee for each additional classification applied for in connection with an original license is fifty dollars ($50).

The application fee for each additional classification pursuant to Section 7059 is fifty dollars ($50).

The application fee to replace a responsible managing officer or manager of construction pursuant to Section 7068.2 is fifty dollars ($50).

(b) The fee for rescheduling an examination for an applicant who has applied for an original license, additional classification, or a change of responsible managing officer or manager of construction, is fifty dollars ($50).

(c) The initial license fee for an active or inactive license is one hundred fifty dollars ($150).

(d) The renewal fee for an active license is two hundred dollars ($200).

The renewal fee for an inactive license is fifty dollars ($50).

(e) The delinquency fee is an amount equal to 50 percent of the renewal fee, but not more than twenty-five dollars ($25), subject to the provisions of Section 163.5.

(f) The registration fee for a home improvement salesman is fifty dollars ($50).

(g) The renewal fee for a home improvement salesman registration is seventy five dollars ($75).

SEC. 3. Section 7138 of the Business and Professions Code is amended to read:

7138. An application, reapplication, or rescheduling fee paid in connection with an application for an original license, an additional classification, or replacement of a responsible managing officer or employee, as provided in subdivisions (a) and (b) of Section 7137, shall accrete to the Contractors' License Fund as an earned fee. This fee shall not be refunded, notwithstanding any other provision of law, when the application is filed.

SEC. 4. It is the intention of the Legislature that the fees contained in Section 7137 of the Business and Professions Code shall not be readjusted again within three years of the operative date of this act or for the purpose of financing a reorganization of the Contractors' State License Board.

SEC. 5. The provisions of Section 2 of this act shall be operative only if Senate Bill 922 is chaptered and this bill is chaptered after Senate Bill 922, in which event the provisions of 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 the necessity are:

In order for the Contractors' State License Board to receive sufficient revenue to keep it financially sound for approximately four fiscal years, it is necessary that this act take effect immediately.

CHAPTER 1616

An act to amend Sections 33200, 33203, 33203.5, 33204, 33207.5, and 33212 of, and to add Sections 31117 and 33207.7 to, and to repeal and add Section 33201 of, the Public Resources Code, relating to the Santa Monica Mountains Zone.

[Approved by Governor September 30, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 31117 is added to the Public Resources Code, to read:

31117. Notwithstanding any provision of this division, the executive officer shall submit any plan or project proposed to be carried out pursuant to this division within the coastal zone portion of the Santa Monica Mountains Zone, as defined in Section 33105, to the Santa Monica Mountains Conservancy for review at least 60 days prior to approval by the State Coastal Conservancy. If the Santa Monica Mountains Conservancy has not, within 60 days from the date of submission, acted to disapprove the proposed plan or project on

the grounds that the plan or project is in conflict with or jeopardizes an approved acquisition or improvement or a proposed acquisition or improvement identified in the adopted Santa Monica Mountains Conservancy workprogram, the plan or project may proceed pursuant to this division.

SEC. 2. Section 33200 of the Public Resources Code is amended to read:

33200. (a) The Santa Monica Mountains Conservancy is hereby established. The conservancy shall be composed of seven voting members two ex officio members. The voting members shall be as follows: (1) the Director of the National Park Service or an employee designated by the director, (2) a member representing the City of Los Angeles, appointed by the Mayor with the approval of the city council, (3) three public members who shall be residents of either the County of Los Angeles or the County of Ventura, one of whom shall be appointed by the Governor, one of whom shall be appointed by the Senate Rules Committee, and one of whom shall be appointed by the Speaker of the Assembly, (4) a member appointed by the Board of Supervisors of the County of Los Angeles, or the member's designee, and (5) an elected official who is either a member of the City Council of the City of Thousand Oaks or a member of the Board of Supervisors of the County of Ventura and who shall be appointed by the Board of Supervisors of the County of Ventura, or the elected official's designee. The seat of a public member shall be deemed vacant if the member changes his or her residence to a county other than Los Angeles or Ventura County.

The California Coastal Commission and the State Coastal Conservancy shall each appoint an ex officio member who shall be either a member or employee of their respective agency. The ex officio member appointed by the California Coastal Commission and the State Coastal Conservancy shall be nonvoting members, except that the ex officio member appointed by the State Coastal Conservancy may vote on any matter relating to a project undertaken within the coastal zone portion of the zone.

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 ex officio member appointed by the California Coastal Commission may vote on any matter relating to a project undertaken within the coastal zone portion of the zone and the ex officio member appointed by the State Coastal Conservancy may not vote on the matter.

(b) The chairman and vice chairman of the conservancy shall be selected by the voting members of the conservancy for a one-year term. A majority of the total authorized and appointed voting membership of the conservancy shall constitute a quorum for the transaction of any business under this division.

(c) The following members of the conservancy shall be compensated for attendance at regular meetings of the conservancy at the rate of one hundred dollars ($100) per day:

(1) The public members.

(2) The member appointed by the Board of Supervisors of the County of Los Angeles or that member's designee, unless the or designee is also a member of the board of supervisors, in which case no compensation shall be paid.

(3) The member appointed by the Board of Supervisors of the County of Ventura or that member's designee, unless the member or designee is also a member of a board of supervisors, in which case no compensation shall be paid.

(4) The members appointed by the State Coastal Conservancy and the California Coastal Commission if these members are also public members of their respective agencies.

(5) The appointed member representing the City of Los Angeles.

All members of the conservancy shall be reimbursed for actual and necessary expenses, including travel expenses, incurred in the performance of their duties.

SEC. 3. Section 33201 of the Public Resources Code is repealed.

SEC. 4. Section 33201 is added to the Public Resources Code, to read:

33201. (a) The State Coastal Conservancy pursuant to Division 21 (commencing with Section 31000) shall have prime responsibility for carrying out projects identified in certified local coastal programs for jurisdictions within the coastal zone portion of the zone, and the conservancy shall have the prime responsibility pursuant to this division to undertake projects within the coastal zone portion of the zone that implement the park, recreation, conservation, and open-space provisions of the plan.

(b) The provisions of this section shall not affect any project undertaken by the conservancy or the State Coastal Conservancy prior to the effective date of this section, nor shall this section be construed to affect the existing review and approval powers of the California Coastal Commission.

(c) The State Coastal Conservancy shall not have jurisdiction in the zone outside the coastal zone portion of the zone.

SEC. 5. Section 33203 of the Public Resources Code is amended to read:

33203. The conservancy may acquire, pursuant to subdivision (e) of Section 33207.5 and 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, shall, without delay, 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.

The conservancy may, by interagency agreement, cooperate with resource conservation districts in order to carry out the purposes and objectives of this division.

SEC. 6. Section 33203.5 of the Public Resources Code is amended to read:

33203.5. Notwithstanding any other provision of this division, the conservancy may acquire and improve real property, or any interests therein, anywhere within the zone upon a finding that the action is consistent with the plan. If the proposed acquisition or improvement is within the coastal zone, the executive director of the conservancy shall submit the proposal to the State Coastal Conservancy for review at least 60 days prior to approval by the conservancy. If the State Coastal Conservancy has not, within 60 days from the date of submission, acted to disapprove the proposed acquisition or improvement on the grounds that the project is in conflict with or would jeopardize an approved project of the State Coastal Conservancy or a proposed project as identified in a written preproject feasibility report as adopted by the State Coastal Conservancy, the acquisition or improvement may proceed pursuant to this section

SEC. 7. Section 33204 of the Public Resources Code is amended to read:

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, resource conservation districts, 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, resource conservation district, 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, resource conservation district, 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, resource conservation districts, 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, resource conservation districts, 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.

SEC. 8. Section 33207.5 of the Public Resources Code is amended to read:

33207.5. (a) The executive director, on behalf of the conservancy, shall, contemporaneously with the Los Angeles Unified School District completing all procedures and transfers in accordance with subdivisions (b) and (c), waive and release all the conservancy's right, title, or interest to purchase Los Angeles Unified School District property pursuant to subdivision (b) of Section 33207, and pursuant to any other statutory authority, wherever granted, to those school sites commonly referred to as the Beverly Glen Midsite School site, the property commonly referred to as the four recorded lots of the Old Ranch Road School site, the property commonly referred to as the South of Lanai Road School site, and any other school district properties located within the zone, except that the conservancy shall retain all rights to purchase the acreage parcel of the Old Ranch Road School site as set forth in this section.

(b) The exemption in subdivision (a) shall become operative if the Board of Education of the Los Angeles Unified School District (hereafter referred to as the Board of Education), within two days of the effective date of this section, votes to offer to the conservancy, and within five days of the effective date of this section records in the office of the Los Angeles County Recorder, an irrevocable offer to sell to the conservancy, at the original purchase price, the Temescal Junior High School site; and records in the office of the Los Angeles County Recorder an offer of a right to purchase to the conservancy upon terms and procedures in accordance with subdivision (d), a portion of the Old Ranch Road site described as follows:

All that portion of blocks 39 and 43 lying within the Santa Monica Land and Water Company Tract M.R. 78-44/49 owned by the Los Angeles Unified School District, together with appurtenant access easements along Old Ranch Road.

(c) The exemption in subdivision (a) shall only become operative if the Board of Education, within two days of the effective date of this section, approves a resolution of intention to sell the Old Ranch Road site described in subdivision (b). The resolution to sell shall direct publication of notice of the Board of Education's intention to sell in a newspaper of general circulation published within the Los Angeles Unified School District within 10 days of such resolution and shall cause the notice to be published on at least three occasions within a period of time of not less than 15 days. The notice shall fix a date for the opening of bids not less than 21 days after the last publication.

The bids shall be opened in public in the offices of the real estate branch in accordance with the Los Angeles Unified School District's procedure. The executive director of the conservancy shall be advised of the bid opening and location not less than seven days prior thereto. The resolution to sell and notice shall state a minimum bid price of one million four hundred thousand dollars ($1,400,000) cash sale, and close of escrow to occur within 45 days of acceptance of the highest responsible bid by the Board of Education. All bids shall be in writing and accompanied by a deposit of not less than fifty thousand dollars ($50,000) in cash or cashier's check.

(d) Prior to accepting any responsible bid received pursuant to subdivision (c), the Board of Education or its designee, shall call for oral bids. If, upon the call for oral bidding, any person offers to purchase the property upon the terms and conditions specified in the resolution, for a price exceeding by at least 5 percent the highest written or previous oral proposal which is made by a responsible person, that higher bid shall be designated as the highest responsible bid, provided that the oral bid is reduced to writing and signed by the offeror and accompanied by a cashier's check or by cash in an amount not less than fifty thousand dollars ($50,000).

After determining the highest responsible bidder, the Board of Education shall offer the Old Ranch Road School site described in subdivision (b) to the conservancy at the price indicated in the highest responsible bid as determined in subdivisions (c) and (d), but at a price not less than one million four hundred thousand dollars ($1,400,000). The offer shall be in writing and shall remain open for a period of 10 days from the date that the written offer is received by the conservancy. The executive director of the conservancy shall have the right, against all others, to gain the right to purchase such property at any time within the 10-day period at the price of the highest responsible bid by communicating to the Board of Education in writing.

In the event the executive director of the conservancy exercises the right to purchase pursuant to this section, the State of California, Santa Monica Mountains Conservancy, shall receive a conveyance of the property from the Board of Education by quit claim deed if the State of California pays the Board of Education by warrant or by cashier's check, the amount of such highest bid at any time within a six-month period commencing with the date of the receipt by the executive director of the conservancy of the Board of Education's offer, as above described.

If the executive director of the conservancy does not, within the 10-day period described in this subdivision, indicate his intention to exercise the right to purchase the property, the Board of Education may convey the property to the highest responsible bidder. In the event the highest responsible bidder fails to complete the purchase, the Board of Education shall offer the property to the executive director of the conservancy in accordance with the procedure set forth herein for each successive responsible bid, but in no case shall

the price to the conservancy be less than one million four hundred thousand dollars ($1,400,000).

Should the executive director of the conservancy indicate an intention to exercise the right to purchase within the 10-day period, but fail to pay the Board of Education the purchase price by warrant of the State of California or cashier's check within the six-month period, or the executive director of the conservancy fails to exercise the right to purchase within the 10-day period and the property is purchased by the highest responsible bidder, the executive director of the conservancy shall execute a waiver and release in accordance with subdivision (a) for the Old Ranch Road site as described in subdivision (b).

(e) In the event the conservancy does not acquire the portion of the Old Ranch Road site described in subdivision (b) pursuant to the procedure set forth in this section, and the conservancy has released and waived its rights pursuant to subdivision (a), the Board of Education may offer the Old Ranch Road site for purchase to the highest responsible bidder on the same terms as determined pursuant to this section, or should such responsible bidder no longer wish to purchase the property, the Board of Education may offer the property for sale pursuant to the provisions of the Education Code governing the sale of surplus district property.

Notwithstanding any other provision of law, the Board of Education may adopt or approve any and all acts required by it to carry out the provisions of this section and may sell to the conservancy the real property described as the Temescal Junior High School site at its original purchase price in accordance with the procedures specified in this section by an affirmative vote of five members of the Board of Education. Further, notwithstanding the provisions of the Property Acquisition Law (Part 11 (commencing with Section 15850) of Division 3 of Title 2 of the Government Code, and any other provision of law, the executive director of the conservancy may take such actions as necessary to carry out the provisions of this division.

SEC. 9. Section 33207.7 is added to the Public Resources Code, to read:

33207.7. Notwithstanding any other provision of the law, upon mutual agreement of the conservancy and the governing body of each local government or special district, conservancy funds provided to that jurisdiction and proceeds of sales of excess properties acquired from that jurisdiction shall be spent for purposes consistent with open-space purposes within any area of that jurisdiction.

SEC. 10. Section 33212 of the Public Resources Code is amended to read:

33212. (a) The executive director of the conservancy shall be exempt from civil service and shall be appointed by, and serve at the pleasure of, the conservancy. The executive director serving on the effective date of the amendments to this section enacted at the

1981–82 Regular Session of the Legislature shall continue to serve until an appointment is made by the conservancy.

(b) The executive director shall administer the affairs of the conservancy, employ staff, and shall be considered the head of a department within the meaning of Chapter 2 (commencing with Section 11150) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) Notwithstanding any other provision of law, the status and employment of any employee shall not be affected by the appointment of a successor executive director as provided in subdivision (a) until the State Personnel Board has acted under this subdivision. The State Personnel Board shall endeavor to establish such classes of state service as may in its judgment be necessary to ensure that the provisions of this section do not disrupt the essential functions of the conservancy.

SEC. 11. Notwithstanding any provision of law, the Department of Parks and Recreation shall transfer the Willacre Estate, acquired pursuant to subdivision (n) of Section 4 of Chapter 809 of the Statutes of 1980, to the Santa Monica Mountains Conservancy, and it shall be deemed to have been acquired by the conservancy pursuant to Division 23 (commencing with Section 33000) of the Public Resources Code.

Any disposition of the property transferred by this section pursuant to Section 33203 of the Public Resources Code shall be limited to not more than 13 acres, and the conservancy shall find, prior to disposition, that the property to be disposed of is not needed for park or recreation purposes. A disposition under this section shall be exempt from the provisions of Division 2 (commencing with Section 66410) of Title 7 of the Government Code.

The executive director of the conservancy shall enter into an interagency agreement with the Department of Parks and Recreation whereby at least one-half of the net proceeds from any disposition authorized by this section shall be expended by the department, when appropriated pursuant to the Budget Act, for capital outlay for park and recreational purposes within the Santa Monica Mountains National Recreation Area. The conservancy shall use, when appropriated pursuant to the Budget Act, any remaining proceeds realized by it pursuant to this section for minor projects, as that term is used in the Budget Act, consisting of appropriate vehicle barriers, safety improvements, and recreational development of the Willacre Estate.

SEC. 12. It is the intent of the Legislature in enacting this act to facilitate the acquisition of critically needed park properties. In the event of any conflict between subdivision (e) of Section 33207.5 of the Public Resources Code and Section 33203 of the Public Resources Code and any other provision of law, with respect to the authority of the executive director of the Santa Monica Mountains Conservancy to acquire real property on behalf of the conservancy, the provisions of subdivision (e) of Section 33207.5 shall govern.

SEC. 13. Notwithstanding any other provision of law, lands known as the Hunter Ranch House and the surrounding six acres within Malibu Creek State Park shall be the subject of an operating agreement under Section 5003 or 5007 of the Public Resources Code, or of a lease with a local public agency or a nonprofit corporation under the provisions of the Government Code for nonexclusive recreational purposes within the meaning of Section 14671.2 of the Government Code. The land shall not be subject to Section 5002.1, 5002.2, 5002.3, or 5002.4 of the Public Resources Code, or Article 1.7 (commencing with Section 5019.50) of Chapter 1 of Division 5 of the Public Resources Code during the term of the operating agreement or lease.

The operating agreement shall provide for facilities and improvements necessary to meet the recreational needs of, among others, special population groups not already accomodated in the general development plan for Malibu Creek State Park, including the aged and handicapped. Any facilities to be developed on the land shall be in accordance with the plan. Conformance to the plan shall be a condition of any lease or operating agreement under this section. The lease or operating agreement shall not be subject to Section 8.10 of the Budget Act of 1982. Any operating agreement or lease shall have a maximum term of five years, and may be renewed upon terms and conditions which are in best interests of the state.

SEC. 14. Notwithstanding any other provision of law, the Director of Parks and Recreation shall identify and designate a portion of the lands purchased for the Malibu Bluffs Project which he or she determines to be suitable for nonexclusive urban formalized recreation and day-use purposes which shall be defined to include youth sports activities, including little league baseball. The parcel may be the subject of an operating agreement under Section 5003 or 5007 of the Public Resources Code or of a lease with a local public agency or a nonprofit corporation under the provisions of the Government Code for development, operation, and maintenance of the parcel for the above purposes. Those purposes are hereby found to be park and recreation purposes within the meaning of Section 14671.2 of the Government Code.

The parcel of land shall not be subject to the provisions of Section 5002.1, 5002.2, 5002.3, or 5002.4 of the Public Resources Code, or Article 1.7 (commencing with Section 5019.50) of Chapter 1 of Division 5 of the Public Resources Code during the term of the operating agreement or lease. Any operating agreement or lease shall have a maximum term of five years, and may be renewed upon terms and conditions which are in the best interests of the state.

Any lease or agreement entered into pursuant to this section shall provide that upon expiration of the lease or agreement, regardless of cause, there shall be no obligation of the state to provide for, or facilitate the continuation of, the recreational activites formerly conducted pursuant to that lease or agreement.

The Director of Parks and Recreation shall prepare a plan for

provision of nonexclusive urban day-use facilities on the parcel. Any facilities to be developed on the parcel and any use of the parcel shall only be in accordance with the plan approved by the director. The plan shall be specifically designed to eliminate as far as possible any geologic hazard from landslide or slippage to adjoining lands and improvements and to park users. Conformance to the plan shall be a condition of any lease or operating agreement under this section.

Existing and future development on the parcel shall be subject to the provisions of any general development plan for the Malibu Bluffs Project, upon approval of the general development plan by the State Park and Recreation Commission.

SEC. 15. Existing law provides for uses with respect to certain projects. In the event projects are not provided for in the general development plan for Malibu Creek State Park, the Director of Parks and Recreation shall complete a plan not later than February 1, 1983. The Director of Parks and Recreation shall provide for immediate public access to the parcels described in Sections 13 and 14 of this act according to provisions of existing law.

SEC. 16. The Director of Parks and Recreation shall, after public notice as required by the Public Resources Code, hold a public hearing within the Santa Monica Mountains Zone in the process of preparing any plans in the furtherance of Sections 13 and 14 of this act.

SEC. 17. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

CHAPTER 1617

An act to amend Sections 30001.5, 30607.2, and 31306 of, and to repeal Section 31311.5, as added by Senate Bill 1603, of, the Public Resources Code, and to amend and supplement the Budget Act of 1982 by amending Items 3680-101-516 and 3790-301-742 thereof, and by adding Section 8.45 thereto, relating to coastal resources, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. 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 artificial 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. 2. Section 30607.2 of the Public Resources Code is amended to read:

30607.2. (a) Conditions requiring housing for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, which were incorporated into a coastal development permit issued prior to January 1, 1982, may, at the request of the permittee, be amended or modified by the commission or by a local government having the authority to issue coastal development permits. In approving such amendments or modifications, only those conditions and requirements authorized by Section 65590 of the Government Code may be imposed on the permittee.

(b) Any person who, prior to January 1, 1982, has been issued a coastal development permit which contains requirements for low- and moderate-income housing but who, prior to January 1, 1982, has not performed substantial work on the development site (such as grading, installation of streets, sewers or utilities or construction of major buildings) may elect to proceed under either of the following options:

(1) To proceed pursuant to all of the requirements of the coastal development permit, in which event the provisions of subdivision (a) shall apply to any subsequent request to amend or alter the coastal development permit in regard to housing requirements.

(2) To proceed without complying with the housing requirements contained in the coastal development permit, in which event the housing requirements for the development shall be governed by Section 65590 of the Government Code.

(c) On or after January 1, 1982, no new coastal development permit or amendment to any existing permit for a sewer project shall be denied, restricted, or conditioned in order to implement housing policies or programs.

(d) Nothing in this section shall authorize or require the

modification or amendment to any terms or conditions of any previously issued coastal development permit which guarantees housing opportunities for persons and families of low or moderate income where the term or condition has been met through an agreement executed and recorded on or before January 1, 1982, between an applicant and the commission. For previously approved or issued permits which involve new construction of less than 10 residential units, an executed and recorded agreement guaranteeing housing opportunities for persons or families of low or moderate income, which has not been implemented by the transfer of an interest in real property or payment of a fee to a public agency or nonprofit association for the purpose of providing these housing opportunities, shall be voided if the applicant records the notice provided by the executive director of the commission. Further, nothing in this section shall impair the commission's authority to deny, restrict, or condition new permits or amendments to existing permits based on any requirement of this division.

SEC. 3. Section 31306 of the Public Resources Code is amended to read:

31306. (a) The conservancy shall propose capital projects and capital programs, generated by the conservancy, local public agencies, or state agencies for grants available under Section 306A of the Coastal Zone Management Improvement Act (P.L. 96–464). The commission shall forward the proposed projects and programs to the Department of Commerce as applications recommended for funding under Section 306A. The commission shall not forward any application unless it has been proposed by the conservancy.

(b) Nothing in this chapter shall diminish the commission's authority pursuant to Section 30330 of the Public Resources Code, which shall include determination of the allocation of federal financial assistance among the coastal management activities, coastal research activities, coastal energy impact activities, living marine resource activities, and natural resources enhancement and management activities, eligible for federal financial assistance under the Coastal Zone Management Improvement Act, or any amendment thereto, or any other federal act heretofore or hereafter enacted, that relates to the planning and management of the coastal zone, except as provided in this section.

(c) (1) Prior to the commission's determination of allocations under subdivision (b), the commission and the conservancy shall concur on the allocation for capital projects and capital programs generated by the conservancy, local public agencies, or state agencies for public access, agricultural preservation, enhancement of coastal resources, coastal restoration, urban waterfront restoration, reservation of significant coastal resource areas, and commercial fishing facilities. No allocation for these capital projects and capital programs shall be made unless they are proposed by the conservancy.

(2) Prior to the commission's determination of allocations under

subdivision (b), the commission and the San Francisco Bay Conservation and Development Commission shall concur on the allocation for the San Francisco Bay Conservation and Development Commission to carry out its responsibilities under the federally approved California Coastal Management Program.

(3) In determining the allocations under subdivision (b), the commission shall consult with the conservancy, the San Francisco Bay Conservation and Development Commission, and the Department of Finance, and shall ensure that agencies eligible for federal financial assistance under the Coastal Zone Management Improvement Act are allocated sufficient assistance to carry out their required responsibilities under the federally approved California Coastal Management Program.

SEC. 4. Section 31311.5 of the Public Resources Code, as added by Senate Bill 1603, is repealed.

SEC. 5. Notwithstanding Section 30233 of the Public Resources Code, a new recreational marina of less than 12 berths, which will not add berths to any existing marina, may be developed in Bodega Bay, if it is otherwise in accordance with Division 20 (commencing with Section 30000) of the Public Resources Code.

This section shall become operative on the date that the County of Sonoma awards the contract for construction of the Spud Point Marina.

SEC. 6. Section 4 of this act shall become operative only if Senate Bill No. 1603 of the 1981–82 Regular Session is chaptered, and in that event, shall become operative on the date that Senate Bill No. 1603 becomes operative.

SEC. 7. Item 3680-101-516 of the Budget Act of 1982 (Chapter 326, Statutes of 1982) is amended to read:

3680-101-516—For local assistance, Department of Boating and Waterways, payable from the Harbors and Watercraft Revolving Fund		17,999,000
Schedule:		
(a) Launching facility grants	3,283,000	
(1) Big Bear	270,000	
(2) Discovery Park	85,000	
(3) East Bay	105,000	
(4) Elkhorn	100,000	
(5) Eureka	350,000	
(6) Floating restrooms	150,000	
(7) Ramp repairs	100,000	
(8) Lake Morena	350,000	
(9) Lake San Antonio	500,000	
(10) Morro Bay	313,000	
(11) Moss Landing	375,000	
(12) Oceanside	55,000	
(13) Shelter Cove	280,000	

(14) Vallejo	250,000	
(b) Loans: Local Government		12,000,000
(1) Balboa Yacht Basin	2,500,000	
(2) Diesel Street Marina	600,000	
(3) Downtown Shore	600,000	
(4) Martinez Marina	300,000	
(5) Santa Cruz Harbor	600,000	
(6) Planning loans	100,000	
(7) Cabrillo Beach Marina	4,000,000	
(8) Spud Point	3,200,000	
(9) Emergency Storm Repairs	100,000	
(c) Boating safety and enforcement		2,716,000

Provisions:

1. The funds appropriated in category (b) are for loans to be made to cities, counties, or districts pursuant to Sections 70.2 and 71.4 of the Harbors and Navigation Code, Department of Boating and Waterways.
2. The funds appropriated in category (a) are for grants to cities, counties, districts, or other public agencies pursuant to Section 72.5 of the Harbors and Navigation Code to be used for construction and development of small craft launching facilities.
3. The funds allocated for boating safety and enforcement programs are pursuant to Section 663.7 of the Harbors and Navigation Code.
4. The funds appropriated in category (b) (9) are for allocation by the Director of Finance to provide for repairs, authorized by the Director of Finance, of damage at small craft harbor facilities constructed pursuant to Sections 70.2, 71.4, and 72.5 of the Harbors and Navigation Code, caused by emergency conditions, including but not limited to, tidal waves or severe storms, and for payment of deficiencies in appropriations for the Department of Boating and Waterways which may be authorized by the Director of Finance; the sum of $100,000 or so much thereof as may be necessary, is appropriated from the Harbors and Watercraft Revolving Fund.
5. No funds appropriated for the Eureka launching facility in category (a) (5) shall be encumbered or expended unless and until an environmental

impact report is completed and approved for the project.

6. No more than $1,400,000 appropriated for the Spud Point project by category (b) (8) shall be encumbered or expended unless and until the cash surplus in the Harbors and Watercraft Revolving Fund equals or exceeds $100,000.
7. The funds appropriated in category (b) shall not be available for expenditure unless the Boating and Waterways Commission establishes the interest rate to be charged for 1982–83 fiscal year loans for public marina and harbor development at 7.9 percent.
8. The funds appropriated for the Spud Point project by category (b) (8) shall not be encumbered or expended unless the loan agreement provides at least that:
   (a) The County of Sonoma shall repay the loan in full.
   (b) The County of Sonoma shall establish an advisory committee on the Spud Point Marina. The county shall appoint at least 80 percent of the members of the advisory committee from a list submitted to it by an organization representing the majority of the commercial fishermen who berth their vessels in the marina.
   (c) The County of Sonoma shall establish the berthing rates for the marina annually after consulting the advisory committee. Except as provided in paragraph (d), the berthing rates shall not exceed three dollars and fifty cents ($3.50) (in 1982 dollars) per linear foot per month in the first year of operation, shall not increase by more than 8 percent per year in the first two years of operation or until the marina is fully occupied, whichever occurs first, and shall not increase more than 6 percent per year thereafter for the life of the loan.
   (d) In any year in which the advisory committee, by a two-thirds vote of the entire membership, determines that a berthing rate higher than would be established pursuant to paragraph (c) is necessary to repay any loan or reimbursable grant from the State of California, or to pay marina operation or maintenance costs, or both, and recommends a higher rate, the county shall estab-

lish a berthing rate for that year not higher than the higher rate recommended by the advisory committee.

SEC. 8. Item 3790-301-742 of the Budget Act of 1982 (Chapter 326, Statutes of 1982) is amended to read:

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

3790-301-742—For capital outlay, Department of Parks and Recreation, payable from the State, Urban, and Coastal Park Fund 3,362,000

Schedule:

(a) Project planning and design	362,000
(c) Big Sur coast area—acquisition (willing sellers only)	1,000,000
(d) Sonoma County coast state parks —acquisition (willing sellers only) and development	1,200,000
(e) Santa Monica Mountains (Point Magu State Park, Malibu Creek State Park, and Topanga State Park)—development	800,000

Provisions:

1. The funds appropriated in category (c) shall be for purchase of parcels pursuant to an interagency agreement between the Department of Parks and Recreation and the State Coastal Conservancy.
2. The funds appropriated in category (d) shall be for purchase of parcels 109-060-06-1, 109-060-07-9, 109-060-08-7 and 109-060-09-5 at Stillwater Cove, parcels 109-090-12-6 and 109-090-13-4 at Fort Ross State Historic Park (Windemere Point), or other parcels in the project area pursuant to an interagency agreement between the Department of Parks and Recreation and the State Coastal Conservancy, and for development of the Sonoma Coast State Beach water system. However, no funds shall be encumbered or expended at Stillwater Cove unless the County of Sonoma agrees to contribute $50,000 for acquisition of the parcels at Stillwater Cove and agrees to operate and maintain these parcels as an addition to Stillwater Cove County Park.
3. Any surplus funds in category (c) or (d) may be expended for acquisition or development de-

scribed in the other category or in category (e), or both, pursuant to an interagency agreement between the Department of Parks and Recreation and the State Coastal Conservancy. However, the amount expended on acquisitions described in categories (c) and (d) shall not total less than $1,600,000.

4. The Department of Parks and Recreation shall reimburse the State Coastal Conservancy for all its costs incurred in connection with acquisitions made under category (c) or (d) out of funds appropriated in that category.

SEC. 9. Section 8.45 is added to the Budget Act of 1982 (Chapter 326, Statutes of 1982), to read:

Sec. 8.45. Notwithstanding any other provision of law, paragraph (a) of Provision 11 of Item 3790-301-721 is null and void and shall have no force or effect; and, instead, funds appropriated in category (tt) of Item 3790-301-721 for acquisition at the Big Sur Project shall be for the purchase of the following parcels: parcels 243-231-13 and 243-241-15 at Little Sur River (Hill Road Project); parcel 243-231-18 at Garapata State Beach; and parcel 601-818-00 at Julia Pfeiffer Burns State Park.

SEC. 10. The sum of thirty thousand dollars ($30,000) is hereby appropriated from the Fish and Game Preservation Fund to the Department of Fish and Game in augmentation of Item 3600-001-200 of the Budget Act of 1982 (Chapter 326, Statutes 1982) for seasonal aides (30 employee-months) to be employed to check the ocean sport salmon catch.

SEC. 11. The State Coastal Conservancy, in cooperation with the Department of Fish and Game, the Department of Boating and Waterways, the California Coastal Commission, and the Joint Committee on Fisheries and Aquaculture, shall prepare and submit to the Legislature a report on the adequacy of existing and planned wharfs, harbors, off-loading facilities and other onshore support facilities needed by the California commerical fishing industry. The report shall include detailed recommendations of possible locations and financing of needed facilities, and of other actions which may be necessary consistent with the economic health of the industry. The report shall be based on the planning work already completed in the preparation and certification of port master plans and local coastal programs. The conservancy shall submit an interim report to the Legislature no later than February 1, 1983, and a final report no later than June 1, 1983.

SEC. 12. The Director of General Services, with the approval of the State Public Works Board and the Director of Parks and Recreation, may exchange or lease for the current market value, upon terms and conditions and with reservations and exceptions which, in his or her opinion, are in the best interests of the state, all or any part, excluding development rights, of approximately 315 acres of land

inland of State Highway Route 1 and approximately 10 acres of land on the seaward side of State Highway Route 1 in Andrew Molera State Park.

SEC. 13. The State Coastal Conservancy, on or before October 31, 1982, shall grant not less than one million six hundred thousand dollars ($1,600,000) to the County of Sonoma for the Spud Point Marina project. The conservancy may require the county to repay in full and without interest not more than six hundred thousand dollars ($600,000) of the grant.

SEC. 14. (a) The Legislature finds and declares that the commercial fishing industry is involved with the public interest and that it directly affects the public health and welfare by providing food and jobs. The Legislature further finds and declares that the Spud Point Marina project is necessary for the long-term survival of the industry between San Francisco Bay and Fort Bragg, an area that depends economically on the industry, and that maximum cooperation and participation by state and local public agencies is necessary to develop the marina.

(b) If the County of Sonoma accepts a loan or reimbursable grant from the State of California for the Spud Point Marina project, the county shall repay it in full.

SEC. 15. Sections 8, 9, 12, and 13 of this act shall become operative only if, on or before October 15, 1982, the State Park and Recreation Commission gives its favorable recommendation to all the projects in categories (c), (d) and (e) of Item 3790-301-742 of the Budget Act of 1982 as amended by Section 8 of this act.

SEC. 16. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure proper planning of the areas affected by this act, it is necessary that the provisions of this act take effect immediately.

CHAPTER 1618

An act to amend Sections 26403, 30823, 31010, 31100, and 31307 of, and to add Section 31311.5 to, the Public Resources Code, relating to coastal resources.

[Approved by Governor September 30, 1982. Filed with Secretary of State September 30, 1982.]

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

SECTION 1. Section 26403 of the Public Resources Code is amended to read:

26403. Programs and projects eligible for funding from the Resources Account shall be limited to any of the following:

(1) Appropriations to the State Coastal Conservancy for grants to public and private agencies for the restoration of urban waterfronts, as described in "An Urban Waterfronts Program for California" required by Chapter 1040 of the Statutes of 1981. Appropriations to the conservancy may include, but shall not be limited to, particular projects identified in that report.

(2) Projects under the Roberti-Z'berg Urban Open-Space and Recreation Program Act (Chapter 3.2 (commencing with Section 5620) of Division 5 of the Public Resources Code).

(3) Appropriations to the State Coastal Conservancy for grants to public and private agencies for acquisition, development, rehabilitation, restoration, operation, and maintenance of real property and facilities which provide public access ways to or along the coast or the shoreline of San Francisco Bay.

(4) Wetland protection, preservation, restoration, and enchancement projects in accordance with the Keene-Nejedly California Wetlands Preservation Act (Chapter 7 (commencing with Section 5810) of Division 5 of the Public Resources Code), or, in accordance with provisions governing the State Coastal Conservancy (Division 21 (commencing with Section 31000) of the Public Resources Code).

(5) Restoration, enhancement, and preservation of wildlife habitat on federal lands pursuant to the Sikes Act (16 U.S.C. Sec. 670a, et seq.).

(6) Acquisition and development of real property for wildlife management in accordance with the purposes of the Wildlife Conservation Law of 1947 (Chapter 4 (commencing with Section 1300) of Division 2 of the Fish and Game Code).

(7) Reforestation, urban forestry, and forest improvement projects in accordance with the provisions of Part 2.5 (commencing with Section 4790) of Division 4 of the Public Resources Code.

(8) Water reclamation, watershed management, water conservation, instream use, and drainage management programs approved by the Director of Water Resources or the State Water Resources Control Board.

(9) Watershed restoration, erosion control, fire hazard reduction, land conservation, and fish and wildlife habitat improvement projects.

(10) Acquisition, restoration, and preservation of habitat for rare and endangered species.

(11) Programs for the prevention of soil loss and soil degradation.

(12) Programs for the preservation and protection of prime agricultural lands.

(13) Shoreline erosion control projects.

(14) Mitigation of environmental damage resulting from gas or oil production on state lands.

(15) Programs to develop a computer-based mapping system to store, refine, analyze, and display resource data.

(16) Programs for development and enhancement of renewable

agricultural resources.

(17) Programs to safeguard public and environmental health from hazardous materials.

(18) Programs for geothermal resources assessment.

(19) Other programs which enhance and conserve renewable and nonrenewable resources.

SEC. 2. Section 30823 of the Public Resources Code is amended to read:

30823. Any funds derived under this article shall be expended for carrying out the provisions of this division, when appropriated by the Legislature. Funds so derived shall be deposited in the Violation Remediation Account of the Coastal Conservancy Fund until appropriated.

SEC. 3. Section 31010 of the Public Resources Code is amended to read:

31010. "Local public agency" means a city, county, city and county, district, association of governments, or joint powers agency.

SEC. 4. Section 31100 of the Public Resources Code is amended to read:

31100. There is in the Resources Agency the State Coastal Conservancy, consisting of the following seven members:

(a) The chairman of the commission.

(b) The Secretary of the Resources Agency.

(c) The Director of Finance.

(d) Four members of the public, of which two shall be appointed by the Governor, one shall be appointed by the Senate Rules Committee, and one shall be appointed by the Speaker of the Assembly.

Except for members appointed pursuant to subdivision (d), the members of the conservancy may designate one of their employees to serve on the conservancy in their absence.

SEC. 5. Section 31311.5 is added to the Public Resources Code, to read:

31311.5. Where the conservancy awards any grant for the purpose of providing new or expanded facilities to serve the commercial fishing industry, the financial terms and any reimbursement provisions of that grant shall be determined solely on the basis of protecting the long-term economic viability of the commercial fishing industry.

SEC. 6. Section 31307 of the Public Resources Code is amended to read:

31307. The conservancy may award grants to local public agencies and nonprofit organizations for the restoration of urban coastal waterfront areas.

SEC. 7. The Director of General Services, with the approval of the State Public Works Board and the Director of Parks and Recreation, is hereby authorized to transfer to the City of Pismo Beach, upon those terms and conditions and with those exceptions and reservations which in his or her opinion may be in the best

interests of the state, the real property comprising the parking lot of approximately 1.4 acres and the public pier at Pismo State Beach for the purpose of expanding visitor-serving facilities.

CHAPTER 1619

An act to add Sections 42248 and 42249 to the Education Code, relating to school districts.

[Approved by Governor September 30, 1982. Filed with Secretary of State October 1, 1982.]

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

SECTION 1. This act may be known and may be cited as the Voluntary Pupil Integration Act of 1982.

SEC. 2. Section 42248 is added to the Education Code, to read:

42248. (a) Notwithstanding any provision of Section 42243.6 to the contrary, any school district which received a revenue limit increase for court-mandated desegregation programs, pursuant to Section 42243.6, shall continue to receive a revenue limit increase for each fiscal year, to and including the 1988–89 fiscal year, if the district continues to maintain a voluntary integration program. The revenue limit increases shall be in amounts necessary to pay the costs of the voluntary integration programs, pursuant to Section 42243.6, as adjusted by subdivision (b).

(b) The revenue limit increases for voluntary integration efforts may be adjusted for inflation, subject to the annual budget review process.

(c) The state funds provided by revenue limit increases for voluntary integration efforts shall be used to fund voluntary integration programs including, but not limited to, magnet schools, transportation of pupils to schools or programs of their choice, staff development programs, or other specific efforts to combat the harmful effects of racially isolated minority schools.

SEC. 3. Section 42249 is added to the Education Code, to read:

42249. (a) Any school district which maintains a voluntary program designed to remedy the harmful effects of racial segregation may, if the program meets the criteria of this section, present a claim for reimbursement for the costs of the program to the Board of Control for review. The Board of Control may, for claims approved under this section, include the claims in a subsequent claims bill.

(b) Any claim presented to the Board of Control pursuant to subdivision (a) shall be subject to the following restrictions:

(1) A district shall not be reimbursed for a higher percentage of

the total costs, as defined in paragraph (2), of the program than the average percentage reimbursement of total program costs received by eligible school districts from the state pursuant to Section 42243.6 for the 1981–82 fiscal year.

(2) The total costs of voluntary programs eligible for reimbursement pursuant to this section shall not exceed 1980–81 fiscal year funding levels.

(3) Programs eligible for reimbursement pursuant to this section shall be limited to the following:

(A) Voluntary pupil assignment or reassignment.

(B) Magnet schools or magnet centers.

(C) Transportation of pupils to alternative schools or programs of their choice.

(D) Racially isolated minority school staff development, instructional materials and supplies, and other programs to combat the harmful effects of racially isolated minority schools. Racially isolated minority school programs shall include, but are not limited to, the following:

(i) New and creative parent training and involvement programs.

(ii) Instructional programs to increase achievement in language arts, mathematics and science.

(iii) Reduction in classroom size (pupil/teacher ratio).

(iv) Necessary support staff.

(v) An evaluation component to determine the effectiveness of the racially isolated minority school programs.

(c) It is the intent of the Legislature that there shall be no reduction of funding for racially isolated minority schools.

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

CHAPTER 1620

An act to amend Section 1169 of, and to add Sections 1170.5 and 1170.7 to the Code of Civil Procedure, relating to unlawful detainer actions.

[Became law without Governor's signature. Filed with Secretary of State October 1, 1982.]

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

SECTION 1. Section 1169 of the Code of Civil Procedure is amended to read:

1169. If at the time appointed any defendant served with a summons does not appear and defend, the clerk, or the judge if there is no clerk, upon written application of the plaintiff and proof of the service of summons and complaint, shall enter the default of any defendant so served, and, if requested by the plaintiff, immediately shall enter judgment for restitution of the premises and shall issue a

writ of execution thereon. Thereafter, the plaintiff may apply to the court for any other relief demanded in the complaint, including the costs, against the defendant, or defendants, or against one or more of the defendants.

SEC. 2. Section 1170.5 is added to the Code of Civil Procedure, to read:

1170.5. (a) If the defendant appears pursuant to Section 1170, trial of the proceeding shall be held not later than the 20th day following the date that the request to set the time of the trial is made. Judgment shall be entered thereon and, if the plaintiff prevails, a writ of execution shall be issued immediately by the court upon the request of the plaintiff.

(b) The court may extend the period for trial upon the agreement of all of the parties. No other extension of the time for trial of an action under this chapter may be granted unless the court, upon its own motion or on motion of any party, holds a hearing and renders a decision thereon as specified in subdivision (c).

(c) If trial is not held within the time specified in this section, the court, upon finding that there is a reasonable probability that the plaintiff will prevail in the action, shall determine the amount of damages, if any, to be suffered by the plaintiff by reason of the extension, and shall issue an order requiring the defendant to pay that amount into court as the rent would have otherwise become due and payable or into an escrow designated by the court for so long as the defendant remains in possession pending the termination of the action.

The determination of the amount of the payment shall be based on the plaintiff's verified statement of the contract rent for rental payment, any verified objection thereto filed by the defendant, and the oral or demonstrative evidence presented at the hearing. The court's determination of the amount of damages shall include consideration of any evidence, presented by the parties, embracing the issue of diminution of value or any set off permitted by law.

(d) If the defendant fails to make a payment ordered by the court, trial of the action shall be held within 15 days of the date payment was due.

(e) Any cost for administration of an escrow account pursuant to this section shall be recoverable by the prevailing party as part of any recoverable cost in the action.

(f) After trial of the action, the court shall determine the distribution of the payment made into court or the escrow designated by the court.

(g) Where payments into court or the escrow designated by the court are made pursuant to this section, the court may order that the payments be invested in an insured interest-bearing account. Interest on the account shall be allocated to the parties in the same proportions as the original funds are allocated.

(h) If any provision of this section or the application thereof to any person or circumstances is held invalid, such invalidity shall not

affect other provisions or applications of the section which can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

(i) Nothing in this section shall be construed to abrogate or interfere with the precedence given to the trial of criminal cases over the trial of civil matters by Section 1050 of the Penal Code.

SEC. 3. Section 1170.7 is added to the Code of Civil Procedure, to read:

1170.7. A motion for summary judgment may be made at any time after the answer is filed upon giving five days notice. Summary judgment shall be granted or denied on the same basis as a motion under Section 437c.

CHAPTER 1621

An act to repeal Article 5 (commencing with Section 4191) of Chapter 6 of Part 3 of Division 3 of the Food and Agricultural Code, and to add and repeal Sections 17063.4 and 18215.1 of the Revenue and Taxation Code, relating to taxation.

[Became law without Governor's signature. Filed with Secretary of State October 1, 1982.]

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

SECTION 1. Article 5 (commencing with Section 4191) of Chapter 6 of Part 3 of Division 3 of the Food and Agricultural Code is repealed.

SEC. 2. Section 17063.4 is added to the Revenue and Taxation Code, to read:

17063.4. (a) For the purpose of Section 17063, the following are not items of the preference:

(1) That portion of capital gains attributable to the sale or exchange of residential rental property which is two or more dwelling units in the same structure situated in California and under the same ownership (as described in subdivision (b) of Section 17211.6).

(2) Depreciation claimed upon residential rental property which is two or more dwelling units in the same structure situated in California and under the same ownership (as described in subdivision (b) of Section 17211.6).

(b) The provisions of this section shall be operative only in those taxable years in which substantially similar provisions are operative in federal law, and shall cease to be operative on January 1, 1988, and on that date are repealed.

SEC. 3. Section 18215.1 is added to the Revenue and Taxation Code, to read:

18215.1. (a) Section 18212 shall not apply to residential rental

property which is two or more dwelling units in the same structure situated in California and under the same ownership described in subdivision (b) of Section 17211.6.

(b) The provisions of this section shall be operative only in those taxable years in which substantially similar provisions are operative in federal law, and shall cease to be operative on January 1, 1988, and on that date are repealed.

SEC. 4. Sections 2 and 3 of this act shall apply only to residential real property the construction of which is commenced after December 31, 1982.

CHAPTER 1622

An act to amend Section 18939 of the Health and Safety Code, relating to building standards.

[Became law without Governor's signature. Filed with Secretary of State October 1, 1982.]

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

SECTION 1. Section 18939 of the Health and Safety Code is amended to read:

18939. Building standards adopted or approved by the commission 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. However, the commission may elect to adopt or approve standards which incorporate, in whole or in part, the text of these publications, with changes therein, or deletions therefrom, directly incorporated into the text of the State Building Standards Code; provided, that no textual material contained in any of the model codes, as enumerated in Section 17922, may be included in the State Building Standards Code by means other than incorporation by reference, unless the commission and the governing body of the organization that publishes the model codes first reach a written agreement concerning the terms and conditions of the publication, including, but not limited to, whether the publication will be by the commission or the model code organization, or both. The model code governing body may not withhold any publication agreement on the basis of the substantive provisions contained in the State Building Standards Code.

CHAPTER 1623

An act to add and repeal Section 21083.2 of the Public Resources Code, relating to environmental quality.

[Became law without Governor's signature. Filed with Secretary of State October 1, 1982.]

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

SECTION 1. Section 21083.2 is added to the Public Resources Code, to read:

21083.2. (a) As part of the determination made pursuant to Section 21080.1, the lead agency shall determine whether the project may have a significant effect on archaeological resources. If the lead agency determines that the project may have a significant effect on unique archaeological resources, the environmental impact report shall address the issue of those resources. An environmental impact report, if otherwise necessary, shall not address the issue of nonunique archaeological resources. A negative declaration shall be issued with respect to a project if, but for the issue of nonunique archaeological resources, the negative declaration would be otherwise issued.

(b) If it can be demonstrated that a project will cause damage to a unique archaeological resource, the lead agency may require reasonable efforts to be made to permit any or all such resources to be preserved in place or left in an undisturbed state. Examples of such treatment, in no order of preference and not limited thereto, may include:

(1) Planning construction to avoid archaeological sites.

(2) Deeding archaeological sites into permanent conservation easements.

(3) Capping or covering archaeological sites with a layer of soil before building on the sites.

(4) Planning parks, greenspace, or other open space to incorporate archaeological sites.

(c) To the extent that unique archaeological resources are not preserved in place or not left in an undisturbed state, mitigation measures shall be required as provided in this subdivision. The project applicant shall provide a guarantee to the lead agency to pay one-half the estimated cost of mitigating the significant effects of the project on unique archaeological resources. In determining payment, the lead agency shall give due consideration to the in-kind value of project design or expenditures that are intended to permit any or all archaeological resources or California Native American culturally significant sites to be preserved in place or left in an undisturbed state. When a final decision is made to carry out or approve the project, the lead agency shall, if necessary, reduce the specified mitigation measures to those which can be funded with the

money guaranteed by the project applicant plus the money voluntarily guaranteed by any other person or persons for those mitigation purposes. In order to allow time for interested persons to provide the funding guarantee referred to in this subdivision, a final decision to carry out or approve a project shall not occur sooner than 60 days after completion of the recommended special environmental impact report required by this section.

(d) Excavation as mitigation shall be restricted to those parts of the unique archaeological resource that would be damaged or destroyed by the project. Excavation as mitigation shall not be required for a unique archaeological resource if the lead agency determines that testing or studies already completed have adequately recovered the scientifically consequential information from and about the resource, provided such determination is documented in the environmental impact report.

(e) In no event shall the amount paid by a project applicant for mitigation measures required pursuant to subdivision (c) exceed the following amounts:

(1) An amount equal to one-half of 1 percent of the projected cost of the project for mitigation measures undertaken within the site boundaries of a commercial or industrial project.

(2) An amount equal to three-fourths of 1 percent of the projected cost of the project for mitigation measures undertaken within the site boundaries of a housing project consisting of a single unit.

(3) If a housing project consists of more than a single unit, an amount equal to three-fourths of 1 percent of the projected cost of the project for mitigation measures undertaken within the site boundaries of the project for the first unit plus the sum of the following:

(A) Two hundred dollars ($200) per unit for any of the next 99 units.

(B) One hundred fifty dollars ($150) per unit for any of the next 400 units.

(C) One hundred dollars ($100) per unit in excess of 500.

(f) Unless special or unusual circumstances warrant an exception, the field excavation phase of an approved mitigation plan shall be completed within 90 days after final approval necessary to implement the physical development of the project or, if a phased project, in connection with the phased portion to which the specific mitigation measures are applicable; provided that the project applicant may extend that period if he so elects. Nothing in this section shall nullify protections for indian cemeteries under any other provision of law.

(g) As used in this section, "unique archaeological resource" means an archaeological artifact, object, or site about which it can be clearly demonstrated that, without merely adding to the current body of knowledge, there is a high probability that it meets any of the following criteria:

(1) Contains information needed to answer important scientific

research questions and that there is a demonstrable public interest in that information.

(2) Has a special and particular quality such as oldest of its type or best available example of its type.

(3) Is directly associated with a scientifically recognized important prehistoric or historic event or person.

(h) As used in this section, "nonunique archaeological resource" means an archaeological artifact, object, or site which does not meet the criteria set forth in subdivision (e). A nonunique archaeological resource need be given no further consideration, other than the simple recording of its existence by the lead agency if it so elects.

(i) As part of the objectives, criteria, and procedures required by Section 21082 or as part of conditions imposed for mitigation, a lead agency may make provisions for archaeological sites accidentally discovered during construction. These provisions may include an immediate evaluation of the find. If the find is determined to be a unique archaeological resource, contingency funding and a time allotment sufficient to allow recovering an archaeological sample or to employ one of the avoidance measures may be required under the provisions set forth in this section. Construction work may continue on other parts of the building site while archaeological mitigation takes place.

(j) This section shall not apply to any project described in subdivision (a) or (b) of Section 21065 if the lead agency elects to comply with all other applicable provisions of this division. This section shall not apply to any project described in subdivision (c) of Section 21065 if the applicant and the lead agency jointly elect to comply with all other applicable provisions of this division.

(k) Any additional costs to any local agency as a result of complying with the requirements of this section with respect to a project of other than a public agency shall be borne by the project applicant.

(l) This section shall remain in effect only until January 1, 1986, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1986, deletes or extends that date.

SEC. 2. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to 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 1624

An act to add Section 527.7 to the Code of Civil Procedure, and to add Article 4.5 (commencing with Section 11410) to Chapter 3 of Title 1 of Part 4 of the Penal Code, relating to imminent lawless action and terrorizing.

[Became law without Governor's signature. Filed with Secretary of State October 1, 1982.]

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

SECTION 1. Section 527.7 is added to the Code of Civil Procedure, to read:

527.7. (a) It shall be unlawful for any group, association, organization, society, or other assemblage of two or more persons to meet and to advocate, and to take substantial action in furtherance of, the commission of an unlawful act of violence or force directed to and likely to produce the imminent and unlawful infliction of serious bodily injury or death of another person within this state.

(b) Whenever it reasonably appears that any group, association, society, or other assemblage of two or more persons has met and taken substantial action in furtherance of the commission of an act of violence made unlawful by subdivision (a) and will engage in those acts in the future, any aggrieved individual may bring a civil action in the superior court to enjoin the advocacy of the commission of any act of violence made unlawful by subdivision (a) at any future meeting or meetings. Upon a proper showing by clear and convincing evidence, a permanent or preliminary injunction, restraining order, or writ of mandate shall be granted.

(c) Whenever it appears that an action brought under this section was groundless and brought in bad faith for the purpose of harassment, the trial court or any appellate court may award to the defendant attorney's fees and court costs incurred for the purpose of defending the action.

SEC. 2. Article 4.5 (commencing with Section 11410) is added to Chapter 3 of Title 1 of Part 4 of the Penal Code, to read:

Article 4.5. Terrorizing

11410. The Legislature finds and declares that it is the right of every person regardless of race, color, creed, religion or national origin, to be secure and protected from fear, intimidation, and physical harm caused by the activities of violent groups and individuals. It is not the intent of this chapter to interfere with the exercise of rights protected by the Constitution of the United States. The Legislature recognizes the constitutional right of every citizen to harbor and express beliefs on any subject whatsoever and to associate with others who share similar beliefs. The Legislature

further finds however, that the advocacy of unlawful violent acts by groups against other persons or groups under circumstances where death or great bodily injury is likely to result is not constitutionally protected, poses a threat to public order and safety and should be subject to criminal and civil sanctions.

11411. Any person who burns or desecrates a cross or other religious symbol, knowing it to be a religious symbol, or places or displays a sign, mark, symbol, emblem, or other physical impression, including but not limited to a Nazi swastika on the private property of another without authorization for the purpose of terrorizing another or in reckless disregard of the risk of terrorizing another shall be punished by imprisonment in the county jail not to exceed one year or by fine not to exceed five thousand dollars ($5,000) or by both such fine and imprisonment for the first such conviction and by imprisonment in the county jail not to exceed one year or by fine not to exceed fifteen thousand dollars ($15,000) or by both such fine and imprisonment for any subsequent conviction. As used herein, "terrorize" means to cause a person of ordinary emotions and sensibilities to fear for personal safety.

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1625

An act to amend Sections 12205 and 25100 of, and to repeal and add Part 2 (commencing with Section 12200) of Division 3 of Title 1 of, the Corporations Code, to add Section 14813 to the Financial Code, and to amend Sections 12210 and 12210.5 of the Government Code, relating to business entities.

[Became law without Governor's signature. Filed with Secretary of State October 1, 1982.]

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

SECTION 1. Section 12205 of the Corporations Code is amended to read:

12205. (a) Until December 31, 1983, the provisions of the General Nonprofit Corporation Law (Part 1 (commencing with Section 9000) of Division 2) in effect on December 31, 1979, apply to cooperative corporations formed under this part, except where such provisions are in conflict with those of this part.

(b) Corporations formed under this part have and enjoy all rights, powers, and privileges granted generally to corporations by the laws of this state, except as may be inconsistent with the provisions of this part.

SEC. 2. Part 2 (commencing with Section 12200) of Division 3 of Title 1 of the Corporations Code, is repealed.

SEC. 3. Part 2 (commencing with Section 12200) is added to Division 3 of Title 1 of the Corporations Code, to read:

PART 2. CONSUMER COOPERATIVE CORPORATIONS

CHAPTER 1. GENERAL PROVISIONS, ORGANIZATION AND BYLAWS

Article 1. Title, Purposes and Application of Part

12200. This part shall be known as the Consumer Cooperative Corporation Law. This part is intended primarily to apply to the organization and operation of consumer cooperatives. It is also applicable to other cooperatives which elect to incorporate under it.

12201. Subject to any other provision of law of this state applying to the particular class of corporation or line of activity, a corporation may be formed under this part for any lawful purpose provided that it shall be organized and shall conduct its business primarily for the mutual benefit of its members as patrons of the corporation. The earnings, savings, or benefits of the corporation shall be used for the general welfare of the members or shall be proportionately and equitably distributed to some or all of its members or its patrons, based upon their patronage (Section 12243) of the corporation, in the form of cash, property, evidences of indebtedness, capital credits, memberships, or services.

Such corporations are democratically controlled and are not organized to make a profit for themselves, as such, or for their members, as such, but primarily for their members as patrons (Section 12243).

12202. (a) The provisions of this part apply to corporations existing pursuant to Part 2 (commencing with Section 12200) of Division 3 of Title 1 in effect immediately prior to January 1, 1984.

(b) The existence of corporations formed or existing on the date of enactment of this part shall not be affected by the enactment or reenactment of this part or by any change in the requirements for the formation of corporations or by the amendment or repeal of the laws under which they were formed or created.

(c) Neither the repeal of Part 2 (commencing with Section 12200) of Division 3 of Title 1 as in effect immediately prior to January 1, 1984, nor the reenactment or amendment of this part shall impair or take away any existing liability or cause of action against any corporation, its members, shareholders, directors, or officers incurred prior to the enactment of this part.

12203. Unless the provisions or the context otherwise requires, the definitions set forth in this part govern the construction of this part.

Article 2. General Provisions and Definitions

12210. A corporation may be sued as provided in the Code of Civil Procedure.

12211. Any corporation shall, as a condition of its existence as a corporation, be subject to the provisions of the Code of Civil Procedure authorizing the attachment of corporate property.

12212. The fees of the Secretary of State for filing instruments by or on behalf of corporations are prescribed in Article 3 (commencing with Section 12180) of Chapter 3 of Part 2 of Division 3 of Title 2 of the Government Code.

12213. Any agreement, certificate, or other instrument filed pursuant to the provisions of this part, may be corrected with respect to any misstatement of fact contained therein, any defect in the execution thereof or any other error or defect contained therein, by filing a certificate of correction entitled "Certificate of Correction of _____ (insert here the title of the agreement, certificate or other instrument to be corrected and the name of the corporation or corporations). However, no such certificate of correction shall alter the wording of any resolution which was in fact adopted by the board or the members or delegates or effect a corrected amendment of articles which amendment as so corrected would not in all respects have complied with the requirements of this part, at the time of filing of the agreement, certificate or other instrument being corrected. Such certificate of correction shall be signed and verified or acknowledged as provided in this part with respect to the agreement, certificate or other instrument being corrected. It shall set forth the following:

(a) The name or names of the corporation or corporations.

(b) The date the agreement, certificate or other instrument being corrected was filed.

(c) The provision in the agreement, certificate or other instrument as corrected and, if the execution was defective, wherein it was defective.

The filing of the certificate of correction shall not alter the effective time of the agreement, certificate or other instrument being corrected, which shall remain as its original effective time, and such filing shall not affect any right or liability accrued or incurred before such filing, except that any right or liability accrued or incurred by reason of the error or defect being corrected shall be extinguished by such filing if the person having such right has not detrimentally relied on the original instrument.

12214. (a) Upon receipt of any instrument by the Secretary of State for filing pursuant to this part, if it conforms to law, it shall be filed by, and in the office of the Secretary of State and the date of

filing endorsed thereon. Except for instruments filed pursuant to Section 12570 the date of filing shall be the date the instrument is received by the Secretary of State unless withheld from filing for a period of time pursuant to a request by the party submitting it for filing or unless in the judgment of the Secretary of State the filing is intended to be coordinated with the filing of some other corporate document which cannot be filed. The Secretary of State shall file a document as of any requested future date not more than 90 days after its receipt, including a Saturday, Sunday or legal holiday, if the document is received in the Secretary of State's office at least one business day prior to the requested date of filing. An instrument does not fail to conform to law because it is not accompanied by the full filing fee if the unpaid portion of such fee does not exceed the limits established by the policy of the Secretary of State for extending credit in such cases.

(b) If the Secretary of State determines that an instrument submitted for filing or otherwise submitted does not conform to law and returns it to the person submitting it, the instrument may be resubmitted accompanied by a written opinion of a member of the State Bar of California submitting the instrument, or representing the person submitting it, to the effect that the specific provision of the instrument objected to by the Secretary of State does conform to law and stating the points and authorities upon which the opinion is based. The Secretary of State shall rely, with respect to any disputed point of law (other than the application of Section 12302), upon such written opinion in determining whether the instrument conforms to law. The date of filing in such case shall be the date the instrument is received on resubmission.

(c) Any instrument filed with respect to a corporation (other than original articles) may provide that it is to become effective not more than 90 days subsequent to its filing date. In case such a delayed effective date is specified, the instrument may be prevented from becoming effective by a certificate stating that by appropriate corporate action it has been revoked and is null and void, executed in the same manner as the original instrument and filed before the specified effective date. In the case of a merger agreement, such certificate revoking the earlier filing need only be executed on behalf of one of the constituent corporations. If no such revocation certificate is filed, the instrument becomes effective on the date specified.

12215. Except as otherwise required, any reference in this part to mailing means first class mail, postage prepaid, unless registered or some other form of mail is specified or permitted. Registered mail includes certified mail.

12216. If the articles provide for more than one vote for any member on any matter, the references in Sections 12223 and 12224 to a majority or other proportion of members mean, as to such matters, a majority or other proportion of the votes entitled to be cast. Whenever members are disqualified from voting on any matter,

they shall not be counted for the determination of a quorum at any meeting to act upon, or the required vote to approve action upon, that matter under any other provision of this part or the articles or bylaws.

12217. All references in this part to financial statements of a corporation mean statements prepared in conformity with generally accepted accounting principles or some other basis of accounting which reasonably sets forth the assets and liabilities and the income and expenses of the corporation and discloses the accounting basis used in their preparation.

12218. As used in this part, "independent accountant" means a certified public accountant or public accountant who is independent of the corporation as determined in accordance with generally accepted auditing standards and who is engaged to audit financial statements of the corporation or perform other accounting services.

12219. Any reference in this part to the time a notice is given or sent means, unless otherwise expressly provided, the time a written notice by mail is deposited in the United States mails, postage prepaid; or the time any other written notice is personally delivered to the recipient or is delivered to a common carrier for transmission, or actually transmitted by the person giving the notice by electronic means, to the recipient; or the time any oral notice is communicated, in person or by telephone or wireless, to the recipient or to a person at the office of the recipient who the person giving the notice has reason to believe will promptly communicate it to the recipient.

12220. A notice or report mailed or delivered as part of a newsletter, magazine or other organ regularly sent to members shall constitute written notice or report pursuant to this part when addressed and mailed postage prepaid by first or second class mail or delivered to the member, or in the case of members who are residents of the same household and who have the same address on the books of the corporation, when addressed and mailed postage prepaid by first or second class mail or delivered to one of such members, at the address appearing on the books of the corporation.

12221. "Acknowledged" means that an instrument is either:

(a) Formally acknowledged as provided in Article 3 (commencing with Section 1180) of Chapter 4 of Title 4 of Part 4 of Division 2 of the Civil Code; or

(b) Accompanied by a declaration in writing signed by the persons executing the same that they are such persons and that the instrument is the act and deed of the person or persons executing the same.

Any certificate of acknowledgment taken without this state before a notary public or a judge or clerk of a court of record having an official seal need not be further authenticated.

12222. "Approved by (or approval of) the board" means approved or ratified by the vote of the board or by the vote of a committee authorized to exercise the powers of the board, except as to matters not within the competence of the committee under

Section 12352.

12223. "Approval by (or approval of) a majority of all members" means approval by an affirmative vote (or written ballot in conformity with Section 12463) of a majority of the votes entitled to be cast. Such approval shall include the affirmative vote of a majority of the outstanding memberships of each class, unit, or grouping of members entitled, by any provision of the articles or bylaws of this part to vote as a class, unit, or grouping of members on the subject matter being voted upon and shall also include the affirmative vote of such greater proportion, including all of the votes of the memberships of any class, unit, or grouping of members if such greater proportion is required by the bylaws or by this part.

12224. "Approval by (or approval of) the members" means approved or ratified by the affirmative vote of a majority of the votes represented and voting at a duly held meeting at which a quorum is present (which affirmative votes also constitute a majority of the required quorum) or written ballot in conformity with Section 12463 or by the affirmative vote or written ballot of such greater proportion of the votes of the memberships of any class, unit, or grouping of members as may be provided in the bylaws or in this part for all or any specified member action.

12225. "Articles" includes the articles of incorporation, amendments thereto, amended articles, restated articles, and certificates of incorporation.

12226. "Bylaws" includes amendments thereto and amended bylaws.

12227. "Board" means the board of directors of the corporation.

12228. "Business corporation" means a corporation as defined in Section 162 of the General Corporation Law.

12229. "Charter" refers to a chapter of this part unless otherwise expressly stated.

12230. "Class" refers to those memberships which: (a) are identified in the articles or bylaws as being a different type of membership; or (b) have the same rights with respect to voting, dissolution, redemption, distributions and transfer. For the purpose of this section, rights shall be considered the same if they are determined by a formula applied uniformly.

12231. "Constituent corporation" means a corporation which is merged with one or more other corporations and includes the surviving corporation.

12232. "Corporation" as used in this part means a corporation which is organized under, or subject to this part, including a central organization whose membership is composed, in whole or in part, of other corporations organized under this part.

12233. "Directors" means natural persons, designated in the articles or bylaws or elected by the incorporators, and their successors and natural persons designated, elected, or appointed by any other name or title to act as members of the governing body of the corporation.

12234. "Disappearing corporation" means a constituent corporation which is not the surviving corporation.

12235. "Distribution" means the distribution of any gains, profits or dividends to any member as such, but does not include patronage distributions.

12236. "Domestic corporation" means a corporation formed under the laws of this state.

12237. "Foreign corporation" means a foreign corporation as defined in Section 171.

12238. (a) "Member" means any person who, pursuant to a specific provision of a corporation's articles or bylaws, has the right to vote for the election of a director or directors, or possesses proprietary interests in the corporation.

(b) The articles or bylaws may confer some or all of the rights of a member, set forth in this part, upon any person or persons who do not have any of the voting rights referred to in subdivision (a).

(c) Where a member of a corporation is not a natural person, such member may authorize in writing one or more natural persons to vote on its behalf on any or all matters which may require a vote of the members.

(d) A person is not a member by virtue of any of the following:

(1) Any rights such person has as a delegate.

(2) Any rights such person has to designate or select a director or directors.

(3) Any rights such person has as a director.

12239. A "membership" refers to the rights a member has pursuant to a corporation's articles, bylaws and this part.

12240. "Membership certificate," as used in this part, means a document evidencing a proprietary interest in a corporation.

12241. "Officers' certificate" means a certificate signed and verified by the chairman of the board, the president, or any vice president, and by the secretary, the chief financial officer, the treasurer, or any assistant secretary or assistant treasurer.

12242. "On the certificate," as used in this part means that a statement appears on the face of a certificate or on the reverse thereof with a reference thereto on the face.

12243. If the corporation is organized to provide goods or services to its members, the corporation's "patrons" are those who purchase those types of goods from, or use those types of service of, the corporation. If the corporation is organized to market its members' products or services, the corporation's "patrons" are those persons whose products or services are marketed by the corporation.

"Patronage" of a patron is measured by the volume or value, or both, of a patron's purchases of such products from, and use of such services furnished by, the corporation, and by such products and services provided by the patron to the corporation for marketing.

12244. "Patronage distribution" means any transfer made to a patron of the corporation the amount of which is computed with reference to the patron's patronage of the corporation.

12245. "Person," unless otherwise expressly provided, includes any association, company, domestic or foreign corporation, corporation sole, estate, individual, joint stock company, joint venture, partnership, government or political subdivision, agency or instrumentality of a government.

12246. "Proper county" means the county where the corporation's principal office in this state is located or, if the corporation has no such office, the County of Sacramento.

12247. "Shareholder" shall have the same meaning as "member" as defined in Section 12238.

12248. "Share certificate" shall have the same meaning as "membership certificate" as defined in Section 12240.

12249. "Surviving corporation" means a corporation into which one or more other corporations are merged.

12250. "Vacancy" when used with respect to the board means any authorized position of director which is not then filled, whether the vacancy is caused by death, resignation, removal, change in the number of directors authorized in the articles or bylaws (by the board or the members), or otherwise.

12251. "Verified" means that the statements contained in a certificate or other document are declared to be true of the own knowledge of the persons executing the same in either:

(a) An affidavit signed by them under oath before an officer authorized by the laws of this state or of the place where it is executed to administer oaths; or

(b) A declaration in writing executed by them under penalty of perjury and stating the date and place (whether within or without this state) of execution.

Any affidavit sworn to without this state before a notary public or a judge or clerk of a court of record having an official seal need not be further authenticated.

12252. "Vote" includes, but is not limited to, authorization by written consent pursuant to subdivision (b) of Section 12351 and authorization by written ballot pursuant to Section 12463.

12253. "Voting power" means the power to vote for the election of directors at the time any determination of voting power is made and does not include the right to vote upon the happening of some condition or event which has not yet occurred. In any case where different classes of memberships are entitled to vote as separate classes for different members of the board, the determination of percentage of voting power shall be made on the basis of the percentage of the total number of authorized directors which the memberships in question (whether of one or more classes) have the power to elect in an election at which all memberships then entitled to vote for the election of any directors are voted.

12254. "Written" or "in writing" includes facsimile and telegraphic communication.

12255. "Written ballot" does not include a ballot distributed at a special or regular meeting of members.

Article 3. Formation

12300. (a) One or more persons may form a corporation under this part by executing and filing articles of incorporation.

(b) Each director named in the articles shall sign and acknowledge the articles.

(c) The corporate existence begins upon the filing of the articles and continues perpetually, unless otherwise expressly provided by law or in the articles.

12301. (a) In the case of an existing unincorporated association, the association may change its status to that of a corporation upon a proper authorization for such by the association in accordance with its rules and procedures.

(b) In addition to the matters required to be set forth in the articles pursuant to Section 12310, the articles in the case of an incorporation authorized by subdivision (a) shall set forth that an existing unincorporated association, stating its name, is being incorporated by the filing of the articles.

(c) The articles filed pursuant to this section shall be accompanied by a verified statement of any two officers or governing board members of the association stating that the incorporation of the association by means of the articles to which the verified statement is attached has been approved by the association in accordance with its rules and procedures.

(d) Upon the change of status of an unincorporated association to a corporation pursuant to subdivision (a), the property of the association becomes the property of the corporation and the members of the association who have any voting rights of the type referred to in Section 12238 become members of the corporation.

(e) The filing for record in the office of the county recorder of any county in this state in which any of the real property of the association is located, of a copy of the articles of incorporation filed pursuant to this section, certified by the Secretary of State, shall evidence record ownership in the corporation of all interests of the association in and to the real property located in that county.

(f) All rights of creditors and all liens upon the property of the association shall be preserved unimpaired. Any action or proceeding pending by or against the unincorporated association may be prosecuted to judgment, which shall bind the corporation, or the corporation may be proceeded against or substituted in its place.

(g) If a corporation is organized by a person who is or was an officer, director or member of an unincorporated association and such corporation is not organized pursuant to subdivision (a), the unincorporated association may continue to use its name and the corporation may not use a name which is the same as or similar to the name of the unincorporated association.

12302. (a) The Secretary of State shall not file articles setting forth a name in which "bank," "trust," "trustee" or related words appear, unless the certificate of approval of the Superintendent of

Banks is attached thereto.

(b) The Secretary of State shall not file articles which set forth a name which is likely to mislead the public or which is the same as, or resembles so closely as to tend to deceive, the name of a domestic corporation, the name of a foreign corporation which is authorized to transact intrastate business or has registered its name pursuant to Section 2101, a name which a foreign corporation has assumed under subdivision (b) of Section 2106, a name which will become the record name of a domestic or foreign corporation upon the effective date of a filed corporate instrument where there is a delayed effective date pursuant to this title, or a name which is under reservation pursuant to this title, except that a corporation may adopt a name that is substantially the same as an existing domestic or foreign corporation which is authorized to transact intrastate business or has registered its name pursuant to Section 2101, upon proof of consent by such corporation and a finding by the Secretary of State that under the circumstances the public is not likely to be misled.

(c) The use by a corporation of a name in violation of this section may be enjoined notwithstanding the filing of its articles by the Secretary of State.

(d) Any applicant may, upon payment of the fee prescribed therefor in the Government Code, obtain from the Secretary of State a certificate of reservation of any name not prohibited by subdivision (c), and upon the issuance of the certificate the name stated therein shall be reserved for a period of 60 days. The Secretary of State shall not, however, issue certificates reserving the same name for two or more consecutive 60-day periods to the same applicant or for the use or benefit of the same person; nor shall consecutive reservations be made by or for the use or benefit of the same person of names so similar as to fall within the prohibitions of subdivision (c).

Article 4. Articles of Incorporation

12310. The articles of incorporation of a corporation formed under this part shall set forth:

(a) The name of the corporation.

(b) The following statement:

"This corporation is a cooperative corporation organized under the Consumer Cooperative Corporation Law. The purpose of this corporation is to engage in any lawful act or activity for which a corporation may be organized under such law."

[The articles may include a further description of the corporation's purposes.]

(c) The name and address in this state of the corporation's initial agent for service of process in accordance with subdivision (b) of Section 12570.

(d) Whether the voting power or the proprietary interests of the members are equal or unequal. If the voting power or proprietary interests of the members are unequal, the articles shall state either

(i) the general rule or rules by which the voting power and proprietary interests of the members shall be determined or (ii) that such rule or rules shall be prescribed in the corporation's bylaws. Equal voting power means voting power apportioned on the basis of one vote for each member. Equal proprietary rights means property rights apportioned on the basis of one proprietary unit for each member.

12311. (a) The names of all corporations formed under this part shall include "cooperative." No corporation shall be formed under this part unless there is affixed or prefixed to its name some word or abbreviation which will indicate that it is a corporation, as distinguished from a natural person, a firm, or an unincorporated association.

(b) No person shall adopt or use the word "cooperative" or any abbreviation or derivation thereof, or any word similar thereto, as part of the name or designation under which it does business in this state, unless incorporated as provided in this part or unless incorporated as a nonprofit cooperative association under Chapter 1 (commencing with Section 54001) of Division 20 of the Food and Agricultural Code or under some other law of this state enabling it to do so. However, the foregoing prohibition shall be inapplicable to any credit union or organization owned for the mutual benefit of credit unions, or any housing cooperative, the financing of which is insured, guaranteed or provided, in whole or in part, by a public or statutorily chartered entity pursuant to a program created for housing cooperatives.

(c) A domestic or foreign corporation or association which did business in this state under a name or designation including the word "cooperative" prior to September 19, 1939, and which conducts business on a cooperative basis substantially as set forth in this part, may continue to do business under that name or designation.

(d) Any person, firm, individual, partnership, trust, domestic corporation, foreign corporation, or association which did business in this state under a name or designation including the word "cooperative" prior to September 19, 1939, but which does not conduct business on a cooperative basis as contemplated by Section 12201 of this part, may continue to do business under that name or designation if the words "not organized under the law relating to cooperative corporations" are always placed immediately after the name or designation wherever it is used.

(e) Any foreign corporation, organized under and complying with the cooperative law of the state or other jurisdiction of its creation, may use the term "cooperative" in this state if it has complied with the laws of this state applicable to foreign corporations, insofar as those laws are applicable to it, and if it is doing business on a cooperative basis as contemplated by Section 12201.

12312. The articles of incorporation may set forth a further statement limiting the purposes or powers of the corporation.

12313. (a) The articles of incorporation may set forth any or all of the following provisions, which shall not be effective unless expressly provided in the articles:

(1) A provision limiting the duration of the corporation's existence to a specified date.

(2) A provision providing for the distribution of the remaining assets of the corporation, after payment or adequate provision for all of its debts and liabilities, to a charitable trust.

(b) Nothing contained in subdivision (a) shall affect the enforceability, as between the parties thereto, of any lawful agreement not otherwise contrary to public policy.

(c) The articles of incorporation may set forth any or all of the following provisions:

(1) The names and addresses of the persons appointed to act as initial directors.

(2) Provisions concerning the transfer of memberships, in accordance with Section 12410.

(3) The classes of members, if any, and if there are two or more classes, the rights, privileges, preferences, restrictions and conditions attaching to each class.

(4) Any other provision, not in conflict with law, for the management of the activities and for the conduct of the affairs of the corporation, including any provision which is required or permitted by this part to be stated in the bylaws.

(5) A provision conferring upon members the right to determine the consideration for which memberships shall be issued.

12314. The articles of incorporation of a central organization organized under or subject to this part may provide for unequal voting power of its members based upon the number of its members' members, the patronage of its members, or both. In no event shall any member have less than one vote.

12315. For all purposes other than an action in the nature of quo warranto, a copy of the articles of a corporation duly certified by the Secretary of State is conclusive evidence of the formation of the corporation and prima facie evidence of its corporate existence.

Article 5. Powers

12320. Subject to any limitations contained in the articles or bylaws and to compliance with other provisions of this part and any other applicable laws, a corporation, in carrying out its activities, shall have all of the powers of a natural person, including, without limitation, the power to:

(a) Adopt, use, and at will alter a corporate seal, but failure to affix a seal does not affect the validity of any instrument.

(b) Adopt, amend, and repeal bylaws.

(c) Qualify to conduct its activites in any other state, territory, dependency or foreign country.

(d) Issue, purchase, redeem, receive, take or otherwise acquire,

own, sell, lend, exchange, transfer or otherwise dispose of, pledge, use and otherwise deal in and with its own memberships, bonds, debentures, notes and debt securities.

(e) Pay pensions, and establish and carry out pension, deferred compensation, saving, thrift and other retirement, incentive and benefit plans, trusts and provisions for any or all of its directors, officers, employees, and persons providing services to it or any of its subsidiary or related or associated corporations, and to indemnify and purchase and maintain insurance on behalf of any fiduciary of such plans, trusts, or provisions.

(f) Issue certificates evidencing membership in accordance with the provisions of Section 12401 and issue identity cards.

(g) Levy dues, assessments, and membership and transfer fees.

(h) Make donations for the public welfare or for community funds, hospital, charitable, educational, scientific, civic, religious or similar purposes.

(i) Assume obligations, enter into contracts, including contracts of guarantee or suretyship, incur liabilities, borrow or lend money or otherwise use its credit, and secure any of its obligations, contracts or liabilities by mortgage, pledge or other encumbrance of all or any part of its property and income.

(j) Participate with others in any partnership, joint venture or other association, transaction or arrangement of any kind whether or not such participation involves sharing or delegation of control with or to others.

(k) Act as trustee under any trust incidental to the principal objects of the corporation, and receive, hold, administer, exchange, and expend funds and property subject to such trust.

(*l*) Carry on a business at a profit and apply any profit that results from the business activity to any activity in which it may lawfully engage.

12321. (a) No limitation upon the activities, purposes, or powers of the corporation or upon the powers of the members, officers, or directors, or the manner of exercise of such powers, contained in or implied by the articles or by Chapters 15 (commencing with Section 12620), 16 (commencing with Section 12630) and 17 (commencing with Section 12650) shall be asserted as between the corporation or member, officer or director and any third person, except in a proceeding: (1) by a member or the state to enjoin the doing or continuation of unauthorized activities by the corporation or its officers, or both, in cases where third parties have not acquired rights thereby, (2) to dissolve the corporation, or (3) by the corporation or by a member suing in any representative suit against the officers or directors of the corporation for violation of their authority.

(b) Any contract or conveyance made in the name of a corporation which is authorized or ratified by the board, or is done within the scope of authority, actual or apparent, conferred by the board or within the agency power of the officer executing it, except as the board's authority is limited by law other than this part, binds

the corporation, and the corporation acquires rights thereunder whether the contract is executed or wholly or in part executory.

Article 6. Bylaws

12330. (a) Except as provided in subdivision (c) and Sections 12331, 12360, 12364, 12462, and 12484, bylaws may be adopted, amended or repealed by the board unless the action would:

(1) Materially and adversely affect the rights or obligations of members as to voting, dissolution, redemption, transfer, distributions, patronage distributions, patronage, property rights, or rights to repayment of contributed capital;

(2) Increase or decrease the number or members authorized in total or for any class;

(3) Effect an exchange, reclassification or cancellation of all or part of the memberships; or

(4) Authorize a new class of membership.

(b) Bylaws may be adopted, amended or repealed by approval of the members (Section 12224); provided, however, that such adoption, amendment or repeal also requires approval by the members of a class if such action would:

(1) Materially and adversely affect the rights or obligations of that class as to voting, dissolution, redemption, transfer, distributions, patronage distributions, patronage, property rights, or rights to repayment of contributed capital, in a manner different than such action affects another class;

(2) Materially and adversely affect such class as to voting, dissolution, redemption, transfer, distributions, patronage distributions, patronage, property rights, or rights to repayment of contributed capital, by changing the rights, privileges, preferences, restrictions or conditions of another class;

(3) Increase or decrease the number of memberships authorized for such class,

(4) Increase the number of memberships authorized for another class;

(5) Effect an exchange, reclassification or cancellation of all or part of the memberships of such class; or

(6) Authorize a new class of memberships.

(c) The articles or bylaws may restrict or eliminate the power of the board to adopt, amend or repeal any or all bylaws, subject to subdivision (e) of Section 12331.

12331. (a) The bylaws shall set forth (unless such provision is contained in the articles, in which case it may only be changed by an amendment of the articles) the number of directors of the corporation; or that the number of directors shall be not less than a stated minimum or more than a stated maximum with the exact number of directors to be fixed, within the limits specified, by approval of the board or the members (Sections 12222 and 12224), in the manner provided in the bylaws, subject to subdivision (e). The

number or minimum number of directors shall not be less than three. Alternate directors may be permitted, in which event, the bylaws shall specify the manner and times of their election and the conditions to their service in place of a director.

(b) Once members have been admitted, a bylaw specifying or changing a fixed number of directors or the maximum or minimum number or changing from a fixed to a variable board or vice versa may only be adopted by approval of the members.

(c) The bylaws may contain any provision, not in conflict with law or the articles, for the management of the activities and for the conduct of the affairs of the corporation, including but not limited to:

(1) Any provision referred to in subdivision (c) of Section 12313.

(2) The time, place and manner of calling, conducting and giving notice of members', directors' and committee meetings, or of conducting mail ballots.

(3) The qualifications, duties and compensation of directors; the time of their election; and the requirements of a quorum for directors' and committee meetings.

(4) The appointment of committees, composed of directors or nondirectors or both, by the board or any officer and the authority of any such committees.

(5) The appointment, duties, compensation and tenure of officers.

(6) The mode of determination of members of record.

(7) The making of reports and financial statements to members.

(8) Setting, imposing and collecting dues, assessments, and membership and transfer fees.

(9) The time and manner of patronage distributions consistent with this part.

(d) The bylaws may provide for eligibility, the manner of admission, withdrawal, suspension, and expulsion of members, consistent with the requirements of Section 12431.

(e) The bylaws may require, for any or all corporate actions, the vote of a larger proportion of, or all of, the members or the members of any class, unit, or grouping of members or the vote of a larger proportion of, or all of, the directors, than is otherwise required by this part. Such a provision in the bylaws requiring such greater vote shall not be altered, amended or repealed except by such greater vote, unless otherwise provided in the bylaws.

(f) The bylaws may contain a provision limiting the number of members, in total or of any class, which the corporation is authorized to admit.

(g) The bylaws may provide for the establishment by the corporation of a program for the education of its members, officers, employees and the general public in the principles and techniques of cooperation.

12332. A corporation may provide in its bylaws for delegates having some or all of the authority of members. Where delegates are provided for, the bylaws shall set forth delegates' terms of office, any reasonable method for delegates' selection and removal, and any

reasonable method for calling, noticing and holding meetings of delegates. Unless delegates are directly elected by the membership, they shall be elected by a body or bodies directly elected by the membership. Delegates may only act personally at a meeting or by written ballot but may not act by proxy. Delegates may be given a name other than "delegates."

12333. A corporation may provide in its bylaws for voting by its members or delegates on the basis of chapter or other organizational unit, or by region or other geographic grouping.

Article 7. Location and Inspection of Articles and Bylaws

12340. Every corporation shall keep at its principal office in this state the original or a copy of its articles and bylaws as amended to date, which shall be open to inspection by the members at all reasonable times during office hours. If the corporation has no office in this state, it shall upon the written request of any member furnish to such member a copy of the articles or bylaws as amended to date.

CHAPTER 2. DIRECTORS AND MANAGEMENT

Article 1. General Provisions

12350. Subject to the provisions of this part and any limitations in the articles or bylaws relating to action required to be approved by the members (Section 12224), or by a majority of all members (Section 12223), the activities and affairs of a corporation shall be conducted and all corporate powers shall be exercised by or under the direction of the board. The board may delegate the management of the activities of the corporation to any person or persons, management company, or committee however composed, provided that the activities and affairs of the corporation shall be managed and all corporate powers shall be exercised under the ultimate direction of the board

12351. (a) Unless otherwise provided in the articles or in the bylaws:

(1) Meetings of the board may be called by the chairman of the board or the president or any vice president or the secretary or any two directors.

(2) Regular meetings of the board may be held without notice if the time and place of such meetings are fixed by the bylaws or the board. Special meetings of the board shall be held upon four days' notice by first class mail or 48 hours' notice delivered personally or by telephone or telegraph. The articles or bylaws may not dispense with notice of a special meeting. A notice, or waiver of notice, need not specify the purpose of any regular or special meeting of the board.

(3) Notice of a meeting need not be given to any director who signed a waiver of notice or a written consent to holding the meeting

or an approval of the minutes thereof, whether before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to such director. All such waivers, consents and approvals shall be filed with the corporate records or made a part of the minutes of the meetings.

(4) A majority of the directors present, whether or not a quorum is present, may adjourn any meeting to another time and place. If the meeting is adjourned for more than 24 hours, notice of any adjournment to another time or place shall be given prior to the time of the adjourned meeting to the directors who were not present at the time of the adjournment.

(5) Meetings of the board may be held at any place within or without the state which has been designated in the notice of the meeting or, if not stated in the notice or if there is no notice, designated in the bylaws or by resolution of the board.

(6) Members of the board may participate in a meeting through use of conference telephone or similar communications equipment, so long as all members participating in such meeting can hear one another. Participation in a meeting pursuant to this subdivision constitutes presence in person at such meeting.

(7) A majority of the number of directors authorized in the articles or bylaws constitutes a quorum of the board for the transaction of business. The articles or bylaws may not provide that a quorum shall be less than one-fifth the number of directors authorized in the articles or bylaws, or less than two, whichever is larger.

(8) Subject to the provisions of Sections 12352, 12373, 12374 and subdivision (e) of Section 12377, every act or decision done or made by a majority of the directors present at a meeting duly held at which a quorum is present is the act of the board. The articles or bylaws may not provide that a lesser vote than a majority of the directors present at a meeting is the act of the board. A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for such meeting, or such greater number as is required by this division, the articles or bylaws.

(b) Any action required or permitted to be taken by the board may be taken without a meeting, if all members of the board shall individually or collectively consent in writing to such action. Such written consent or consents shall be filed with the minutes of the proceedings of the board. Such action by written consent shall have the same force and effect as a unanimous vote of such directors.

(c) The provisions of this section apply also to incorporators, to committees of the board, and to action by such incorporators or such committees mutatis mutandis.

12352. (a) The board may, by resolution adopted by a majority of the number of directors then in office, provided that a quorum is present, create one or more committees, each consisting of two or more directors, to serve at the pleasure of the board. Appointments

to such committees shall be by a majority vote of the directors then in office, unless the articles or bylaws require a majority vote of the number of directors authorized in the articles or bylaws. The bylaws may authorize one or more committees, each consisting of two or more directors, and may provide that a specified officer or officers who are also directors of the corporation shall be a member or members of such committee or committees. The board may appoint one or more directors as alternate members of any committee, who may replace any absent member at any meeting of the committee. Any such committee, to the extent provided in the resolution of the board or in the bylaws, shall have all the authority of the board, except with respect to:

(1) The approval of any action for which this part also requires approval of the members (Section 12224) or approval of a majority of all members (Section 12223).

(2) The filling of vacancies on the board or in any committee which has the authority of the board.

(3) The fixing of compensation of the directors for serving on the board or on any committee.

(4) The amendment or repeal of bylaws or the adoption of new bylaws.

(5) The amendment or repeal of any resolution of the board which by its express terms is not so amendable or repealable.

(6) The appointment of committees of the board or the members thereof.

(7) The expenditure of corporate funds to support a nominee for director after there are more people nominated for director than can be elected.

(b) Subdivision (a) shall not apply to any committee which does not exercise the authority of the board.

(c) Unless the bylaws otherwise provide, the board may delegate to any committee, appointed pursuant to paragraph (4) of subdivision (c) of Section 12331 or otherwise, powers as authorized by Section 12350, but may not delegate the powers set forth in paragraphs (1) through (7) of subdivision (a) of this section.

12353. (a) A corporation shall have a chairman of the board or a president or both, a secretary, a chief financial officer and such other officers with such titles and duties as shall be stated in the bylaws or determined by the board and as may be necessary to enable it to sign instruments. The president, or if there is no president the chairman of the board, is the general manager and chief executive officer of the corporation, unless otherwise provided in the articles or bylaws. Any number of offices may be held by the same person unless the articles or bylaws provide otherwise. Either the chairman of the board or the president shall be elected from among those board members elected by the membership of the corporation.

(b) Except as otherwise provided by the articles or bylaws, officers shall be chosen by the board and serve at the pleasure of the

board, subject to the rights, if any, of an officer under any contract of employment. Any officer may resign at any time upon written notice to the corporation without prejudice to the rights, if any, of the corporation under any contract to which the officer is a party.

12354. Subject to the provisions of subdivision (a) of Section 12321, any note, mortgage, evidence of indebtedness, contract, conveyance or other instrument in writing, and any assignment or endorsement thereof, executed or entered into between any corporation and any other person, when signed by the chairman of the board, the president or any vice president, and the secretary, any assistant secretary, the chief financial officer or any assistant treasurer of such corporation, is not invalidated as to the corporation by any lack of authority of the signing officers in the absence of actual knowledge on the part of the other person that the signing officers had no authority to execute the same.

12355. The original or a copy of the bylaws or of the minutes of any incorporators', members', directors', committee or other meeting or of any resolution adopted by the board or a committee thereof, or members, certified to be a true copy by a person purporting to be the secretary or an assistant secretary of the corporation, is prima facie evidence of the adoption of such bylaws or resolution or of the due holding of such meeting and of the matters stated therein.

Article 2. Selection, Removal and Resignation of Directors

12360. (a) Except as provided in subdivision (d), directors shall be elected for such terms, not longer than four years, as are fixed in the articles or bylaws. In the absence of any provision in the articles or bylaws, the terms shall be one year. No amendment of the articles or bylaws may extend the term of a director beyond that for which the director was elected, nor may any bylaw provision increasing the terms of directors be adopted without approval of the members.

(b) Unless the articles or bylaws otherwise provide, each director, including a director elected to fill a vacancy, shall hold office until the expiration of the term for which elected and until a successor has been elected and qualified.

(c) The articles or bylaws may prescribe requirements for eligibility for election as a director.

(d) Subdivisions (a) through (c) notwithstanding, up to one-third of the directors authorized in the articles or bylaws of a corporation with members may hold office by virtue of designation or selection as provided by the articles or bylaws rather than by election by a member or members. Such directors shall continue in office for the term prescribed by the governing article or bylaw provision, or, if there is no term prescribed, until the governing article or bylaw provision is duly amended or repealed, except as provided in subdivision (f) of Section 12362. A bylaw provision authorized by this subdivision may be adopted, amended, or repealed only by approval

of the members (Section 12224).

(e) The one-third limit set forth in subdivision (d) does not apply to:

(1) Directors designated or selected by a person who is elected by the members as an officer of the corporation.

(2) Directors appointed to fill vacancies on the board created by the death, resignation or removal of directors.

12361. The board may declare vacant the office of a director whose eligibility for election as a director has ceased, or who has been declared of unsound mind by a final order of court, or convicted of a felony, or, if at the time a director is elected, the bylaws provide that a director may be removed for missing a specified number of board meetings, fails to attend the specified number of meetings.

12362. (a) Subject to subdivisions (b), (c) and (g), any or all directors may be removed without cause if:

(1) In a corporation with fewer than 50 members, such removal is approved by a majority of all members (Section 12223); or

(2) In a corporation with 50 or more members, such removal is approved by the members (Section 12224).

(b) In a corporation in which the articles or bylaws authorize members to cumulate their votes pursuant to subdivision (a) of Section 12485, no director may be removed (unless the entire board is removed) when the votes cast against removal, or not consenting in writing to such removal, would be sufficient to elect such director if voted cumulatively at an election at which the same total number of votes were cast (or, if such action is taken by written ballot, all memberships entitled to vote were voted) and the entire number of directors authorized at the time of the director's most recent election were then being elected; and

(c) When by the provisions of the articles or bylaws the members of any class, voting as a class, are entitled to elect one or more directors, any director so elected may be removed only by the applicable vote of the members of that class.

(d) Any reduction of the number of directors authorized in the articles or bylaws does not remove any director prior to the expiration of such director's term of office.

(e) Except as provided in this section and Sections 12361 and 12363, a director may not be removed prior to the expiration of such director's term of office.

(f) Where a director removed under this section or Section 12361 or 12363 was chosen by designation pursuant to subdivision (d) of Section 12360, then:

(1) Where a different person may be designated pursuant to the governing article or bylaw provision, such new designation shall be made; or

(2) Where the governing article or bylaw provision contains no provision under which a different person may be designated, the governing article or bylaw provision shall be deemed repealed.

(g) When by the provisions of the articles or bylaws a person or

persons are entitled to designate one or more directors, such provisions shall also provide for removal of such directors and any director so designated may only be removed as so provided.

12363. The superior court of the proper county may, at the suit of a director, or members possessing 5 percent of the voting power, remove from office any director in case of fraudulent or dishonest acts or gross abuse of authority or discretion with reference to the corporation and may bar from reelection any director so removed for a period prescribed by the court. The corporation shall be made a party to such action.

12364. (a) Unless otherwise provided in the articles or bylaws and except for a vacancy created by the removal of a director, vacancies on the board may be filled by a majority of the directors then in office, whether or not less than a quorum, or by a sole remaining director. Unless the articles or a bylaw approved by the members (Section 12224) provide that the board may fill vacancies occurring in the board by reason of the removal of directors, such vacancies may be filled only by approval of the members (Section 12224).

(b) The members may elect a director at any time to fill any vacancy not filled by the directors.

(c) Any director may resign effective upon giving written notice to the chairman of the board, the president, the secretary or the board of directors of the corporation, unless the notice specifies a later time for the effectiveness of such resignation. If the resignation is effective at a future time, a successor may be elected to take office when the resignation becomes effective.

Article 3. Standards of Conduct

12370. Any duties and liabilities set forth in this article shall apply without regard to whether a director is compensated by the corporation.

12371. (a) A director shall perform the duties of a director, including duties as a member of any committee of the board upon which the director may serve, in good faith, in a manner such director believes to be in the best interests of the corporation and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.

(b) In performing the duties of a director, a director shall be entitled to rely on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by:

(1) One or more officers or employees of the corporation whom the director believes to be reliable and competent in the matters presented;

(2) Counsel, independent accountants or other persons as to matters which the director believes to be within such person's

professional or expert competence; or

(3) A committee of the board upon which the director does not serve, as to matters within its designated authority, which committee the director believes to merit confidence, so long as, in any such case, the director acts in good faith, after reasonable inquiry when the need therefor is indicated by the circumstances and without knowledge that would cause such reliance to be unwarranted.

(c) A person who performs the duties of a director in accordance with subdivisions (a) and (b) shall have no liability based upon any alleged failure to discharge the persons's obligations as a director.

12372. (a) Section 12371 governs the duties of directors as to any acts or omissions in connection with the election, selection, or nomination of directors.

(b) This section shall not be construed to limit the generality of Section 12371.

12373. (a) No contract or other transaction between a corporation and one or more of its directors, or between a corporation and any domestic or foreign corporation, firm or association in which one or more of its directors has a material financial interest, is either void or voidable because such director or directors or such other corporation, business corporation, firm or association are parties or because such director or directors are present at the meeting of the board or a committee thereof which authorizes, approves or ratifies the contract or transaction, if:

(1) The material facts as to the transaction and as to such director's interest are fully disclosed or known to the members and such contract or transaction is approved by the members (Section 12224) in good faith, with any membership owned by any interested director not being entitled to vote thereon;

(2) The material facts as to the transaction and as to such director's interest are fully disclosed or known to the board or committee, and the board or committee authorizes, approves or ratifies the contract or transaction in good faith by a vote sufficient without counting the vote of the interested director or directors and the contract or transaction is just and reasonable as to the corporation at the time it is authorized, approved or ratified; or

(3) As to contracts or transactions not approved as provided in paragraph (1) or (2), the person asserting the validity of the contract or transaction sustains the burden of proving that the contract or transaction was just and reasonable as to the corporation at the time it was authorized, approved or ratified.

Neither a mere common directorship nor a member-patron relationship on terms available to all members constitutes a material financial interest within the meaning of this subdivision. A director is not interested within the meaning of this subdivision in a resolution fixing the compensation of another director as a director, officer or employee of the corporation, notwithstanding the fact that the first director is also receiving compensation from the corporation.

(b) No contract or other transaction between a corporation and

any corporation, business corporation or association of which one or more of its directors are directors is either void or voidable because such director or directors are present at the meeting of the board or a committee thereof which authorizes, approves or ratifies the contract or transaction, if:

(1) The material facts as to the transaction and as to such director's other directorship are fully disclosed or known to the board or committee, and the board or committee authorizes, approves or ratifies the contract or transaction in good faith by a vote sufficient without counting the vote of the common director or directors or the contract or transaction is approved by the members in good faith; or

(2) As to contracts or transactions not approved as provided in paragraph (1), the contract or transaction is just and reasonable as to the corporation at the time it is authorized, approved or ratified.

This subdivision does not apply to contracts or transactions covered by subdivision (a).

12374. Interested or common directors may be counted in determining the presence of a quorum at a meeting of the board or a committee thereof which authorizes, approves or ratifies a contract or transaction as provided in Section 12373.

12375. (a) Except as provided in subdivision (b), a corporation shall not make any loan of money or property to or guarantee the obligation of:

(1) Any director or officer of the corporation or of its parent or any subsidiary; or

(2) Any person upon the security of memberships of the corporation or of its parent, unless the loan or guarantee is otherwise adequately secured, except by the vote of the holders of a majority of the voting power of memberships of all classes, regardless of limitations or restrictions on voting rights, other than the membership held by the benefited director, officer or member.

(b) Any corporation may lend money to, or guarantee any obligation of or otherwise assist any officer or other employee of the corporation or of any subsidiary, including any officer or employee who is also a director, pursuant to an employee benefit plan available to executives or other employees, whenever the board determines that such loan or guarantee may reasonably be expected to benefit the corporation. If such plan includes officers or directors, it shall be approved by the members (Section 12224) after disclosure of the right under such plan to include officers or directors thereunder. Such loan or guarantee or other assistance may be with or without interest and may be unsecured or secured in such manner as the board shall approve, including, without limitation, a pledge of memberships of the corporation. A corporation may advance money to a director or officer of the corporation or of its parent or any subsidiary for expenses reasonably anticipated to be incurred in the performance of the duties of such director or officer, provided that in the absence of such advance such director or officer would be

entitled to be reimbursed for such expenses by such corporation, its parent or any subsidiary.

(c) The provisions of subdivisions (a) and (b) do not apply to the payment of premiums in whole or in part by a corporation on a life insurance policy on the life of a director or officer so long as repayment to the corporation of the amount paid by it is secured by the proceeds of the policy and its cash surrender value.

12376. (a) Subject to the provisions of Section 12371, directors of a corporation who approve any of the following corporate actions shall be jointly and severally liable to the corporation or to the creditors entitled to institute an action under subdivision (c):

(1) The making of any distribution contrary to the provisions of Chapter 4 (commencing with Section 12450).

(2) The distribution of assets after institution of dissolution proceedings of the corporation, without paying or adequately providing for all known liabilities of the corporation, excluding any claims not filed by creditors within the time limit set by the court in a notice given to creditors under Chapters 15 (commencing with Section 12620), 16 (commencing with Section 12630), and 17 (commencing with Section 12650).

(3) The making of any loan or guarantee contrary to Section 12375.

(b) A director who is present at a meeting of the board, or any committee thereof, at which action specified in subdivision (a) is taken and who abstains from voting shall be considered to have approved the action.

(c) Suit may be brought in the name of the corporation to enforce the liability:

(1) Under paragraph (1) of subdivision (a) against any or all directors liable by the persons entitled to sue under subdivision (b) of Section 12455.

(2) Under paragraph (2) or (3) of subdivision (a) against any or all directors liable by any one or more creditors of the corporation whose debts or claims arose prior to the time of the corporate action who have not consented to the corporate action, whether or not they have reduced their claims to judgment; or

(3) Under paragraph (3) of subdivision (a) against any or all directors liable by any one or more members at the time of any corporate action specified in paragraph (3) of subdivision (a) who have not consented to the corporate action, without regard to the provisions of Section 12490.

(d) The damages recoverable from a director under this section shall be the amount of the illegal distribution, or the loss suffered by the corporation as a result of the illegal loan or guarantee.

(e) Any director sued under this section may implead all other directors liable and may compel contribution, either in that action or in an independent action against directors not joined in that action.

(f) Directors liable under this section shall also be entitled to be subrogated to the rights of the corporation:

(1) With respect to paragraph (1) of subdivision (a), against the persons who received the distribution.

(2) With respect to paragraph (2) of subdivision (a), against the persons who received the distribution.

(3) With respect to paragraph (3) of subdivision (a), against the person who received the loan or guarantee.

Any director sued under this section may file a cross-complaint against the person or persons who are liable to such director as a result of the subrogation provided for in this subdivision or may proceed against them in an independent action.

12377. (a) For the purposes of this section, "agent" means any person who is or was a director, officer, employee or other agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another foreign or domestic corporation, partnership, joint venture, trust or other enterprise, or was a director, officer, employee or agent of a foreign or domestic corporation which was a predecessor corporation of the corporation or of another enterprise at the request of such predecessor corporation; "proceeding" means any threatened, pending or completed action or proceeding, whether civil, criminal, administrative or investigative; and "expenses" includes without limitation attorneys' fees and any expenses of establishing a right to indemnification under subdivision (d) or paragraph (3) of subdivision (e).

(b) A corporation shall have power to indemnify any person who was or is a party or is threatened to be made a party to any proceeding (other than an action by or in the right of the corporation to procure a judgment in its favor) by reason of the fact that such person is or was an agent of the corporation, against expenses, judgments, fines, settlements and other amounts actually and reasonably incurred in connection with such proceeding if such person acted in good faith and in a manner such person reasonably believed to be in the best interests of the corporation and, in the case of a criminal proceeding, had no reasonable cause to believe the conduct of such person was unlawful. The termination of any proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which the person reasonably believed to be in the best interests of the corporation or that the person had reasonable cause to believe that the person's conduct was unlawful.

(c) A corporation shall have power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action by or in the right of the corporation, to procure a judgment in its favor by reason of the fact that such person is or was an agent of the corporation, against expenses actually and reasonably incurred by such person in connection with the defense or settlement of such action if such person acted in good faith, in a manner such person believed to be

in the best interests of the corporation and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances. No indemnification shall be made under this subdivision:

(1) In respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the corporation in the performance of such person's duty to the corporation, unless and only to the extent that the court in which such proceeding is or was pending shall determine upon application that, in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for the expenses which such court shall determine;

(2) Of amounts paid in settling or otherwise disposing of a threatened or pending action, with or without court approval; or

(3) Of expenses incurred in defending a threatened or pending action which is settled or otherwise disposed of without court approval.

(d) To the extent that an agent of a corporation has been successful on the merits in defense of any proceeding referred to in subdivision (b) or (c) or in defense of any claim, issue, or matter therein, the agent shall be indemnified against expenses actually and reasonably incurred by the agent in connection therewith.

(e) Except as provided in subdivision (d), any indemnification under this section shall be made by the corporation only if authorized in the specific case, upon a determination that indemnification of the agent is proper in the circumstances because the agent has met the applicable standard of conduct set forth in subdivision (b) or (c), by:

(1) A majority vote of a quorum consisting of directors who are not parties to such proceeding;

(2) Approval of the members (Section 12224), with the persons to be indemnified not being entitled to vote thereon; or

(3) The court in which such proceeding is or was pending upon application made by the corporation or the agent or the attorney or other person rendering services in connection with the defense, whether or not such application by the agent, attorney or other person is opposed by the corporation.

(f) Expenses incurred in defending any proceeding may be advanced by the corporation prior to the final disposition of such proceeding upon receipt of an undertaking by or on behalf of the agent to repay such amount unless it shall be determined ultimately that the agent is entitled to be indemnified as authorized in this section.

(g) No provision made by a corporation to indemnify its or its subsidiary's directors or officers for the defense of any proceeding, whether contained in the articles, bylaws, a resolution of members or directors, an agreement or otherwise, shall be valid unless consistent with this section. Nothing contained in this section shall affect any right to indemnification to which persons other than such directors and officers may be entitled by contract or otherwise.

(h) No indemnification or advance shall be made under this section, except as provided in subdivision (d) or paragraph (3) of subdivision (e), in any circumstance where it appears:

(1) That it would be inconsistent with a provision of the articles, bylaws, a resolution of the members or an agreement in effect at the time of the accrual of the alleged cause of action asserted in the proceeding in which the expenses were incurred or other amounts were paid, which prohibits or otherwise limits indemnification; or

(2) That it would be inconsistent with any condition expressly imposed by a court in approving a settlement.

(i) A corporation shall have power to purchase and maintain insurance on behalf of any agent of the corporation against any liability asserted against or incurred by the agent in such capacity or arising out of the agent's status as such whether or not the corporation would have the power to indemnify the agent against such liability under the provisions of this section.

(j) This section does not apply to any proceeding against any trustee, investment manager or other fiduciary of an employee benefit plan in such person's capacity as such, even though such person may also be an agent as defined in subdivision (a) of the employer corporation. A corporation shall have power to indemnify such trustee, investment manager or other fiduciary to the extent permitted by subdivision (f) of Section 207.

CHAPTER 3. MEMBERS

Article 1. Issuance of Memberships

12400. Subject to the articles or bylaws, memberships may be issued by a corporation for no consideration or for such consideration as is determined by the board.

12401. (a) A corporation may issue, but is not required to issue, membership certificates. In the event that membership certificates are issued, the certificates shall state the information required to be contained in the disclosure document described in subdivision (b). Nothing in this section shall restrict a corporation from issuing identity cards or similar devices to members which serve to identify members qualifying to use facilities or services of the corporation.

(b) Except as provided in subdivision (e), prior to issuing a membership, the corporation shall provide the purchaser of a membership with a disclosure document. The disclosure document may be a prospectus, offering circular, brochure, or similar document, a specimen copy of the membership certificate, or a receipt which the corporation proposes to issue. The disclosure document shall contain the following information:

(1) A statement that the corporation is a cooperative corporation.

(2) A statement that a copy of the corporation's articles and bylaws will be furnished without charge to a member or prospective member upon written request, and the address of the office of the

corporation and the address to which such a written request is to be directed.

(3) If there are restrictions imposed by the corporation upon the transfer of membership, a statement to that effect and the restrictions imposed on transfer.

(4) If the corporation may levy dues, assessments, or membership or transfer fees, a statement to that effect and the conditions under which the corporation may make such a levy.

(5) If the member is required to contribute services to the corporation, a statement to that effect and the amount and nature of the services to be contributed to the corporation.

(6) Whether the membership is redeemable and the conditions under which the membership may be redeemed at the option of the corporation or the member.

(7) If the voting power of the proprietary interests of the members is unequal, a statement to that effect and the rule or rules by which the voting power and proprietary rights are to be determined.

(8) In lieu of specifying verbatim in the disclosure document, the restrictions on the transfer of a membership, conditions of levy, amount and nature of services to be contributed, conditions under which memberships are redeemable, or the rules by which the voting power and proprietary rights of members are to be determined, the disclosure document may contain a statement that such information will be provided free of charge to a member or prospective member who requests it in writing. If the disclosure document contains such a statement it shall also set forth the address of the office of the corporation and the address to which such a request is to be directed.

(c) If the articles or bylaws are amended so that any statement required by subdivision (a) on outstanding membership certificates is no longer accurate, the board may cancel the outstanding certificates and issue in their place new certificates conforming to the articles or bylaws amendments.

(d) When new membership certificates are issued in accordance with subdivision (c), the board may order holders of outstanding certificates to surrender and exchange them for new certificates within a reasonable time fixed by the board. The board may further provide that the holder of the certificate to be surrendered shall not be entitled to exercise any of the rights of membership until the certificate is surrendered, but such rights shall be suspended only after notice of the order is given to the holder of the certificate and only until the certificate is surrendered. The requirement to surrender outstanding certificates may be enforced by civil action.

(e) A corporation shall issue a membership certificate, receipt, or written advice of purchase to anyone purchasing a membership upon the member's first purchase of a membership of any class. No disclosure document need be provided to an existing member prior to the purchase of additional memberships in the same class if that

member has previously been provided with a disclosure document which is accurate and correct as of the date of the purchase of the additional memberships.

12402. (a) A corporation may issue a new membership certificate in the place of any certificate theretofore issued by it, alleged to have been lost, stolen or destroyed, and the corporation may require the owner of the lost, stolen or destroyed certificate or the owner's legal representative to give the corporation a bond (or other adequate security) sufficient to indemnify it against any claim that may be made against it (including any expense or liability) on account of the alleged loss, theft or destruction of any such certificate or the issuance of such new certificate.

(b) If a corporation refuses to issue a new membership certificate or other certificate in place of one theretofore issued by it, or by any corporation of which it is the lawful successor, alleged to have been lost, stolen or destroyed, the owner of the lost, stolen or destroyed certificate or the owner's legal representative may bring an action in the superior court of the proper county for an order requiring the corporation to issue a new certificate in place of the one lost, stolen or destroyed.

12403. (a) Except as provided in subdivision (b), or in its articles or bylaws, a corporation may admit any person to membership.

(b) A corporation may not admit its subsidiary to membership.

12404. Except as permitted in Section 12314, the voting power of members having voting rights shall be equal.

12405. There shall be no voting by proxy, except as provided in Section 12332.

Article 2. Transfer of Memberships

12410. (a) Unless the articles or bylaws otherwise provide:

(1) No member may transfer a membership or any right arising therefrom; and

(2) Subject to the provisions of subdivision (b), Section 12422, and Section 12445, all rights as a member of the corporation cease upon the member's death or dissolution.

(b) The articles or bylaws may provide for, or may authorize the board to provide for, the transfer of memberships, or of memberships within any class or classes, with or without restriction or limitation, including transfer upon the death, dissolution, merger, or reorganization of a member.

(c) Where transfer rights have been provided, no restriction of them shall be binding with respect to memberships issued prior to the adoption of the restriction, unless the holders of such memberships voted in favor of the restriction.

Article 3. Types of Memberships

12420. A corporation may issue memberships having different rights, privileges, preferences, restrictions, or conditions, as provided in its articles or bylaws.

12421. Except as provided in the articles or bylaws, all memberships shall have the same rights, privileges, preferences, restrictions and conditions.

12422. (a) Unless the corporation's articles or bylaws so provide, memberships are not redeemable. A corporation may provide in its articles for one or more classes of memberships which are redeemable, in whole or in part, for such consideration within such time or upon the happening of one or more specified events and upon such terms and conditions as are stated in the articles. However, no membership shall actually be redeemed if prohibited by Chapter 4 (commencing with Section 12450).

(b) Nothing in this section shall prevent a corporation from creating a sinking fund or similar provision for, or entering into an agreement for, the redemption or purchase of its memberships to the extent permitted by Chapter 4 (commencing with Section 12450).

Article 4. Termination of Memberships

12430. (a) A member may resign from membership at any time, although the articles or bylaws may require reasonable notice before the resignation is effective.

(b) This section shall not relieve the resigning member from any obligation for charges incurred, services or benefits actually rendered, dues, assessments or fees, or arising from contract, a condition to ownership of land, an obligation arising out of the ownership of land, or otherwise, and this section shall not diminish any right of the corporation to enforce any such obligation or obtain damages for its breach.

(c) A membership issued for a period of time shall expire when such period of time has elapsed unless the membership is renewed.

12431. (a) No member may be expelled or suspended, and no membership or memberships may be terminated or suspended, except according to procedures satisfying the requirements of this section. An expulsion, termination or suspension not in accord with this section shall be void and without effect.

(b) Any expulsion, suspension, or termination must be done in good faith and in a fair and reasonable manner. Any procedure which conforms to the requirements of subdivision (c) is fair and reasonable, but a court may also find other procedures to be fair and reasonable when the full circumstances of the suspension, termination, or expulsion are considered.

(c) A procedure is fair and reasonable when:

(1) The provisions of the procedure have been set forth in the articles or bylaws, or copies of such provisions are sent annually to

all the members as required by the articles or bylaws;

(2) It provides the giving of 15 days' prior notice of the expulsion, suspension or termination and the reasons therefor, and

(3) It provides an opportunity for the member to be heard, orally or in writing, not less than five days before the effective date of the expulsion, suspension or termination by a person or body authorized to decide that the proposed expulsion, termination or suspension not take place.

(d) Any notice required under this section may be given by any method reasonably calculated to provide actual notice. Any notice given by mail must be given by first-class or registered mail sent to the last address of the members shown on the corporation's records.

(e) Any action challenging an expulsion, suspension or termination of membership, including any claim alleging defective notice, must be commenced within one year after the date of the expulsion, suspension or termination. In the event such an action is successful the court may order any relief, incuding reinstatement, it finds equitable under the circumstances, but no vote of the members or of the board may be set aside solely because a person was at the time of the vote wrongfully excluded by virtue of the challenged expulsion, suspension or termination, unless the court finds further that the wrongful expulsion, suspension or termination was in bad faith and for the purpose, and with the effect, of wrongfully excluding the member from the vote or from the meeting at which the vote took place, so as to affect the outcome of the vote.

(f) This section governs only the procedures for expulsion, suspension or termination and not the substantive grounds therefor. An expulsion, suspension or termination based upon substantive grounds which violate contractual or other rights of the member or are otherwise unlawful is not made valid by compliance with this section.

Article 5. Rights and Obligations of Members and Creditors

12440. (a) A member of a corporation is not, as such, personally liable for the debts, liabilities, or obligations of the corporation.

(b) No person is liable for any obligation arising from membership unless the person was admitted to membership upon the person's application or with the person's consent.

(c) The ownership of an interest in real property, when a condition of its ownership is membership in a corporation, shall be considered consent to such membership for the purpose of this section.

12441. A corporation may levy dues, assessments, or fees upon its members pursuant to its articles or bylaws, but a member upon learning of them may avoid liability for them by promptly resigning from membership, except where the member is liable for them by contract, as a condition to ownership of an interest in real property, as an obligation arising out of the ownership of an interest in real

property, or otherwise. Unless called to the attention of the member and agreed to in writing by the member, article or bylaw provisions authorizing such dues, assessments or fees do not, of themselves, create such liability. No action shall be brought by or on behalf of any creditor to levy or to require the levy of dues, assessments or fees upon the members of the corporation.

12442. A person holding a membership as pledgee or a membership as executor, administrator, guardian, trustee, receiver or in any representative or fiduciary capacity is not personally liable for any unpaid balance of the purchase price of the membership, or for any amount owing to the corporation by the member, because the membership is so held but the estate and funds in the hands of such fiduciary or representative are liable and the membership subject to sale therefor.

12443. (a) No action shall be brought by or on behalf of any creditor to reach and apply the liability, if any, of a member to the corporation to pay the amount due on such member's membership or otherwise due to the corporation unless final judgment has been rendered in favor of the creditor against the corporation and execution has been returned unsatisfied in whole or in part or unless such proceedings would be useless.

(b) All creditors of the corporation, with or without reducing their claims to judgment, may intervene in any such creditor's action to reach and apply unpaid amounts due the corporation and any or all members who owe amounts to the corporation may be joined in such action. Several judgments may be rendered for and against the parties to the action or in favor of a receiver for the benefit of the respective parties thereto.

(c) All amounts paid by any member in any such action shall be credited on the unpaid balance due the corporation by such member.

12444. Nothing in this part shall be construed as in derogation of any rights or remedies which any creditor or member may have against any promoter, member, director, officer or the corporation because of participation in any fraud or illegality practiced upon such creditor or member by any such person or by the corporation or in derogation of any rights which the corporation may have by rescission, cancellation or otherwise because of any fraud or illegality practiced on it by any such person.

12445. The articles or bylaws shall prescribe:

(a) The manner of determining each member's share of the capital of the corporation contributed by the members and, if repayable, the time and manner for its repayment; and

(b) The manner of determining the value, if any, of the member's interest in the corporation apart from contributed capital and the time and manner of the corporation's purchase, if required, of such interest from a terminated member.

CHAPTER 4. DISTRIBUTIONS

Article 1. Limitations

12450. This chapter does not apply to any proceeding for winding up and dissolution of corporations under Chapters 15 (commencing with Section 12620), 16 (commencing with Section 12630), and 17 (commencing with Section 12650).

12451. Distributions (Section 12235) in any year shall not exceed 15 percent, multiplied by contributions (whether by membership fees, capital credits, or otherwise) to capital.

12452. A corporation may, subject to meeting the requirements of Section 12453 and any additional restrictions authorized by Section 12453, purchase or redeem memberships.

12453. Neither a corporation nor any of its subsidiaries shall purchase or redeem memberships, or make a patronage distribution to members out of earnings of the corporation on nonmember patronage, or make a distribution, if the corporation or the subsidiary purchasing or redeeming memberships or making the distribution is, or as a result thereof would be, likely to be unable to meet its liabilities (except those whose payment is otherwise adequately provided for) as they mature.

12454. Nothing in this chapter prohibits additional restrictions upon the purchase or redemption of a membership, upon distributions, or upon patronage distributions, by provision in a corporation's articles or bylaws or agreement entered into by the corporation.

Article 2. Liability of Members

12455. (a) Any person who with knowledge of facts indicating the impropriety thereof receives any distribution, including a payment in redemption of a membership, prohibited by this chapter is liable to the corporation for the amount so received by such person with interest thereon at the legal rate on judgments until paid.

(b) Any person sued under this section may implead all other persons liable under this section and may in the absence of fraud by such moving party compel contribution, either in that action or in an independent action against persons not joined in that action.

CHAPTER 5. MEETINGS AND VOTING

Article 1. General Provisions

12460. (a) Meetings of members may be held at a place within or without the state that is stated in or fixed in accordance with the bylaws. If no other place is so stated or fixed, meetings of members shall be held at the principal office of the corporation.

(b) A regular meeting of members shall be held annually. In any

year in which directors are elected, the election shall be held at the regular meeting unless the directors are chosen in some other manner authorized by law. Any other proper business may be transacted at the meeting.

(c) If a corporation fails to hold the regular meeting for a period of 60 days after the date designated therefor or, if no date has been designated, for a period of 15 months after the formation of the corporation or after its last regular meeting, or if the corporation fails to hold a written ballot for a period of 60 days after the date designated therefor, then the superior court of the proper county may summarily order the meeting to be held or the ballot to be conducted upon the application of a member, after notice to the corporation giving it an opportunity to be heard.

(d) The votes represented at a meeting called or by written ballot ordered pursuant to subdivision (c) and entitled to be cast on the business to be transacted shall constitute a quorum, notwithstanding any provision of the articles or bylaws or in this part to the contrary. The court may issue such orders as may be appropriate including, without limitation, orders designating the time and place of the meeting, the record date for determination of members entitled to vote, and the form of notice of the meeting.

(e) Special meetings of members for any lawful purpose may be called by the board, the chairman of the board, the president, or such other persons, if any, as are specified in the bylaws. In addition, special meetings of members for any lawful purpose may be called by 5 percent or more of the members.

12461. (a) Whenever members are required or permitted to take any action at a meeting, a written notice of the meeting shall be given not less than 10 nor more than 90 days before the date of the meeting to each member who, on the record date for notice of the meeting, is entitled to vote thereat; provided, however, that if notice is given by mail, and the notice is not mailed by first-class, registered, or certified mail, that notice shall be given not less than 20 days before the meeting. Subject to subdivision (f), and subdivision (b) of Section 12462, such notice shall state the place, date and time of the meeting and (1) in the case of a special meeting, the general nature of the business to be transacted, and no other business may be transacted, or (2) in the case of the regular meeting, those matters which the board, at the time the notice is given, intends to present for action by the members, but, except as provided in subdivision (b) of Section 12462, any proper matter may be presented at the meeting for such action. The notice of any meeting at which directors are to be elected shall include the names of all those who are nominees at the time the notice is given to members.

(b) Notice of a members' meeting or any report shall be given either personally or by mail or other means of written communication, addressed to a member at the address of such member appearing on the books of the corporation or given by the

member to the corporation for purpose of notice; or if no such address appears or is given, at the place where the principal office of the corporation is located or by publication at least once in a newspaper of general circulation in the county in which the principal office is located. An affidavit of giving of any notice or report in accordance with the provisions of this part, executed by the secretary, assistant secretary or any transfer agent, shall be prima facie evidence of the giving of the notice or report.

If any notice or report addressed to the member at the address of such member appearing on the books of the corporation is returned to the corporation by the United States Postal Service marked to indicate the United States Postal Service is unable to deliver the notice or report to the member at such address, all future notices or reports shall be deemed to have been duly given without further mailing if the same shall be available for the member upon written demand of the member at the principal office of the corporation for a period of one year from the date of the giving of the notice or report to all other members.

(c) Upon request in writing to the chairman of the board, president, vice president or secretary by any person (other than the board) entitled to call a special meeting of members, the officer forthwith shall cause notice to be given to the members entitled to vote that a meeting will be held at a time fixed by the board not less than 35 nor more than 90 days after the receipt of the request. If the notice is not given within 20 days after receipt of the request, the persons entitled to call the meeting may give the notice or the superior court of the proper county shall summarily order the giving of the notice, after notice to the corporation giving it an opportunity to be heard. The court may issue such orders as may be appropriate, including, without limitation, orders designating the time and place of the meeting, the record date for determination of members entitled to vote and the form of notice.

(d) When a members' meeting is adjourned to another time or place, unless the bylaws otherwise require and except as provided in this subdivision, notice need not be given of the adjourned meeting if the time and place thereof are announced at the meeting at which the adjournment is taken. At the adjourned meeting the corporation may transact any business which might have been transacted at the original meeting. If the adjournment is for more than 45 days or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each member of record entitled to vote at the meeting.

(e) The transactions of any meeting of members however called and noticed, and wherever held, are as valid as though had at a meeting duly held after regular call and notice, if a quorum is present, and if, either before or after the meeting, each of the persons entitled to vote, not present in person or by proxy, signs a written waiver of notice or a consent to the holding of the meeting or an approval of the minutes thereof. All such waivers, consents and

approvals shall be filed with the corporate records or made a part of the minutes of the meeting. Attendance of a person at a meeting shall constitute a waiver of notice of and presence at such meeting, except when the person objects, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened and except that attendance at a meeting is not a waiver of any right to object to the consideration of matters required by this part to be included in the notice but not so included, if such objection is expressly made at the meeting. Neither the business to be transacted at nor the purpose of any regular or special meeting of members need be specified in any written waiver of notice, consent to the holding of the meeting or approval of the minutes thereof, unless otherwise provided in the articles or bylaws, except as provided in subdivision (f).

(f) Any approval of the members required under Section 12362, 12364, 12373, 12502 or 12658 other than unanimous approval by those entitled to vote, shall be valid only if the general nature of the proposal so approved was stated in the notice of meeting or in any written waiver of notice.

(g) A court may find that notice not given in conformity with this section is still valid, if it was given in a fair and reasonable manner.

12462. (a) The lesser of 250 members or members representing 5 percent of the voting power, shall constitute a quorum at a meeting of members, but, subject to subdivisions (b) and (c), a bylaw may set a different quorum. Any bylaw amendment to increase the quorum may be adopted only by approval of the members (Section 12224). If a quorum is present, the affirmative vote of the majority of the voting power represented at the meeting, entitled to vote, and voting on any matter shall be the act of the members unless the vote of a greater number or voting by classes is required by this part or the articles or bylaws.

(b) Where a corporation is authorized to conduct a meeting with a quorum of less than one-third of the voting power, then the only matters that may be voted upon at any regular meeting actually attended by less than one-third of the voting power are matters notice of the general nature of which was given, pursuant to the first sentence of subdivision (a) of Section 12461.

(c) Subject to subdivision (b), the members present at a duly called or held meeting at which a quorum is present may continue to transact business until adjournment notwithstanding the withdrawal of enough members to leave less than a quorum, if any action taken (other than adjournment) is approved by at least a majority of the members required to constitute a quorum.

(d) In the absence of a quorum, any meeting of members may be adjourned from time to time by the vote of a majority of the votes represented either in person or by proxy, but no other business may be transacted, except as provided in subdivision (c).

12463. (a) Subject to subdivision (e), and unless prohibited in the articles or bylaws any action which may be taken at any regular

or special meeting of members may be taken without a meeting if the corporation distributes a written ballot to every member entitled to vote on the matter. Such ballot shall set forth the proposed action, provide an opportunity to specify approval or disapproval of any proposal, and provide a reasonable time within which to return the ballot to the corporation.

(b) Approval by written ballot pursuant to this section shall be valid only when the number of votes cast by ballot within the time period specified equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.

(c) Ballots shall be solicited in a manner consistent with the requirements of subdivision (b) of Section 12461 and Section 12464. All such solicitations shall indicate the number of responses needed to meet the quorum requirement and, with respect to ballots other than for the election of directors, shall state the percentage of approvals necessary to pass the measure submitted. The solicitation must specify the time by which the ballot must be received in order to be counted.

(d) Unless otherwise provided in the articles or bylaws, a written ballot may not be revoked.

(e) Directors may be elected by written ballot under this section, where authorized by the articles or bylaws, except that election by written ballot may not be authorized where the directors are elected by cumulative voting pursuant to Section 12484.

(f) The secretary shall cause a vote to be taken by written ballot upon any action or recommendation proposed in writing by 20 percent of the members of the corporation.

12464. (a) Any form of written ballot distributed to 10 or more members of a corporation with 100 or more members shall afford an opportunity on the form of written ballot to specify a choice between approval and disapproval of each matter or group of related matters intended, at the time the written ballot is distributed, to be acted upon by such written ballot, and shall provide, subject to reasonable specified conditions, that where the person solicited specifies a choice with respect to any such matter the vote shall be cast in accordance therewith.

(b) In any election of directors, any form of written ballot in which the directors to be voted upon are named therein as candidates and which is marked by a member "withhold" or otherwise marked in a manner indicating that the authority to vote for the election of directors is withheld shall not be voted for the election of a director.

(c) Failure to comply with this section shall not invalidate any corporate action taken, but may be the basis for challenging any written ballot and the superior court may compel compliance therewith at the suit of any member.

12465. (a) If for any reason it is impractical or impossible for any corporation to call or conduct a meeting of its members, delegates or directors, or otherwise obtain their consent, in the manner prescribed by its articles or bylaws, or this part, then the superior court of the proper county, upon petition of a director, officer, delegate or member, may order that such a meeting be called or that a written ballot or other form of obtaining the vote of members, delegates or directors be authorized, in such a manner as the court finds fair and equitable under the circumstances.

(b) The court shall, in an order issued pursuant to this section, provide for a method of notice reasonably designed to give actual notice to all parties who would be entitled to notice of a meeting held pursuant to the articles, bylaws and this part, whether or not the method results in actual notice to every such person, or conforms to the notice requirements that would otherwise apply. In a proceeding under this section the court may determine who the members or directors are.

(c) The order issued pursuant to this section may dispense with any requirement relating to the holding of and voting at meetings or obtaining of votes, including any requirement as to quorums or as to the number or percentage of votes needed for approval, that would otherwise be imposed by the articles, bylaws, or this part.

(d) Wherever practical any order issued pursuant to this section shall limit the subject matter of the meetings or other forms of consent authorized to items, including amendments to the articles or bylaws, the resolution of which will or may enable the corporation to continue managing its affairs without further resort to this section. However, an order under this section may also authorize the obtaining of whatever votes and approvals are necessary for the dissolution, merger, sale of assets or reorganization of the corporation.

(e) Any meeting or other method of obtaining the vote of members, delegates or directors conducted pursuant to an order issued under this section, and which complies with all the provisions of such order, is for all purposes a valid meeting or vote, as the case may be, and shall have the same force and effect as if it complied with every requirement imposed by the articles, bylaws, and this part.

Article 2. Additional Provisions Relating to Election of Directors

12470. As to directors elected by members, there shall be available to the members reasonable nomination and election procedures given the nature, size and operations of the corporation. The procedures shall include:

(a) A reasonable means of nominating persons for election as directors.

(b) A reasonable opportunity for a nominee to communicate to the members the nominee's qualifications and the reasons for the nominee's candidacy.

(c) A reasonable opportunity for all nominees to solicit votes.

(d) A reasonable opportunity for all members to choose among the nominees.

12473. Where a corporation distributes any material soliciting a vote for any nominee for director in any publication owned or controlled by the corporation, it shall make available to each other nominee, in the same material, an equal amount of space, with equal prominence, to be used by the nominee for a purpose reasonably related to the election.

12474. Upon written request by any nominee for election to the board and the payment of the reasonable costs of mailing (including postage), a corporation shall within 10 business days after such request (provided payment has been made) mail to all members, or such portion of them as the nominee may reasonably specify, any material, which the nominee may furnish and which is reasonably related to the election, unless the corporation within five business days after the request allows the nominee, at the corporation's option, the rights set forth in either paragraph (1) or (2) of subdivision (a) of Section 12600.

12475. (a) Except as provided in subdivision (c), no corporation may decline to publish or mail material, otherwise required to be published or mailed on behalf of any nominee under this article, on the basis of the content of such material.

(b) Neither the corporation, nor its agents, officers, directors, or employees, may be held criminally liable, liable for any negligence (active or passive) or otherwise liable for damages to any person on account of any material which is supplied by a nominee for director and which it mails or publishes pursuant to Section 12473 or 12474 but the nominee on whose behalf such material was published or mailed shall be liable and shall indemnify and hold the corporation, its agents, officers, directors, and employees and each of them harmless from all demands, costs, including reasonable legal fees and expenses, claims, damages and causes of action arising out of such material or any such mailing or publication.

(c) Nothing in this section shall prevent a corporation or any of its agents, officers, directors, or employees from seeking a court order relieving the corporation from its obligation under Section 12473 or 12474 on the ground the material will expose the moving party to liability.

12476. Without authorization of the board, no corporation funds may be expended to support a nominee for director after there are more people nominated for director than can be elected.

12477. An action challenging the validity of any election, appointment or removal of a director or directors must be commenced within nine months after the election, appointment or removal. If no such action is commenced, in the absence of fraud, any election, appointment or removal of a director is conclusively presumed valid nine months thereafter if the only defect in the election, appointment or removal is the failure to give notice as

provided in this part or in the corporation's articles or bylaws.

CHAPTER 6. VOTING OF MEMBERSHIPS

12480. Except as provided in Sections 12314 and 12484, each member entitled to vote shall be entitled to one vote on each matter submitted to a vote of the members. Single memberships in which two or more persons have an indivisible interest shall be voted as provided in Section 12482.

12481. (a) The bylaws may provide or, in the absence of such provision, the board may fix, in advance, a date as the record date for the purpose of determining the members entitled to notice of any meeting of members. Such record date shall not be more than 60 nor less than 10 days before the date of the meeting. If no record date is fixed, members at the close of business on the business day preceding the day on which notice is given or, if notice is waived, at the close of business on the business day preceding the day on which the meeting is held are entitled to notice of a meeting of members. A determination of members entitled to notice of a meeting of members shall apply to any adjournment of the meeting unless the board fixes a new record date for the adjourned meeting.

(b) The bylaws may provide or, in the absence of such provision, the board may fix, in advance, a date as the record date for the purpose of determining the members entitled to vote at a meeting of members. Such record date shall not be more than 60 days before the date of the meeting. Such record date shall also apply in the case of an ajournment of the meeting unless the board fixes a new record date for the adjourned meeting. If no record date is fixed, members on the day of the meeting who are otherwise eligible to vote are entitled to vote at the meeting of members or, in the case of an adjourned meeting, members on the day of the adjourned meeting who are otherwise eligible to vote are entitled to vote at the adjourned meeting of members.

(c) The bylaws may provide or, in the absence of such provision, the board may fix, in advance, a date as the record date for the purpose of determining the members entitled to cast written ballots (Section 12463). Such record date shall not be more than 60 days before the day on which the first written ballot is mailed or solicited. If no record date is fixed, members on the day the first written ballot is mailed or solicited who are otherwise eligible to vote are entitled to cast written ballots.

(d) The bylaws may provide or, in the absence of such provision, the board may fix, in advance, a date as the record date for the purpose of determining the members entitled to exercise any rights in respect of any other lawful action. Such record date shall not be more than 60 days prior to such other action. If no record date is fixed, members at the close of business on the day on which the board adopts the resolution relating thereto, or the 60th day prior to the date of such other action, whichever is later, are entitled to exercise

such rights.

12482. Unless otherwise provided in the articles or bylaws, if a membership stands of record in the names of two or more persons, whether fiduciaries, members of a partnership, joint tenants, tenants in common, husband and wife as community property, tenants by the entirety, persons entitled to vote under a voting agreement or otherwise, or if two or more persons have the same fiduciary relationship respecting the same membership, unless the secretary of the corporation is given written notice to the contrary and is furnished with a copy of the instrument or order appointing them or creating the relationship wherein it is so provided, their acts with respect to voting shall have the following effect:

(a) If only one vote, such act binds all; or

(b) If more than one vote, the act of the majority so voting binds all.

12483. (a) In advance of any meeting of members the board may appoint inspectors of election to act at the meeting and any adjournment thereof. If inspectors of election are not so appointed, or if any persons so appointed fail to appear or refuse to act, the chairman of any meeting of members may, and on the request of any member shall, appoint inspectors of election (or persons to replace those who so fail or refuse) at the meeting. The number of inspectors shall be either one or three. If appointed at a meeting on the request of one or more members, the majority of members represented in person shall determine whether one or three inspectors are to be appointed.

(b) The inspectors of election shall determine the number of memberships outstanding and the voting power of each, the number represented at the meeting, the existence of a quorum, receive votes, ballots or consents, hear and determine all challenges and questions in any way arising in connection with the right to vote, count and tabulate all votes or consents, determine when the polls shall close, determine the result and do such acts as may be proper to conduct the election or vote with fairness to all members.

(c) The inspectors of election shall perform their duties impartially, in good faith, to the best of their ability and as expeditiously as is practical. If there are three inspectors of election, the decision, act or certificate of a majority is effective in all respects as the decision, act or certificate of all. Any report or certificate made by the inspectors of election is prima facie evidence of the facts stated therein.

12484. (a) Except in the case of a central organization, cumulative voting shall not be permitted. In the case of a central organization, if the articles or bylaws authorize cumulative voting, but not otherwise, every member entitled to vote at any election of directors may cumulate such member's votes and give one candidate a number of votes equal to the number of directors to be elected multiplied by the number of votes to which the member is entitled, or distribute the member's votes on the same principle among as

many candidates as the member thinks fit. An article or bylaw provision authorizing cumulative voting may be repealed or amended only by approval of the members (Section 12224), except that the governing article or bylaw provision may require the vote of a greater proportion of the members, or of the members of any class, for its repeal.

(b) No member shall be entitled to cumulate votes for a candidate or candidates unless such candidate's name or candidates' names have been placed in nomination prior to the voting and the member has given notice at the meeting prior to the voting of the member's intention to cumulate votes. If any one member has given such notice, all members may cumulate their votes for candidates in nomination.

(c) In any election of directors, the candidates receiving the highest number of votes are elected, subject to any lawful provision specifying election by classes.

(d) Elections for directors need not be by ballot unless a member demands election by ballot at the meeting and before the voting begins or unless the bylaws so require.

12485. (a) Upon the filing of an action therefor by any director or member or by any person who had the right to vote in the election at issue, the superior court of the proper county shall determine the validity of any election or appointment of any director of any corporation.

(b) Upon the filing of the complaint, and before any further proceedings are had, the court shall enter an order fixing a date for the hearing, which shall be within five days unless for good cause shown a later date is fixed, and requiring notice of the date for the hearing and a copy of the complaint to be served upon the corporation and upon the person whose purported election or appointment is questioned and upon any person (other than the plaintiff) whom the plaintiff alleges to have been elected or appointed, in the manner in which a summons is required to be served, or, if the court so directs, by registered mail; and the court may make such further requirements as to notice as appear to be proper under the circumstances.

(c) The court, consistent with the provisions of this part and in conformity with the articles and bylaws to the extent feasible, may determine the person entitled to the office of director or may order a new election to be held or appointment to be made, may determine the validity, effectiveness and construction of voting agreements and voting trusts, the validity of the issuance of memberships and the right of persons to vote and may direct such other relief as may be just and proper.

CHAPTER 7. MEMBERS' DERIVATIVE ACTIONS

12490. (a) Subdivisions (c) through (f) notwithstanding, no motion to require security shall be granted in an action brought by

the lesser of 100 members or 5 percent of the members.

(b) No action may be instituted or maintained in the right of any corporation by any member of such corporation unless both of the following conditions exist:

(1) The plaintiff alleges in the complaint that plaintiff was a member at the time of the transaction or any part thereof of which plaintiff complains, or that plaintiff's membership thereafter devolved upon plaintiff by operation of law from a holder who was a holder at the time of transaction or any part thereof complained of; and

(2) The plaintiff alleges in the complaint with particularity plaintiff's efforts to secure from the board such action as plaintiff desires, or the reasons for not making such effort, and alleges further that plaintiff has either informed the corporation or the board in writing of the ultimate facts of each cause of action against each defendant or delivered to the corporation or the board a true copy of the complaint which plaintiff proposes to file.

(c) Subject to subdivision (a), in any action referred to in subdivision (b), at any time within 30 days after service of summons upon the corporation or upon any defendant who is an officer or director of the corporation, or held such office at the time of the acts complained of, the corporation or such defendant may move the court for an order, upon notice and hearing, requiring the plaintiff to furnish security as hereinafter provided. The motion shall be based upon one or both of the following grounds:

(1) That there is no reasonable possibility that the prosecution of the cause of action alleged in the complaint against the moving party will benefit the corporation or its members economically or otherwise.

(2) That the moving party, if other than the corporation, did not participate in the transaction complained of in any capacity.

The court on application of the corporation or any defendant may, for good cause shown, extend the 30-day period for an additional period or periods not exceeding 60 days.

(d) At the hearing upon any motion pursuant to subdivision (c), the court shall consider such evidence, written or oral, by witnesses or affidavit, as may be material (1) to the ground or grounds upon which the motion is based, or (2) to a determination of the probable reasonable expenses, including attorneys' fees, of the corporation and the moving party which will be incurred in the defense of the action. If the court determines, after hearing the evidence adduced by the parties, that the moving party has established a probability in support of any of the grounds upon which the motion is based, the court shall fix the nature and amount of security, not to exceed fifty thousand dollars ($50,000), to be furnished by the plaintiff for reasonable expenses, including attorneys' fees, which may be incurred by the moving party and the corporation in connection with the action, including expenses for which the corporation may become liable pursuant to Section 12377. A ruling by the court on the

motion shall not be a determination of any issue in the action or of the merits thereof. The amount of the security may thereafter be increased or decreased in the discretion of the court upon a showing that the security provided has or may become inadequate or is excessive, but the court may not in any event increase the total amount of the security beyond fifty thousand dollars ($50,000) in the aggregate for all defendants. If the court, upon any such motion, makes a determination that security shall be furnished by the plaintiff as to any one or more defendants, the action shall be dismissed as to such defendant or defendants, unless the security required by the court shall have been furnished within such reasonable time as may be fixed by the court. The corporation and the moving party shall have recourse to the security in such amount as the court shall determine upon the termination of the action.

(e) If the plaintiff shall, either before or after a motion is made pursuant to subdivision (c), or any order or determination pursuant to such motion, post good and sufficient bond or bonds in the aggregate amount of fifty thousand dollars ($50,000) to secure the reasonable expenses of the parties entitled to make the motion, the plaintiff has complied with the requirements of this section and with any order for security theretofore made pursuant hereto, and any such motion then pending shall be dismissed and no further or additional bond or other security shall be required.

(f) If a motion is filed pursuant to subdivision (c), no pleadings need be filed by the corporation or any other defendant and the prosecution of the action shall be stayed until 10 days after the motion has been disposed of.

CHAPTER 8. AMENDMENT OF ARTICLES

12500. (a) By complying with the provisions of this chapter, a corporation may amend its articles from time to time, in any and as many respects as may be desired, so long as its articles as amended contain only such provisions as it would be lawful to insert in original articles filed at the time of the filing of the amendment or as authorized by Section 12504 and, if a change in the rights of members or an exchange, reclassification or cancellation of memberships is to be made, such provisions as may be necessary to effect such change, exchange, reclassification or cancellation. It is the intent of the Legislature in adopting this section to exercise to the fullest extent the reserve power of the state over corporations and to authorize any amendment of the articles covered by the preceding sentence regardless of whether any provision contained in the amendment was permissible at the time of the original incorporation of the corporation.

(b) A corporation shall not amend its articles to alter any statement which may appear in the original articles of the names and addresses of the first directors, or the name and address of the initial agent, except to correct an error in the statement or to delete either

after the corporation has filed a statement under Section 12570.

12501. Any amendment of the articles may be adopted by a writing signed by a majority of the incorporators so long as:

(a) No directors were named in the original articles;

(b) No directors have been elected; and

(c) The corporation has no members.

12502. (a) Except as provided in this section or Section 12503, amendments may be adopted if approved by the board and approved by the members before or after the approval by the board.

(b) Notwithstanding subdivision (a), the following amendments may be adopted by approval of the board alone:

(1) An amendment extending the corporate existence or making the corporate existence perpetual, if the corporation was organized prior to August 14, 1929.

(2) An amendment deleting the names and addresses of the first directors or the name and address of the initial agent.

(3) Any amendment, at a time the corporation has no members.

(c) Whenever the articles require for corporate action the approval of a particular class of members or of a larger proportion of, or all of, the votes of any class, or of a larger proportion of, or all of, the directors, than is otherwise required by this part, the provision in the articles requiring such greater vote shall not be altered, amended or repealed except by such class or such greater vote, unless otherwise provided in the articles.

12503. An amendment must also be approved by the members (Section 12224) of a class, whether or not such class is entitled to vote thereon by the provisions of the articles, if the amendment would:

(a) Materially and adversely affect the rights, privileges, preferences, restrictions or conditions of that class as to voting, dissolution, redemption or transfer, or the obligations of that class, in a manner different than such action affects another class;

(b) Materially and adversely affect such class as to voting, dissolution, redemption or transfer by changing the rights, privileges, preferences, restrictions or conditions of another class;

(c) Increase the number of memberships authorized for such class;

(d) Increase the number of memberships authorized for another class;

(e) Effect an exchange, reclassification or cancellation of all or part of the memberships of such class; or

(f) Authorize a new class of memberships.

12504. (a) A cooperative corporation may amend its articles to change its status to that of a public benefit corporation, a mutual benefit association, a religious corporation or a business corporation by complying with the provisions of this section and the other sections of this chapter.

(b) Unless the corporation has no members, an amendment to change its status to a public benefit corporation, a mutual benefit association, or religious corporation shall: (1) be approved by the

members (Section 12224), and the fairness of the amendment to the members shall be approved by the Commissioner of Corporations pursuant to Section 25142; or (2) be approved by 100 percent of the voting power.

(c) Amended articles authorized by this section shall include the provisions which would have been required (other than the name of the initial agent for service of process if a statement has been filed pursuant to Section 12570), and may in addition only include those provisions which would have been permitted, in original articles filed by the type of corporation (public benefit, religious or business) into which the cooperative corporation is changing its status.

(d) At the time of filing a certificate of amendment to change status to a public benefit corporation, a corporation shall furnish an additional copy of the certificate of amendment to the Secretary of State who shall forward that copy to the Attorney General.

12505. (a) Upon adoption of an amendment, the corporation shall file a certificate of amendment, which shall consist of an officers' certificate stating:

(1) The wording of the amendment or amended articles is in accordance with Section 12507;

(2) That the amendment has been approved by the board;

(3) If the amendment is one for which the approval of the members (Section 12224) or the approval of 100 percent of the voting power is required, that the amendment was approved by the required vote of members; and

(4) If the amendment is one which may be adopted with approval by the board alone, a statement of the facts entitling the board alone to adopt the amendment.

(b) In the event of an amendment of the articles pursuant to a merger, the filing of the officers' certificate and agreement pursuant to Section 12535 shall be in lieu of any filing required under this chapter.

12506. In the case of amendments adopted by the incorporators under Section 12501, the corporation shall file a certificate of amendment signed and verified by a majority of the incorporators which shall state that the signers thereof constitute at least a majority of the incorporators, that directors were not named in the original articles and have not been elected, that the corporation has no members and that they adopt the amendment or amendments therein set forth.

12507. The certificate of amendment shall establish the wording of the amendment or amended articles by one or more of the following means:

(a) By stating that the articles shall be amended to read as therein set forth in full.

(b) By stating that any provision of the articles, which shall be identified by the numerical or other designation given it in the articles or by stating the wording thereof, shall be striken from the articles or shall be amended to read as set forth in the certificate.

(c) By stating that the provisions set forth therein shall be added to the articles.

If the purpose of the amendment is to reclassify, cancel, exchange, or otherwise change outstanding memberships the amended articles shall state the effect thereof on outstanding memberships.

12508. Upon the filing of the certificate of amendment, the articles shall be amended in accordance with the certificate and any change, reclassification or cancellation of memberships shall be effected, and a copy of the certificate, certified by the Secretary of State, is prima facie evidence of the performance of the conditions necessary to the adoption of the amendment.

12509. A corporation formed for a limited period may at any time subject to the expiration of the term of its corporate existence, extend the term of its existence by an amendment to its articles removing any provision limiting the term of its existence and providing for perpetual existence. If the filing of the certificate of amendment providing for perpetual existence would be prohibited if it were original articles by the provisions of Section 12302, the Secretary of State shall not file such certificate unless, by the same or a concurrently filed certificate of amendment, the articles of such corporation are amended to adopt a new available name. For the purpose of the adoption of any such amendment, persons who have been functioning as directors of such corporation shall be considered to have been validly elected even though their election may have occurred after the expiration of the original term of the corporate existence.

12510. (a) A corporation may restate in a single certificate the entire text of its articles as amended by filing an officers' certificate entitled "Restated Articles of Incorporation of (insert name of corporation)" which shall set forth the articles as amended to the date of filing of the certificate, except that the signatures and acknowledgments of the incorporators and any statements regarding the effect of any prior amendment upon memberships and any provisions of agreements of merger (other than amendments to the articles of the surviving corporation) and the names, addresses, signatures and acknowledgments of the first directors and of the initial agent for service of process shall be omitted. Such omissions are not alterations or amendments of the articles. The certificate may also itself alter or amend the articles in any respect, in which case the certificate must comply with Sections 12505 and 12506, as the case may be, and Section 12507.

(b) If the certificate does not itself alter or amend the articles in any respect, it shall be approved by the board and shall be subject to the provisions of this chapter relating to an amendment of the articles not requiring approval of the members (Section 12224). If the certificate does itself alter or amend the articles, it shall be subject to the provisions of this chapter relating to the amendment or amendments so made.

(c) Restated articles of incorporation filed pursuant to this section

shall supersede for all purposes the original articles and all amendments filed prior thereto.

CHAPTER 9. SALES OF ASSETS

12520. Any mortgage, deed of trust, pledge or other hypothecation of all or any part of the corporation's property, real or personal, for the purpose of securing the payment or performance of any contract or obligation may be approved by the board. Unless the articles or bylaws otherwise provide, no approval of the members (Section 12224) shall be necessary for such action.

12521. (a) A corporation may sell, lease, convey, exchange, transfer or otherwise dispose of all or substantially all of its assets when the principal terms are:

(1) Approved by the board; and

(2) Unless the transaction is in the usual and regular course of its activities approved by the members (Section 12224) either before or after approval by the board and before or after the transaction.

(b) Notwithstanding approval by the members (Section 12224), the board may abandon the proposed transaction without further action by the members, subject to the contractual rights, if any, of third parties.

(c) Such sale, lease, conveyance, exchange, transfer or other disposition may be made upon such terms and conditions and for such consideration as the board may deem in the best interests of the corporation.

12522. Any deed or instrument conveying or otherwise transferring any assets of a corporation may have annexed to it the certificate of the secretary or an assistant secretary of the corporation, setting forth that the transaction has been validly approved by the board and (a) stating that the property described in such deed or instrument is less than substantially all of the assets of the corporation or that the transfer is in the usual and regular course of the business of the corporation, if such be the case, or (b) if such property constitutes all or substantially all of the assets of the corporation and the transfer is not in the usual and regular course of the business of the corporation, stating the fact of approval thereof by the members (Section 12224) or all the members pursuant to this chapter. Such certificate is prima facie evidence of the existence of the facts authorizing such conveyance or other transfer of the assets and conclusive evidence in favor of any purchaser or encumbrancer for value who, without notice of any trust restriction applicable to the property or any failure to comply therewith, in good faith parted with value.

CHAPTER 10. MERGERS

Article 1. Merger

12530. Any corporation may merge with another domestic corporation, or foreign corporation, provided, however, that a merger with a public benefit corporation or a religious corporation must have the prior written consent of the Attorney General.

12531. The board of each corporation which desires to merge shall approve an agreement of merger. The constituent corporations shall be parties to the agreement of merger and other persons may be parties to the agreement of merger. The agreement shall state:

(a) The terms and conditions of the merger;

(b) The amendments, subject to Sections 12500 and 12505 to the articles of the surviving corporation to be effected by the merger, if any; if any amendment changes the name of the surviving corporation, the new name may be the same as or similar to the name of a disappearing corporation, subject to subdivision (c) of Section 12302;

(c) The amendments to the bylaws of the surviving corporation to be effected by the merger, if any;

(d) The name and place of incorporation of each constituent corporation and which of the constituent corporations is the surviving corporation;

(e) The manner, if any, of converting memberships or securities of the constituent corporations into memberships or securities of the surviving corporation and, if any memberships or securities of any of the constituent corporations are not to be converted solely into memberships or securities of the surviving corporation, the cash, property, rights or securities of any corporation which the holders of such memberships or securities are to receive in exchange for such memberships or securities, which cash, property, rights or securities of any corporation may be in addition to or in lieu of memberships or securities of the surviving corporation; and

(f) Such other details or provisions as are desired, if any, including, without limitation, if not prohibited by this chapter, a provision for the payment of cash in lieu of fractional memberships or for any other arrangement with respect thereto.

12532. Each membership of the same class of any constituent corporation (other than the cancellation of memberships held by a surviving corporation or its parent or a wholly owned subsidiary of either in a constituent corporation) shall be treated equally with respect to any distribution of cash, property, rights or securities unless: (a) all members of the class consent or (b) the Commissioner of Corporations has approved the terms and conditions of the transaction and the fairness of such terms pursuant to Section 25142.

12533. (a) The principal terms of the merger shall be approved by the members (Section 12224) of each class of each corporation which desires to merge. The approval by the members may be given before or after the approval by the board.

(b) Any member of any constituent corporation who voted against the merger may, without prior notice, but within 30 days following the effective date of the merger, resign from membership

and, in the event of resignation, shall be:

(1) Thereafter excused from all contractual obligations to the corporation which have not accrued prior to resignation; and

(2) Shall be entitled to the same rights as would have existed if there had been no merger and the membership had been terminated.

12534. Each constituent corporation shall sign the agreement by the chairman of its board, president or a vice president and secretary or an assistant secretary acting on behalf of their respective corporations.

12535. After approval of a merger by the board and any approval by the members under Section 12533, the surviving corporation shall file a copy of the agreement of merger with an officers' certificate of each constituent corporation attached stating the total number of memberships of each class entitled to vote on the merger, and that the principal terms of the agreement in the form attached were duly approved by the required vote of the members. The merger and any amendment of the articles of the surviving corporation contained in the merger agreement shall thereupon be effective (subject to subdivision (c) of Section 12214 and subject to the provisions of Section 12539) and the several parties thereto shall be one corporation. The agreement shall not be filed, however, until there has been filed by or on behalf of each corporation taxed under the Bank and Corporation Tax Law (Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code), the existence of which is terminated by the merger, the certificate of satisfaction of the Franchise Tax Board that all taxes imposed by such law have been paid or secured. The Secretary of State may certify a copy of the merger agreement separate from the officers' certificates attached thereto.

12536. (a) Any amendment to the agreement may be adopted and the agreement so amended may be approved by the board and, if it changes any of the principal terms of the agreement, by the members, as required by Section 12533 of any constituent corporation in the same manner as the original agreement.

(b) If the agreement so amended is approved as provided in subdivision (a), the agreement so amended shall then constitute the agreement of merger.

12537. The board may, in its discretion, abandon a merger, subject to the contractual rights, if any, of third parties, including other constituent corporations, without further approval by the members at any time before the merger is effective.

12538. A copy of an agreement of merger certified on or after the effective date by an official having custody thereof has the same force in evidence as the original and, except as against the state, is conclusive evidence of the performance of all conditions precedent to the merger, the existence on the effective date of the surviving corporation, and the performance of the conditions necessary to the adoption of any amendment to the articles contained in the

agreement of merger.

12539. (a) Subject to the provisions of Section 12530, the merger of any number of corporations with any number of foreign corporations, foreign business corporations, or domestic corporations may be effected if the foreign corporations are authorized by the laws under which they are formed to effect such a merger. The surviving corporation may be any one of the constituent corporations and shall continue to exist under the laws of the state or place of its incorporation.

(b) If the surviving corporation is a cooperative corporation, the merger proceedings with respect to that corporation and any domestic disappearing corporation shall conform to the provisions of this chapter and other applicable laws of this state, but if the surviving corporation is a foreign corporation, then, subject to the requirements of subdivision (d) and Section 12533, the merger proceedings may be in accordance with the laws of the state or place of incorporation of the surviving corporation.

(c) If the surviving corporation is a cooperative corporation, the agreement and the officers' certificate of each constituent corporation shall be filed as provided in Section 12535 and thereupon, subject to subdivision (c) of Section 12214, the merger shall be effective as to each corporation; and each foreign disappearing corporation which is qualified for the transaction of intrastate business shall, by virtue of the filing, automatically surrender its right to transact intrastate business.

(d) If the surviving corporation is a foreign corporation, the merger shall become effective in accordance with the law of the jurisdiction in which it is organized, but shall be effective as to any disappearing corporation as of the time of effectiveness in such foreign jurisdiction upon the filing in this state as required by this subdivision. There shall be filed as to the domestic disappearing corporation or corporations a copy of the agreement, certificate or other document filed by the surviving foreign corporation in the state or place of its incorporation for the purpose of effecting the merger, which copy shall be certified by the public officer having official custody of the original or, in lieu thereof, either an executed counterpart of such agreement, certificate or other document or, in the case of a merger by agreement of merger, a copy of the agreement of merger with an officer's certificate of each constituent corporation attached as prescribed in Section 12535 and each foreign disappearing corporation which is qualified for the transaction of intrastate business shall automatically by such filing surrender its right to transact intrastate business.

12540. If an agreement of merger is entered into between a cooperative corporation and one or more business or nonprofit corporations, Sections 12531, 12532, 12533, 12535, and 12536 shall apply to any constituent cooperative corporation. Sections 8011, 8011.5, 8012, and 8015 shall apply to any constituent mutual benefit corporation. Sections 6011, 6012, 6014, and 6015 shall apply to any

constituent public benefit corporation. Sections 6014 and 6015 and subdivisions (c) and (d) of Section 9640 shall apply to any constituent religious corporation and Sections 1101, 1101.1, 1103, and 1104 shall apply to any constituent business corporation.

Article 2. Effect of Merger

12550. (a) Upon merger pursuant to this chapter the separate existence of the disappearing corporations ceases and the surviving corporation shall succeed, without other transfer, to all the rights and property of each of the disappearing corporations and shall be subject to all the debts and liabilities of each and trust obligations upon the property of a disappearing corporation in the same manner as if the surviving corporation had itself incurred them.

(b) All rights of creditors and all liens and trusts upon or arising from the property of each of the constituent corporations shall be preserved unimpaired, provided that such liens and trust obligations upon property of a disappearing corporation shall be limited to the property affected thereby immediately prior to the time the merger is effective.

(c) Any action or proceeding pending by or against any disappearing corporation may be prosecuted to judgment, which shall bind the surviving corporation, or the surviving corporation may be proceeded against or substituted in its place.

12551. Whenever a domestic or foreign corporation having any real property in this state merges with another domestic or foreign corporation pursuant to the laws of this state or of the state or place in which any constituent corporation was incorporated, and the laws of the state or place of incorporation (including this state) of any disappearing corporation provide substantially that the making and filing of the agreement of merger vests in the surviving corporation all the real property of any disappearing corporation, the filing for record in the office of the county recorder of any county in this state in which any of the real property of such disappearing corporation is located of either (a) a certificate prescribed by the Secretary of State, or (b) a copy of the agreement of merger or certificate of merger, certified by the Secretary of State or an authorized public official of the state or place pursuant to the laws of which the merger is effected, shall evidence record ownership in the surviving corporation of all interest of such disappearing corporation in and to the real property located in that county.

12552. Any bequest, devise, gift, grant, or promise contained in a will or other instrument of donation, subscription, or conveyance, which is made to a constituent corporation and which takes effect or remains payable after the merger, inures to the surviving corporation.

CHAPTER 11. BANKRUPTCY REORGANIZATIONS AND ARRANGEMENTS

12560. Any proceeding, initiated with respect to a corporation, under any applicable statute of the United States, as now existing or hereafter enacted, relating to reorganizations or arrangements of corporations, shall be governed by the provisions of Chapter 14 (commencing with Section 1400) of Division 1 of Title 1, and for this purpose the reference in Chapter 14 to "shareholders" shall be deemed to be a reference to members and the reference to "this division" shall be deemed to be a reference to this part.

CHAPTER 12. REQUIRED FILINGS BY CORPORATION OR ITS AGENT

12570. (a) Every corporation shall, within 90 days after the filing of its original articles and annually thereafter during the applicable filing period in each year, file, on a form prescribed by the Secretary of State, a statement containing: (1) the names and complete business or residence addresses of its chief executive officer or general manager, secretary and chief financial officer; (2) the street address of its principal office in this state, if any.

(b) The statement required by subdivision (a) shall also designate, as the agent of such corporation for the purpose of service of process, a natural person residing in this state or any domestic or foreign corporation which has complied with Section 1505, 6213, 8213, or 12573 and whose capacity to act as such agent has not terminated. If a natural person is designated, the statement shall set forth such person's complete business or residence address. If a corporate agent is designated, no address for it shall be set forth.

(c) For the purposes of this section, the applicable filing period for a corporation shall be the calendar month during which its original articles were filed and the immediately preceding five calendar months. The Secretary of State shall mail a form for compliance with this section to each corporation approximately three months prior to the close of the applicable filing period. The form shall state the due date thereof and shall be mailed to the last address of the corporation according to the records of the Secretary of State. Neither the failure of the Secretary of State to mail the form nor the failure of the corporation to receive it is an excuse for failure to comply with this section.

(d) Whenever any of the information required by subdivision (a) is changed, the corporation may file a current statement containing all the information required by subdivisions (a) and (b). In order to change its agent for service of process or the address of the agent, the corporation must file a current statement containing all the information required by subdivisions (a) and (b). Whenever any statement is filed pursuant to this section, it supersedes any previously filed statement and the statement in the articles as to the

agent for service of process and the address of the agent.

(e) The Secretary of State may destroy or otherwise dispose of any statement filed pursuant to this section after it has been superseded by the filing of a new statement.

(f) This section shall not be construed to place any person dealing with the corporation on notice of, or under any duty to inquire about, the existence or content of a statement filed pursuant to this section.

12571. An agent designated for service of process pursuant to Section 12570 may file a signed and acknowledged written statement of resignation as such agent. Thereupon the authority of the agent to act in such capacity shall cease and the Secretary of State forthwith shall give written notice of the filing of the statement of resignation by mail to the corporation addressed to its principal office.

12572. If a natural person who has been designated agent for service of process pursuant to Section 12570 dies or resigns or no longer resides in the state or if the corporate agent for such purpose resigns, dissolves, withdraws from the state, forfeits its right to transact intrastate business, has its corporate rights, powers and privileges suspended, or ceases to exist, the corporation shall forthwith file a designation of a new agent conforming to the requirements of Section 12570.

12573. (a) Any corporation, before it may be designated as the agent for the purpose of service of process of a corporation pursuant to Section 12570, shall file a certificate executed in the name of the corporation by an officer thereof stating:

(1) The complete address of its office or offices in this state, wherein any corporation designating it as such agent may be served with process.

(2) The name of each person employed by it at each such office to whom it authorizes the delivery of a copy of any such process.

(3) Its consent that delivery thereof to any such person at the office where such person is employed shall constitute delivery of any such copy to it, as such agent.

(b) Any corporation which has filed the certificate provided for in subdivision (a) may file any number of supplemental certificates containing all the statements provided for in subdivision (a), which, upon the filing thereof, shall supersede the statements contained in the original or in any supplemental certificate previously filed.

(c) No corporation may file a certificate pursuant to this section unless it is currently authorized to engage in business in this state and is in good standing on the records of the Secretary of State.

12574. Upon request of an assessor, a corporation owning, claiming, possessing or controlling property in this state subject to local assessment shall make available at the corporation's principal office in California or at a place mutually acceptable to the assessor and the corporation a true copy of business records relevant to the amount, cost and value of all property that it owns, claims, possesses or controls within the county.

12575. Any officers, directors, employees or agents of a

corporation who do any of the following are liable jointly and severally for all the damages resulting therefrom to the corporation or any person injured thereby who relied thereupon or to both:

(a) Make, issue, deliver or publish any prospectus, report, circular, certificate, financial statement, balance sheet, public notice, or document respecting the corporation or its memberships, assets, liabilities, capital, dividends, distributions, patronage distributions, business, earnings, or accounts which is false in any material respect, knowing it to be false, or participate in the making, issuance, delivery, or publication thereof with knowledge that the same is false in a material respect.

(b) Make or cause to be made in the books, minutes, records, or accounts of a corporation any entry which is false in any material particular knowing such entry is false.

(c) Remove, erase, alter, or cancel any entry in any books or records of the corporation, with intent to deceive.

12576. The Attorney General, upon complaint of a member, director, or officer, that a corporation is failing to comply with the provisions of this chapter, Chapter 5 (commencing with Section 12460), Chapter 6 (commencing with Section 12480) or Chapter 13 (commencing with Section 12580) may, in the name of the people of the State of California, send to the principal office of such corporation, (or, if there is no such office, to the office or residence of the chief executive officer, general manager, or secretary, of the corporation, as set forth in the most recent statement filed pursuant to Section 12570) notice of the complaint. If the answer is not satisfactory, or if there is no answer within 30 days, the Attorney General may institute, maintain, or intervene in such suits, actions, or proceedings of any type in any court or tribunal of competent jurisdiction or before any administrative agency for such relief by way of injunction, the dissolution of entities, the appointment of receivers, or any other temporary, preliminary, provisional, or final remedies as may be appropriate to protect the rights of members or to undo the consequences of failure to comply with such requirements. In any such action, suit or proceeding there may be joined as parties all persons and entities responsible for or affected by such activity.

CHAPTER 13. RECORDS, REPORTS AND RIGHTS OF INSPECTION

Article 1. General Provisions

12580. If any record subject to inspection pursuant to this chapter is not maintained in written form, a request for inspection is not complied with unless and until the corporation at its expense makes such record available in written form.

12581. Any inspection under this chapter may be made in person or by agent or attorney and the right of inspection includes the right to copy and make extracts.

12582. Any right of inspection created by this chapter extends to the records of each subsidiary of a corporation.

12583. The rights of members provided in this chapter may not be limited by contract or the articles or bylaws.

Article 2. Required Records, Reports to Directors and Members

12590. (a) Each corporation shall keep:

(1) Adequate and correct books and records of account;

(2) Minutes of the proceedings of its members, board, and committees of the board; and

(3) A record of its members giving their names and addresses and the class of membership and number of membership units held by each.

(b) Minutes shall be kept in written form. Other books and records shall be kept either in written form or in any other form capable of being converted into written form.

12591. (a) A corporation shall notify each member yearly of the member's right to receive a financial report pursuant to this subdivision. Except as provided in subdivision (c), upon written request of a member the board shall promptly cause the most recent annual report to be sent to the requesting member. An annual report shall be prepared not later than 120 days after the close of the corporation's fiscal year. Such report shall contain in appropriate detail the following:

(1) A balance sheet as of the end of such fiscal year and an income statement and statement of changes in financial position for such fiscal year.

(2) A statement of the place where the names and addresses of the current members are located.

(3) Any information required by Section 12592.

(b) The report required by subdivision (a) shall be accompanied by any report thereon of independent accountants, or, if there is no such report, the certificate of an authorized officer of the corporation that such statements were prepared without audit from the books and records of the corporation.

(c) This section does not apply to corporations which do not have more than 25 members at any time during the fiscal year.

12592. (a) Any provision of the articles or bylaws notwithstanding, every corporation shall furnish annually to its members and directors a statement of any transaction or indemnification of a kind described in subdivision (d) or (e), if any such transaction or indemnification took place. If the corporation issues an annual report to all members, this subdivision shall be satisfied by including the required information in the annual report. A corporation which does not issue an annual report to all members, pursuant to subdivision (c) of Section 12591, shall satisfy this section by mailing or delivering to its members the required statement within 120 days after the close of the corporation's fiscal year.

(b) Except as provided in subdivision (c), a covered transaction under this section is a transaction in which the corporation, its parent, or its subsidiary was a party, and in which either of the following had a direct or indirect material financial interest:

(1) Any director or officer of the corporation, or its parent or subsidiary.

(2) Any holder of more than 10 percent of the voting power of the corporation, its parent or its subsidiary.

For the purpose of subdivision (d), an "interested person" is any person described in paragraph (1) or (2).

(c) Transactions approved by the members of a corporation, under subdivision (a) of Section 12373, are not covered transactions. For the purpose of subdivision (b), neither a mere common directorship nor a member-patron relationship on terms available to all members constitutes a material financial interest.

(d) The statement required by subdivision (a) shall describe briefly:

(1) Any covered transaction (excluding compensation of officers and directors) during the previous fiscal year involving more than ten thousand dollars ($10,000), or which was one of a number of covered transactions in which the same interested person had a direct or indirect material financial interest, and which transactions in the aggregate involved more than ten thousand dollars ($10,000).

(2) The names of the interested persons involved in such transactions, stating such person's relationship to the corporation, the nature of such person's interest in the transaction and, where practicable, the amount of such interest; provided, that in the case of a transaction with a partnership of which such person is a partner, only the interest of the partnership need be stated.

(e) The statement required by subdivision (a) shall describe briefly the amount and circumstances of any indemnifications or advances aggregating more than ten thousand dollars ($10,000) paid during the fiscal year to any officer or director of the corporation pursuant to Section 12377 provided that no such report need be made in the case of indemnification approved by the members under paragraph (2) of subdivision (e) of Section 12377.

12593. (a) The superior court of the proper county shall enforce the duty of making and mailing or delivering the information and financial statements required by this article and, for good cause shown, may extend the time therefor.

(b) In any action or proceeding under this section, if the court finds the failure of the corporation to comply with the requirements of this article to have been without justification, the court may award the member reasonable expenses, including attorneys' fees, in connection with such action or proceeding.

Article 3. Rights of Inspection

12600. (a) Subject to Sections 12601 and 12602 and unless the corporation provides a reasonable alternative pursuant to subdivision (c), a member may do either or both of the following as permitted by subdivision (b):

(1) Inspect and copy the record of all the members' names, addresses, and voting rights, at reasonable times, upon five business days' prior written demand upon the corporation which demand shall state the purpose for which the inspection rights are requested; or

(2) Obtain from the secretary of the corporation, upon written demand and tender of a reasonable charge, a list of the names, addresses, and voting rights of those members entitled to vote for the election of directors, as of the most recent record date for which it has been compiled or as of a date specified by the member subsequent to the date of demand. The demand shall state the purpose for which the list is requested. The membership list shall be made available on or before the later of 10 business days after the demand is received or after the date specified therein as the date as of which the list is to be compiled.

(b) The rights set forth in subdivision (a) may be exercised by:

(1) A member or members possessing 5 percent or more of the voting power for a purpose reasonably related to the members' interest as members. Where the corporation reasonably believes that the information will be used for another purpose, or where it provides a reasonable alternative pursuant to subdivision (c), it may deny the member access to the list. In any subsequent action brought by the member under Section 12606 the court shall enforce the rights set forth in subdivision (a) unless the corporation proves that the member will allow use of the information for purposes unrelated to the person's interest as a member or that the alternative method offered reasonably achieves the proper purpose set forth in the demand.

(c) The corporation may, within 10 business days after receiving a demand under subdivision (a), deliver to the person or persons making the demand a written offer of an alternative method of achieving the purpose identified in the demand without providing access to or a copy of the membership list. An alternative method which reasonably and in a timely manner accomplishes the proper purpose set forth in a demand made under subdivision (a) shall be deemed a reasonable alternative, unless within a reasonable time after acceptance of the offer the corporation fails to do those things which it offered to do. Any rejection of the offer shall be in writing and shall indicate the reasons the alternative proposed by the corporation does not meet the proper purpose of the demand made pursuant to subdivision (a).

12601. (a) Where the corporation, in good faith, and with a substantial basis, believes that the membership list, demanded by a

member or members under Section 12600, will be used for a purpose not reasonably related to the interests as members of the person or persons making the demand (hereinafter called the requesting parties) or provides a reasonable alternative pursuant to subdivision (c) of Section 12600 it may petition the superior court of the proper county for an order setting aside the demand.

(b) Except as provided in subdivision (c), a petition for an order to show cause why a protective order pursuant to subdivision (d) should not issue shall be filed within 10 business days after a demand by a member or members under Section 12600 or receipt of a written rejection by the member or members of an offer made pursuant to subdivision (c) of Section 12600 whichever is later. The petition shall be accompanied by an application for a hearing on the petition. Upon the filing of the petition, the court shall issue a protective order staying production of the list demanded until the hearing on the order to show cause. The court shall set the hearing on the order to show cause not more than 20 days from the date of the filing of the petition. The order to show cause shall be granted unless the court finds that there is no reasonable probability that the corporation will make the showing required under subdivision (f).

(c) A corporation may file a petition under this section more than 10 business days after the demand or rejection under Section 12600 but only upon a showing the delay was caused by excusable neglect. In no event, however, may any petition under this section be considered if filed more than 30 days after the requesting party's demand or rejection, whichever is later.

(d) Upon the return day of the order to show cause, the court may issue a protective order staying production of the list demanded until final adjudication of the petition filed pursuant to this section. No protective order shall issue under this subdivision unless the court finds that the rights of the requesting parties can reasonably be preserved and that the corporation is likely to make the showing required by subdivision (f) or the court is likely to issue a protective order pursuant to subdivision (g).

(e) If the corporation fails to file a petition within the time allowed by subdivision (b) or (c), whichever is applicable, or fails to obtain a protective order under subdivision (d), then the corporation shall comply with the demand, and no further action may be brought by the corporation under this section.

(f) The court shall issue the final order setting aside the demand only if the corporation proves:

(1) That there is a reasonable probability that the requesting parties will permit use of the membership list for a purpose unrelated to their interests as members; or

(2) That the method offered by the corporation is a reasonable alternative in that it reasonably achieves the proper purpose set forth in the requesting parties' demand and that the corporation intends and is able to effectuate the reasonable alternative.

(g) In the final order, the court may, in its discretion, order an

alternate mechanism for achieving the proper purposes of the requesting parties, or impose just and proper conditions upon the use of the membership list which reasonably assures compliance with Section 12600 and Section 12608.

(h) The court shall award reasonable costs and expenses including reasonable attorneys' fees, to requesting parties who successfully oppose any petition or application filed pursuant to this section.

(i) Where the corporation has neither, within the time allowed, complied with a demand by a member or members under Section 12600, nor obtained a protective order staying production of the list, or a final order setting aside the demand, which is then in effect, the requesting parties may petition the superior court of the proper county for a writ of mandamus pursuant to Section 1085 of the Code of Civil Procedure compelling the corporation to comply with the demand. At the hearing, the court shall hear the parties summarily, by affidavit or otherwise, and shall issue a peremptory writ of mandamus unless it appears that the demand was not made by a member or members possessing sufficient voting power, that the demand has been complied with, that the corporation, pursuant to subdivision (c) of Section 12600, made an offer which was not rejected in writing within a reasonable time, or that a protective or final order properly issued under subdivision (d), (f) or (g) is then in effect. No inquiry may be made in such proceeding into the use for which the list is sought.

The court shall award reasonable costs and expenses, including reasonable attorneys' fees, to persons granted an order under this subdivision.

(j) Nothing in this section shall be construed to limit the right of the corporation to obtain damages for any misuse of a membership list obtained under Section 12600, or otherwise, or to obtain injunctive relief necessary to restrain misuse of a member list. A corporation shall be entitled to recover reasonable costs and expenses, including reasonable attorneys' fees, incurred in successfully bringing any such action.

12602. (a) Upon petition of the corporation or any member, the superior court of the proper county may limit or restrict the rights set forth in Section 12600 where, and only where, such limitation or restriction is necessary to protect the rights of any member under the Constitution of the United States or the Constitution of the State of California. An order issued pursuant to this subdivision shall provide, insofar as possible, for alternative mechanisms by which the persons seeking to exercise rights under Section 12600 may communicate with members for purposes reasonably related to their interests as members.

(b) Upon the filing of a petition under subdivision (a), the court may, if requested by the person making the petition, issue a temporary order suspending the running of any time limit specified in Section 12600 for compliance with that section. Such an order may be extended, after notice and hearing, until final adjudication of the

petition, wherever it appears that the petitioner may prevail on the merits, and it is otherwise equitable to do so.

12603. The accounting books and records and minutes of proceedings of the members and the board and committees of the board shall be open to inspection upon the written demand on the corporation of any member at any reasonable time, for a purpose reasonably related to such person's interests as a member.

12604. Every director shall have the absolute right at any reasonable time to inspect and copy all books, records and documents of every kind and to inspect the physical properties of the corporation of which such person is a director.

12605. Where the proper purpose of the person or persons making a demand pursuant to Section 12600 is frustrated by (a) any delay by the corporation in complying with a demand under Section 12600 beyond the time limits specified therein, or (b) any delay caused by the filing of a petition under Section 12601 or Section 12602, or (c) any delay caused by the alternative proposed under subdivision (c) of Section 12600, the person or persons properly making the demand shall have, in the discretion of the court, a right to obtain from the superior court an order postponing any members' meeting previously noticed for a period equal to the period of such delay. The members may obtain such an order in a proceeding brought pursuant to Section 12601 upon the filing of a verified complaint in the proper county and after a hearing, notice of which shall be given to such persons and in such manner as the court may direct. Such right shall be in addition to any other legal or equitable remedies to which the member may be entitled.

12606. (a) Upon refusal of a lawful demand for inspection under this chapter, or a lawful demand pursuant to Section 12600 or Section 12603, the superior court of the proper county, or the county where the books or records in question are kept, may enforce the demand or right of inspection with just and proper conditions or may, for good cause shown, appoint one or more competent inspectors or independent accountants to audit the financial statements kept in this state and investigate the property, funds and affairs of any corporation and of any subsidiary corporation thereof, domestic or foreign, keeping records in this state and to report thereon in such manner as the court may direct.

(b) All officers and agents of the corporation shall produce to the inspectors or accountants so appointed all books and documents in their custody or power, under penalty of punishment for contempt of court.

(c) All expenses of the investigation or audit shall be defrayed by the applicant unless the court orders them to be paid or shared by the corporation.

12607. In any action or proceeding under this article, and except as required by Section 12601, if the court finds the failure of the corporation to comply with a proper demand thereunder was without justification, the court may award the member reasonable

costs and expenses, including reasonable attorneys' fees, in connection with such action or proceeding.

12608. (a) A membership list is a corporate asset. Without consent of the board a membership list or any part thereof may not be used by any person for any purpose unrelated to a member's interest as a member. Without limiting the generality of the foregoing, without the consent of the board a membership list or any part thereof may not be:

(1) Used to solicit money or property unless such money or property will be used solely to solicit the vote of the members in an election to be held by their corporation; or

(2) Used for any purpose which the user does not reasonably and in good faith believe will benefit the corporation; or

(3) Used for any commercial purpose or purpose in competition with the corporation; or

(4) Sold to or purchased by any person.

(b) Any person who violates the provisions of subdivision (a) shall be liable for any damage such violation causes the corporation and shall account for and pay to the corporation any profit derived as a result of said violation. In addition, a court in its discretion may award exemplary damages for a fraudulent or malicious violation of subdivision (a).

(c) Nothing in this article shall be construed to limit the right of a corporation to obtain injunctive relief necessary to restrain misuse of a membership list.

(d) In any action or proceeding under this section, a court may award the corporation reasonable costs and expenses, including reasonable attorneys' fees in connection with such action or proceeding.

(e) As used in this section, the term "membership list" means the record of all the members' names and addresses.

CHAPTER 14. SERVICE OF PROCESS

12610. Service of process upon a corporation shall be governed by Chapter 17 (commencing with Section 1700) of Division 1 of Title 1.

CHAPTER 15. INVOLUNTARY DISSOLUTION

12620. (a) A complaint for involuntary dissolution of a corporation on any one or more of the grounds specified in subdivision (b) may be filed in the superior court of the proper county by any of the following persons:

(1) One-half or more of the directors in office.

(2) A person or persons holding or authorized in writing by persons holding not less than 33⅓ percent of the voting power exclusive of memberships held by persons who have personally participated in any of the transactions enumerated in paragraph (5) of subdivision (b).

(3) Any member if the ground for dissolution is that the period for which the corporation was formed has terminated without extension thereof.

(4) Any other person expressly authorized to do so in the articles.

(b) The grounds for involuntary dissolution are that:

(1) The corporation has abandoned its activity for more than one year.

(2) The corporation has an even number of directors who are equally divided and cannot agree as to the management of its affairs, so that its activities can no longer be conducted to advantage or so that there is danger that its property will be impaired or lost or its activities impaired, and the members are so divided into factions that they cannot elect a board consisting of an uneven number.

(3) There is internal dissension and two or more factions of members in the corporation are so deadlocked that its activities can no longer be conducted with advantage.

(4) When during any four-year period or when all voting power has been exercised at two consecutive meetings or in two written ballots for the election of directors, whichever period is shorter, the members have failed to elect successors to directors whose terms have expired or would have expired upon election of their successors.

(5) Those in control of the corporation have been guilty of or have knowingly countenanced persistent and pervasive fraud, mismanagement or abuse of authority or persistent unfairness toward any member or the corporation's property is being misapplied or wasted by its directors or officers.

(6) The period for which the corporation was formed has terminated without extension of such period.

(c) At any time prior to the trial of the action any member or creditor may intervene therein.

(d) This section does not apply to any corporation subject to:

(1) The Public Utilities Act (Part 1 (commencing with Section 201) of Division 1 of the Public Utilities Code) unless an order is obtained from the Public Utilities Commission authorizing the corporation either (a) to dispose of its assets as provided in Section 851 of the Public Utilities Code or (b) to dissolve.

(2) The provisions of Article 14 (commencing with Section 1010) of Chapter 1 of Part 2 of Division 1 of the Insurance Code when the application authorized by Section 1011 of the Insurance Code has been filed by the Insurance Commissioner unless the consent of the Insurance Commissioner has been obtained.

12621. (a) The Attorney General may bring an action against any corporation or purported corporation in the name of the people of this state, upon the Attorney General's own information or upon complaint of a private party, to procure a judgment dissolving the corporation and annulling, vacating or forfeiting its corporate existence upon any of the following grounds:

(1) The corporation has seriously offended against any provision

of the statutes regulating corporations.

(2) The corporation has fraudulently abused or usurped corporate privileges or powers.

(3) The corporation has violated any provision of law by any act or default which under the law is a ground for forfeiture of corporate existence.

(4) The corporation has failed to pay to the Franchise Tax Board for a period of five years any tax imposed upon it by the Bank and Corporation Tax Law.

(b) If the ground of the action is a matter or act which the corporation has done or omitted to do that can be corrected by amendment of its articles or by other corporate action, such suit shall not be maintained unless (1) the Attorney General, at least 30 days prior to the institution of suit, has given the corporation written notice of the matter or act done or omitted to be done; and (2) the corporation has failed to institute proceedings to correct it within the 30-day period or thereafter fails to duly and properly make such amendment or take the corrective corporate action.

(c) In any such action the court may order dissolution or such other or partial relief as it deems just and expedient. The court also may appoint a receiver for winding up the affairs of the corporation or may order that the corporation be wound up by its board subject to the supervision of the court.

(d) Service of process on the corporation may be made pursuant to Chapter 17 (commencing with Section 1700) of Division 1 or by written notice to the president or secretary of the corporation at the address indicated in the corporation's last tax return filed pursuant to the Bank and Corporation Tax Law. The Attorney General shall also publish one time in a newspaper of general circulation in the proper county a notice to the members of the corporation.

12622. If the ground for the complaint for involuntary dissolution of the corporation is a deadlock in the board as set forth in paragraph (2) of subdivision (b) of Section 12620 the court may appoint a provisional director. The provisions of subdivision (d) of Section 12365 apply to any such provisional director so appointed.

12623. If, at the time of the filing of a complaint for involuntary dissolution or at any time thereafter, the court has reasonable grounds to believe that unless a receiver of the corporation is appointed the interests of the corporation or its members will suffer pending the hearing and determination of the complaint, upon the application of the plaintiff, and after a hearing upon such notice to the corporation as the court may direct and upon the giving of security pursuant to Sections 566 and 567 of the Code of Civil Procedure (except that the Attorney General shall not be required to give security), the court may appoint a receiver to take over and manage the affairs of the corporation and to preserve its property pending the hearing and determination of the complaint for dissolution.

12624. After hearing the court may decree a winding up and

dissolution of the corporation if cause therefor is shown or, with or without winding up and dissolution, may make such orders and decrees and issue such injunctions in the case as justice and equity require.

12625. (a) Involuntary proceedings for winding up a corporation commence when the order for winding up is entered under Section 12624.

(b) When an involuntary proceeding for winding up has commenced, the board shall conduct the winding up of the affairs of the corporation, subject to the supervision of the court, unless other persons are appointed by the court, on good cause shown, to conduct the winding up. The directors or such other persons may, subject to any restrictions imposed by the court, exercise all their powers through the executive officers without any order of court.

(c) When an involuntary proceeding for winding up has commenced, the corporation shall cease to conduct its activities except to the extent necessary for the beneficial winding up thereof and except during such period as the board may deem necessary to preserve the corporation's goodwill or going-concern value, pending a sale or other disposition of its assets, or both, in whole or in part. The directors shall cause written notice of the commencement of the proceeding for involuntary winding up to be given by mail to all members and to all known creditors and claimants whose addresses appear on the records of the corporation, unless the order for winding up has been stayed by appeal therefrom or otherwise or the proceeding or the execution of the order has been enjoined.

12626. When an involuntary proceeding for winding up has been commenced, the jurisdiction of the court includes:

(a) The requirement of the proof of all claims and demands against the corporation, whether due or not yet due, contingent, unliquidated, or sounding only in damages, and the barring from participation of creditors and claimants failing to make and present claims and proof as required by any order.

(b) The determination or compromise of all claims of every nature against the corporation or any of its property, and the determination of the amount of money or assets required to be retained to pay or provide for the payment of claims.

(c) The determination of the rights of members and of all classes of members in and to the assets of the corporation.

(d) The presentation and filing of intermediate and final accounts of the directors or other persons appointed to conduct the winding up and hearing thereon, the allowance, disallowance, or settlement thereof, and the discharge of the directors or such other persons from their duties and liabilities.

(e) The appointment of a commissioner to hear and determine any or all matters, with such power or authority as the court may deem proper.

(f) The filing of any vacancies on the board which the directors or the members are unable to fill.

(g) The removal of any director if it appears that the director has been guilty of dishonesty, misconduct, neglect, or breach of trust in conducting the winding up or if the director is unable to act. The court may order an election to fill the vacancy so caused, and may enjoin, for such time as it considers proper, the reelection of the director so removed; or the court, in lieu of ordering an election, may appoint a director to fill the vacancy caused by such removal. Any director so appointed by the court shall serve until the next regular meeting of members or until a successor is elected or appointed.

(h) The staying of the prosecution of any suit, proceeding, or action against the corporation and requiring the parties to present and prove their claims in the manner required of other creditors.

(i) The determination of whether adequate provision has been made for payment or satisfaction of all debts and liabilities not actually paid.

(j) The making of orders for the withdrawal or termination of proceedings, to wind up and dissolve, subject to conditions for the protection of members and creditors.

(k) The making of an order, upon the allowance or settlement of the final accounts of the directors or such other persons, that the corporation has been duly wound up and is dissolved. Upon the making of such order, the corporate existence shall cease except for purposes of further winding up if needed.

(*l*) The making of orders for the bringing in of new parties as the court deems proper for the determination of all questions and matters.

(m) The disposition of assets held in charitable trust.

12627. (a) All creditors and claimants may be barred from participation in any distribution of the general assets if they fail to make and present claims and proofs within such time as the court may direct, which shall not be less than four nor more than six months after the first publication of notice to creditors unless it appears by affidavit that there are no claims, in which case the time limit may be three months. If it is shown that a claimant did not receive notice because of absence from the state or other cause, the court may allow a claim to be filed or presented at any time before distribution is completed.

(b) Such notice to creditors shall be published not less than once a week for three consecutive weeks in a newspaper of general circulation published in the county in which the proceeding is pending or, if there is no such newspaper published in that county, in such newspaper as may be designated by the court, directing creditors and claimants to make and present claims and proofs to the person, at the place and within the time specified in the notice. A copy of the notice shall be mailed to each person shown as a creditor or claimant on the books of the corporation, at such person's last known address.

(c) Holders of secured claims may prove for the whole debt in order to realize any deficiency. If such creditors fail to present their

claims they shall be barred only as to any right to claim against the general assets for any deficiency in the amount realized on their security.

(d) Before any distribution is made the amount of any unmatured, contingent or disputed claim against the corporation which has been presented and has not been disallowed, or such part of any such claim as the holder would be entitled to if the claim were due, established, or absolute, shall be paid into court and there remain to be paid over to the party when the party becomes entitled thereto or, if the party fails to establish a claim, to be paid over or distributed with the other assets of the corporation to those entitled thereto; or such other provision for the full payment of such claim, if and when established, shall be made as the court may deem adequate. A creditor whose claim has been allowed but is not yet due shall be entitled to its present value upon distribution.

(e) Suits against the corporation on claims which have been rejected shall be commenced within 30 days after written notice of rejection thereof is given to the claimant.

12628. (a) Upon the final settlement of the accounts of the directors or other persons appointed pursuant to Section 12625 and the determination that the corporation's affairs are in condition for it to be dissolved, the court may make an order declaring the corporation duly wound up and dissolved. The order shall declare:

(1) That the corporation has been duly wound up, that any tax or penalty due under the Bank and Corporation Tax Law has been paid or secured and that its other known debts and liabilities have been paid or adequately provided for, or that such taxes, penalties, debts and liabilities have been paid as far as its assets permitted, as the case may be. If there are known debts or liabilities for payment of which adequate provision has been made, the order shall state what provision has been made, setting forth the name and address of the corporation, person, or governmental agency that has assumed or guaranteed the payment, or the name and address of the depositary with which deposit has been made or such other information as may be necessary to enable the creditor or other person to whom payment is to be made to appear and claim payment of the debt or liability.

(2) That its known assets have been distributed to the persons entitled thereto or that it acquired no known assets, as the case may be.

(3) That the accounts of directors or such other persons have been settled and that they are discharged from their duties and liabilities to creditors and members.

(4) That the corporation is dissolved.

(b) The court may make such additional orders and grant such further relief as it deems proper upon the evidence submitted.

(c) Upon the making of the order declaring the corporation dissolved, corporate existence shall cease except for the purposes of further winding up if needed; and the directors or such other persons

shall be discharged from their duties and liabilities, except in respect to completion of the winding up.

12629. Whenever a corporation is dissolved or its existence forfeited by order, decree, or judgment of a court, a copy of the order, decree or judgment, certified by the clerk of court, shall forthwith be filed. Notwithstanding Section 23334 of the Revenue and Taxation Code, when the order is based on an action for involuntary dissolution brought by the Attorney General pursuant to Section 12621, there need not be filed the certificate of satisfaction of the Franchise Tax Board that all taxes have been paid or secured.

CHAPTER 16. VOLUNTARY DISSOLUTION

12630. (a) Any corporation may elect voluntarily to wind up and dissolve (1) by approval of a majority of all members (Section 12223) or (2) by approval of the board and approval of the members (Section 12224).

(b) Any corporation which comes within one of the following descriptions may elect by approval of the board to wind up and dissolve:

(1) A corporation which has been adjudicated as bankrupt.

(2) A corporation which has disposed of all of its assets and has not conducted any activity for a period of five years immediately preceding the adoption of the resolution electing to dissolve the corporation.

(3) A corporation which has no members.

12631. (a) Whenever a corporation has elected to wind up and dissolve a certificate evidencing such election shall forthwith be filed.

(b) The certificate shall be an officers certificate or shall be signed and verified by at least a majority of the directors then in office or by one or more members authorized to do so by approval of a majority of all members (Section 12223) and shall set forth:

(1) That the corporation has elected to wind up and dissolve.

(2) If the election was made by the vote of members alone, the number of votes for the election and that the election was made by persons holding at least a majority of the voting power.

(3) If the certificate is executed by a member or members that the subscribing person or persons were authorized to execute the certificate by persons representing at least a majority of the voting power.

(4) If the election was made by the board pursuant to subdivision (b) of Section 12630, the certificate shall also set forth the circumstances showing the corporation to be within one of the categories described in such subdivision.

12632. (a) A voluntary election to wind up and dissolve may be revoked prior to distribution of any assets: (1) if the election was made pursuant to paragraph (1) of subdivision (a) of Section 12630, by the approval of a majority of all members; (2) if the election was

made pursuant to paragraph (2) of subdivision (a) of Section 12630, by approval of the board and approval of the members; or (3) if the election was by the board pursuant to subdivision (b) of Section 12630, by approval of the board. Thereupon a certificate evidencing the revocation shall be signed, verified and filed in the manner prescribed by Section 12631.

(b) The certificate shall set forth:

(1) That the corporation has revoked its election to wind up and dissolve.

(2) That no assets have been distributed pursuant to the election.

(3) If the revocation was made by the vote of members alone, the number of votes for the revocation and that the revocation was made by persons representing at least a majority of the voting power.

(4) If the revocation was made by the approval of the board and the approval of the members, the certificate shall so state.

(5) If the revocation was made by the board alone, the certificate shall so state.

12633. (a) Voluntary proceedings for winding up the corporation commence upon the adoption of the resolution required by Section 12630 by the members or by the board, electing to wind up and dissolve.

(b) When a voluntary proceeding for winding up has commenced, the board shall continue to act as a board and shall have full powers to wind up and settle its affairs, both before and after the filing of the certificate of dissolution.

(c) When a voluntary proceeding for winding up has commenced, the corporation shall cease to conduct its activities except to the extent necessary for the beneficial winding up thereof, to the extent necessary to carry out its purposes, and except during such period as the board may deem necessary to preserve the corporation's goodwill or going-concern value pending a sale or other disposition of its assets, or both, in whole or in part. The board shall cause written notice of the commencement of the proceeding for voluntary winding up to be given by mail to all its members (except no notice need be given to the members who voted in favor of winding up and dissolving the corporation), to all known creditors, and claimants whose addresses appear on the records of the corporation.

12634. If a corporation is in the process of voluntary winding up, the superior court of the proper county, upon the petition of (a) the corporation, or (b) a member or members possessing 5 percent or more of the voting power, or (c) three or more creditors, and upon such notice to the corporation and to other persons interested in the corporation as members and creditors as the court may order, may take jurisdiction over such voluntary winding up proceeding if that appears necessary for the protection of any parties in interest. The court, if it assumes jurisdiction, may make such orders as to any and all matters concerning the winding up of the affairs of the corporation and the protection of its members and creditors as justice and equity may require. The provisions of Chapter 15

(commencing with Section 12620) (except Sections 12620 and 12621) shall apply to such court proceedings.

12635. (a) When a corporation has been completely wound up without court proceedings therefor, a majority of the directors then in office shall sign and verify a certificate of dissolution stating:

(1) That the corporation has been completely wound up.

(2) That its known debts and liabilities have been actually paid, or adequately provided for, or paid or adequately provided for as far as its assets permitted, or that it has incurred no known debts or liabilities, as the case may be. If there are known debts or liabilities for payment of which adequate provision has been made, the certificate shall state what provision has been made, setting forth the name and address of the corporation, person or governmental agency that has assumed or guaranteed the payment, or the name and address of the depositary with which deposit has been made or such other information as may be necessary to enable the creditor or other person to whom payment is to be made to appear and claim payment of the debt or liability.

(3) That its known assets have been distributed to the persons entitled thereto or that it acquired no known assets, as the case may be.

(4) That the corporation is dissolved.

(b) The certificate of dissolution shall be filed and thereupon the corporate existence shall cease, except for the purpose of further winding up if needed. However, before any corporation may file a certificate of dissolution it shall file or cause to be filed the certificate of satisfaction of the Franchise Tax Board required by Section 23334 of the Revenue and Taxation Code that all taxes, if any, imposed under the Bank and Corporation Tax Law have been paid or secured.

12636. Except as otherwise provided by law, if the term of existence for which any corporation was organized expires without renewal or extension thereof, the board shall terminate its activities and wind up its affairs; and when the affairs of the corporation have been wound up a majority of the directors shall execute and file a certificate conforming to the requirements of Section 12635.

12637. (a) The board, in lieu of filing the certificate of dissolution, may petition the superior court of the proper county for an order declaring the corporation duly wound up and dissolved. Such petition shall be filed in the name of the corporation.

(b) Upon the filing of the petition, the court shall make an order requiring all interested persons to show cause why an order shall not be made declaring the corporation duly wound up and dissolved and shall direct that the order be served by notice to all creditors, claimants, and members in the same manner as the notice given under subdivision (b) of Section 12627.

(c) Any person claiming to be interested as member, creditor, or otherwise may appear in the proceeding at any time before the expiration of 30 days from the completion of publication of the order to show cause and contest the petition, and upon failure to appear

such person's claim shall be barred.

(d) Thereafter an order shall be entered and filed and have the effect as prescribed in Sections 12628 and 12629.

CHAPTER 17. GENERAL PROVISIONS RELATING TO DISSOLUTION

12650. The powers and duties of the directors (or other persons appointed by the court pursuant to Section 12625) and officers after commencement of a dissolution proceeding include, but are not limited to, the following acts in the name and on behalf of the corporation:

(a) To elect officers and to employ agents and attorneys to liquidate or wind up its affairs.

(b) To continue the conduct of the affairs of the corporation insofar as necessary for the disposal or winding up thereof.

(c) To carry out contracts and collect, pay, compromise, and settle debts and claims for or against the corporation.

(d) To defend suits brought against the corporation.

(e) To sue, in the name of the corporation, for all sums due or owing to the corporation or to recover any of its property.

(f) To collect any amounts remaining unpaid on memberships or to recover unlawful distributions.

(g) To sell at public or private sale, exchange, convey, or otherwise dispose of all or any part of the assets of the corporation for an amount deemed reasonable by the board without compliance with the provisions of Section 12521, and to execute bills of sale and deeds of conveyance in the name of the corporation.

(h) In general, to make contracts and to do any and all things in the name of the corporation which may be proper or convenient for the purposes of winding up, settling, and liquidating the affairs of the corporation.

12651. A vacancy on the board may be filled during a winding up proceeding in the manner provided in Section 12364.

12652. When the identity of the directors or their right to hold office is in doubt, or if they are dead or unable to act, or they fail or refuse to act or their whereabouts cannot be ascertained, any interested person may petition the superior court of the proper county to determine the identity of the directors or, if there are no directors, to appoint directors to wind up the affairs of the corporation, after hearing upon such notice to such persons as the court may direct.

12653. (a) After determining that all the known debts and liabilities of a corporation in the process of winding up have been paid or adequately provided for, the board shall distribute all the remaining corporate assets in the manner provided in Sections 12655 and 12656.

(b) If the winding up is by court proceeding or subject to court supervision, the distribution shall not be made until after the expiration of any period for the presentation of claims that has been

prescribed by order of the court.

(c) Anything to the contrary notwithstanding, assets, if any, which are not subject to attachment, execution or sale for the corporation's debts and liabilities may be distributed pursuant to Sections 12655 and 12656 even though all debts and liabilities have not been paid or adequately provided for.

12654. The payment of a debt or liability, whether the whereabouts of the creditor is known or unknown, has been adequately provided for if the payment has been provided for by either of the following means:

(a) Payment thereof has been assumed or guaranteed in good faith by one or more financially responsible persons or by the United States government or any agency thereof, and the provision (including the financial responsibility of such persons) was determined in good faith and with reasonable care by the board to be adequate at the time of any distribution of the assets by the board pursuant to this chapter.

(b) The amount of the debt or liability has been deposited as provided in Section 12659.

This section does not prescribe the exclusive means of making adequate provision for debts and liabilities.

12655. After complying with the provisions of Section 12653 assets held by a corporation upon a valid condition requiring return, transfer, or conveyance, which condition has occurred or will occur, shall be returned, transferred, or conveyed in accordance with the condition.

12656. After complying with the provisions of Section 12653 and except as otherwise provided in Section 12655, assets held by a corporation shall be disposed of on dissolution as follows:

(a) If the articles or bylaws provide the manner of disposition, the assets shall be disposed of in that manner.

(b) If the articles or bylaws do not provide the manner of disposition, the assets shall be distributed among the members in accordance with their respective rights therein.

12657. Distribution may be made either in money or in property or securities and either in installments from time to time or as a whole, if this can be done fairly and ratably and in conformity with the provisions of the articles and bylaws and shall be made as soon as reasonably consistent with the beneficial liquidation of the corporation assets.

12658. (a) If a corporation in process of winding up has more than one class of memberships outstanding, a plan of distribution of the memberships, obligations, or securities of any other corporation, domestic or foreign, or assets other than money which is not in accordance with the liquidation rights of any class or classes as specified in the articles or bylaws may nevertheless be adopted if approved by (1) the board and (2) by approval by the members (Section 12224) of each class. The plan may provide that such distribution is in complete or partial satisfaction of the rights of any

of such members upon distribution and liquidation of the assets.

(b) A plan of distribution so approved shall be binding upon all the members. The board shall cause notice of the adoption of the plan to be given by mail within 20 days after its adoption to all holders of memberships having a liquidation preference.

12659. (a) If any members, creditors, or other persons are unknown or fail or refuse to accept their payment or distribution in cash or property or their whereabouts cannot be ascertained after diligent inquiry, or the existence or amount of a claim of a creditor, member, or other person is contingent, contested, or not determined, or if the ownership of any memberships is in dispute, the corporation may deposit any such payment, distribution or the maximum amount of such claim with the State Treasurer or with a bank or trust company in this state in trust for the benefit of those lawfully entitled thereto. Such payment or distribution shall be paid over by the depositary to the lawful owners, their representatives or assigns, upon satisfactory proof of title.

(b) For the purpose of providing for the transmittal, receipt, accounting for, claiming, management, and investment of all money or other property deposited in the State Treasury under the provisions of subdivision (a), such money or other property shall be deemed to be paid or delivered for deposit in the State Treasury under the provisions of Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the Code of Civil Procedure, and may be recovered, in the manner prescribed therein.

12660. (a) Whenever in the process of winding up a corporation any distribution of assets has been made, otherwise than under an order of court, without prior payment or adequate provision for payment of any of the debts and liabilities of the corporation, any amount so improperly distributed to any person may be recovered by the corporation. Any of such persons may be joined as defendants in the same action or be brought in on the motion of any other defendant.

(b) Suit may be brought in the name of the corporation to enforce the liability under subdivision (a) against any or all persons receiving the distribution by any one or more creditors of the corporation, whether or not they have reduced their claims to judgment.

(c) Members who satisfy any liability under this section shall have the right of ratable contribution from other distributees similarly liable. Any member who has been compelled to return to the corporation more than the member's ratable share of the amount needed to pay the debts and liabilities of the corporation may require that the corporation recover from any or all of the other distributees such proportion of the amounts received by them upon the improper distribution as to give contribution to those held liable under this section and make the distribution of the assets fair and ratable, according to the respective rights and preferences of the memberships, after payment or adequate provision for payment of all the debts and liabilities of the corporation.

(d) As used in this section, "process of winding up" includes proceedings under Chapters 15 (commencing with Section 12630) and 16 (commencing with Section 12630) and also any other distribution of assets to persons made in contemplation of termination or abandonment of the corporate business.

12661. (a) A corporation which is dissolved nevertheless continues to exist for the purpose of winding up its affairs, prosecuting and defending actions by or against it, and enabling it to collect and discharge obligations, dispose of and convey its property and collect, and divide its assets, but not for the purpose of continuing its activities except so far as necessary for the winding up thereof.

(b) No action or proceeding to which a corporation is a party abates by the dissolution of the corporation or by reason of proceedings for winding up and dissolution thereof.

(c) Any assets inadvertently or otherwise omitted from the winding up continue in the dissolved corporation for the benefit of the persons entitled thereto upon dissolution of the corporation and on realization shall be distributed accordingly.

12662. (a) In all cases where a corporation has been dissolved, any person to whom assets were distributed upon dissolution may be sued in the corporate name upon any cause of action against the corporation arising prior to its dissolution. This section is procedural in nature and is not intended to determine liability.

(b) Summons or other process against such a corporation may be served by delivering a copy thereof to an officer, director or person having charge of its assets or, if no such person can be found, to any agent upon whom process might be served at the time of dissolution. If none of such persons can be found with due diligence and it is so shown by affidavit to the satisfaction of the court, then the court may make an order that summons or other process be served upon the dissolved corporation by personally delivering a copy thereof, together with a copy of the order, to the Secretary of State or an assistant or deputy secretary of state.

(c) Every such corporation shall survive and continue to exist indefinitely for the purpose of being sued in any quiet title action. Any judgment rendered in any such action shall bind each and all of its members or other persons having any equity or other interest in such corporation, to the extent of their interest therein, and such action shall have the same force and effect as an action brought under the provisions of Sections 410.50 and 410.60 of the Code of Civil Procedure. Service of summons or other process in any such action may be made as provided in Chapter 4 (commencing with Section 413.10) of Title 5 of Part 2 of the Code of Civil Procedure or as provided in subdivision (b).

(d) Upon receipt of such process and the fee therefor, the Secretary of State forthwith shall give notice to the corporation as provided in Section 1702.

12663. Without the approval of 100 percent of the members, any

contrary provision in this part or the articles or bylaws notwithstanding, so long as there is any lot, parcel, area, apartment or unit for which an owners association (as defined in Section 11003.1 of the Business and Professions Code and created in connection with any of the forms of development referred to in Section 11004.5 of the Business and Professions Code) is obligated to provide management, maintenance, preservation or control:

(a) The owners association or any person acting on its behalf shall not:

(1) Transfer all or substantially all of its assets; or

(2) File a certificate of dissolution; and

(b) No court shall enter an order declaring the owners association duly wound up and dissolved.

CHAPTER 18. CRIMES AND PENALTIES

12670. (a) Upon the failure of a corporation to file the statement required by Section 12570, the Secretary of State shall mail a notice of such delinquency to the corporation. The notice shall also contain information concerning the application of this section, and advise the corporation of the penalty imposed by Section 25936 of the Revenue and Taxation Code for failure to timely file the required statement after notice of delinquency has been mailed by the Secretary of State. If, within 60 days after the mailing of the notice of delinquency, a statement pursuant to Section 12570 has not been filed by the corporation, the Secretary of State may pursuant to regulation certify the name of such corporation to the Franchise Tax Board.

(b) Upon certification pursuant to subdivision (a), the Franchise Tax Board shall assess against the corporation a penalty of fifty dollars ($50) pursuant to Section 25936 of the Revenue and Taxation Code.

(c) The penalty herein provided shall not apply to a corporation which on or prior to the date of certification pursuant to subdivision (a) has dissolved or has been merged into another corporation.

(d) The penalty herein provided shall not apply and the Secretary of State need not mail a notice of delinquency to a corporation the corporate powers, rights and privileges of which have been suspended by the Franchise Tax Board pursuant to Section 23301, 23301.5, or 23775 of the Revenue and Taxation Code on or prior to, and remain suspended on, the last day of the filing period pursuant to Section 12570. The Secretary of State need not mail a form pursuant to Section 12570, to a corporation the corporate powers, rights and privileges of which have been so suspended by the Franchise Tax Board on or prior to, and remain suspended on, the day the Secretary of State prepares the forms for mailing.

(e) If, after certification pursuant to subdivision (a) the Secretary of State finds the required statement was filed before the expiration of the 60-day period after mailing of the notice of delinquency, the Secretary of State shall promptly decertify the name of the corporation to the Franchise Tax Board. The Franchise Tax Board

shall then promptly abate any penalty assessed against the corporation pursuant to Section 25936 of the Revenue and Taxation Code.

12671. Any promoter, director, or officer of a corporation who knowingly and willfully issues or consents to the issuance of memberships or membership certificates with intent to defraud present or future members or creditors is guilty of a misdemeanor punishable by a fine of not more than one thousand dollars ($1,000) or by imprisonment in county jail for not more than one year or by both such fine and imprisonment.

12672. Any director of any corporation who concurs in any vote or act of the directors of the corporation or any of them, knowingly and with dishonest or fraudulent purpose, to make any distribution of assets, except in the case and in the manner allowed by this part, either with the design of defrauding creditors or members or of giving a false appearance to the value of the membership and thereby defrauding purchasers is guilty of a crime. Each such crime is punishable by imprisonment in a state prison, or by a fine of not more than one thousand dollars ($1,000) or imprisonment in county jail for not more than one year, or by both such fine and imprisonment.

12673. (a) Every director or officer of any corporation is guilty of a crime if such director or officer knowingly concurs in making or publishing, either generally or privately, to members or other persons (1) any materially false report or statement as to the financial condition of the corporation, or (2) any willfully or fraudulently exaggerated report, prospectus, account, or statement of operations, financial condition, or prospects, or (3) any other paper intended to give, and having a tendency to give, a membership in such corporation a greater or lesser value than it really possesses.

(b) Every director or officer of any corporation is guilty of a crime who refuses to make or direct to be made any book entry or the posting of any notice required by law in the manner required by law.

(c) A violation of subdivision (a) or (b) of this section shall be punishable by imprisonment in state prison or by a fine of not more than one thousand dollars ($1,000) or imprisonment in the county jail for not more than one year or both such fine and imprisonment.

12674. (a) Every director, officer or agent of any corporation, who knowingly receives or acquires possession of any property of the corporation, otherwise than in payment of a just demand, and, with intent to defraud, omits to make, or to cause or direct to be made, a full and true entry thereof in the books or accounts of the corporation is guilty of a crime.

(b) Every director, officer, agent or member of any corporation who, with intent to defraud, destroys, alters, mutilates or falsifies any of the books, papers, writings, or securities belonging to the corporation or makes or concurs in omitting to make any material entry in any book of accounts or other record or document kept by

the corporation is guilty of a crime.

(c) Each crime specified in this section is punishable by imprisonment in state prison, or by imprisonment in a county jail for not exceeding one year, or a fine not exceeding one thousand dollars ($1,000), or both such fine and imprisonment.

12675. Every director, officer or agent of any corporation, or any person proposing to organize such a corporation who knowingly exhibits any false, forged, or altered book, paper, voucher, security, or other instrument of evidence to any public officer or board authorized by law to examine the organization of such corporation or to investigate its affairs, with intent to deceive such officer or board in respect thereto, is punishable by imprisonment in a state prison, or by imprisonment in a county jail for not exceeding one year.

12676. Every person who, without being authorized so to do, subscribes the name of another to or inserts the name of another in any prospectus, circular or other advertisement or announcement of any corporation, whether existing or intended to be formed, with intent to permit the document to be published and thereby to lead persons to believe that the person whose name is so subscribed is an officer, agent or promoter of such corporation, when in fact no such relationship exists to the knowledge of such person, is guilty of a misdemeanor.

12677. Nothing in this chapter limits the power of the state to punish any person for any conduct which constitutes a crime under any other statute.

12678. Any person may be enjoined from violating the provisions of Section 12311. Any corporation may be enjoined from carrying on business outside of the purpose for which it was formed.

12679. Any person violating Section 12311, and any corporation carrying on business outside the purpose for which it was formed, is guilty of a misdemeanor punishable by a fine of five hundred dollars ($500), or by imprisonment for not more than one year, or by both such fine and imprisonment.

CHAPTER 19. FOREIGN CORPORATIONS

12680. Foreign corporations transacting intrastate business shall comply with Chapter 21 (commencing with Section 2100) of the General Corporation Law, except as to matters specifically otherwise provided for in this part and except that Sections 2108 and 2115 shall not be applicable.

CHAPTER 20. TRANSITION PROVISIONS

12690. As used in Sections 12690 to 12704, inclusive, of this part:

(a) "New law" means Part 2 (commencing with Section 12200) of Division 3 of Title 1 of the Corporations Code enacted by the California Legislature during the 1981–82 Regular Session and

operative January 1, 1984.

(b) "Prior law" means Part 2 (commencing with Section 12220) of Division 3 of Title 1 of the Corporations Code in effect on December 31, 1983.

(c) "Subject corporation" means any corporation described in subdivision (a) of Section 12202 and subject to the prior law.

12691. (a) The new law shall apply to all corporations which are incorporated on or after January 1, 1984, under Part 2 (commencing with Section 12200) of this division or which are expressly governed by Part 2 pursuant to a particular provision of this division or other specific statutory provision.

(b) Except as otherwise expressly provided in this chapter, the new law shall apply to all subject corporations and to all actions taken by the directors, officers, or members of such corporations, on or after January 1, 1984.

(c) Except as otherwise expressly provided in this chapter, all of the sections of the new law governing acts, contracts, or other transactions by a subject corporation or its directors, officers, or members, shall apply only to the acts, contracts, or transactions occurring on or after January 1, 1984, and the prior law shall govern acts, contracts, or transactions occurring before January 1, 1984.

(d) Except as otherwise expressly provided in this chapter, any vote or consent by the directors or members of a subject corporation prior to January 1, 1984, in accordance with the prior law, shall be effective in accordance with that law. If any certificate or document is required to be filed in any public office of this state relating to such vote or consent, it may be filed on or after January 1, 1984, in accordance with the prior law.

12692. (a) The provisions of Sections 12310 and 12313 of the new law relating to the contents of articles of incorporation do not apply to subject corporations unless and until an amendment of the articles is filed stating that the corporation elects to be governed by all of the provisions of the new law not otherwise applicable to it under this chapter.

(b) The amendment described in subdivision (a) may be adopted by the board alone, except that if such amendment makes any change in the articles other than conforming the statement of purposes of the subject corporation to Section 12310, deleting any references to the location of its principal office, deleting any statement of par value or any statement regarding the number of directors, or conforming any such statement to Section 12331 (subject to Section 12694), the amendment shall also be approved by the members (Section 12224) if such approval is otherwise required for the changes made.

(c) The amendment shall not name the corporation's initial agent for service of process if a report required by Section 12570 has been filed.

12693. Section 12320 of the new law shall apply to subject corporations, but any statement in the articles of these corporations

prior to an amendment thereof pursuant to Section 12692, relating to the powers of the corporation, shall not be construed as a limitation unless it is expressly stated as such.

12694. Subdivision (a) of Section 12353 of the new law shall apply to subject corporations, but the treasurer of these corporations shall be deemed to be the chief financial officer.

12695. Section 12377 governs any proposed indemnification by a subject corporation after January 1, 1984, whether the events upon which the indemnification is based occurred before or after January 1, 1984. Any statement relating to indemnification contained in the articles or bylaws of a subject corporation shall not be construed as limiting the indemnification permitted by Section 12377, unless it is expressly stated as so intended.

12696. (a) The provisions of Chapter 5 (commencing with Section 12460) and Chapter 6 (commencing with Section 12480) of the new law shall apply to any meeting of members of a subject corporation, held on or after January 1, 1984, and to any action by such members pursuant to a written ballot, which becomes effective on or after January 1, 1984, and to any vote cast at such a meeting or ballot, given for such action, whether or not a ballot was executed by the member prior to January 1, 1984.

(b) Notwithstanding subdivision (a), the prior law shall apply to any meeting of members and to any vote cast at such a meeting if the meeting was initially called for a date prior to January 1, 1984, and notice thereof was given to members entitled to vote at the meeting.

12697. Section 12490 of the new law shall apply to actions commenced on or after January 1, 1984, with respect to a subject corporation. The prior law shall govern actions which are commenced prior to January 1, 1984, but are still pending on January 1, 1984.

12698. Chapter 9 (commencing with Section 12520) and Chapter 10 (commencing with Section 12530) of the new law shall apply to transactions consummated by a subject corporation on or after January 1, 1984, unless the approval required by the prior law has been given prior to January 1, 1984, or has been given on or after January 1, 1984, at a meeting of members initially called for a date prior to January 1, 1984, in which case the transaction shall be governed by the prior law.

12699. Chapter 15 (commencing with Section 12620) and Chapter 17 (commencing with Section 12650) of the new law shall apply to acts for involuntary dissolution of a subject corporation commenced on or after January 1, 1984. The prior law shall govern any of these actions which are commenced prior to January 1, 1984, but are still pending on January 1, 1984.

12700. Chapter 16 (commencing with Section 12630) and Chapter 17 (commencing with Section 12650) of the new law shall apply to any voluntary dissolution proceeding initiated with respect to a subject corporation by the filing on or after January 1, 1984, of an election to wind up and dissolve. The prior law shall govern any

of these proceedings so initiated prior to January 1, 1984.

12701. When any corporate agent has been designated for service of process prior to January 1, 1984, and such designation of an agent included a name of a city, town, or village where the corporate agent maintained an office, service on such an agent may be effected at any office of the agent set forth in the certificate of the corporate agent filed pursuant to Section 1505, 6213, 8213, or 12573, or filed pursuant to Section 3301.5, 3301.6, 6403.5, or 6403.6 as in effect prior to January 1, 1977.

12702. Any subject corporation that existed on the first day of January 1873, was formed under the laws of this state, and which has not already elected to continue its existence under the prior law, may at any time elect to continue its existence under the provisions of this code applicable thereto, (1) by the unanimous vote of all its directors, (2) by the vote of the members representing a majority of the voting power of the corporation at an election held at any annual meeting of the members or at any meeting called by the directors for the express purpose of considering this subject, or (3) by action of the directors upon the written consent of the members representing a majority of the voting power of the corporation.

A certificate of the action of the directors, signed by the directors and the secretary, shall be filed in the office of the Secretary of State when the election is made by the unanimous vote of the directors or upon the written consent of the members. A certificate of the proceedings of the meeting of the members when the election is made at any such meeting, signed by the chairman and secretary of the meeting and a majority of the directors, shall be filed in the office of the Secretary of State. Thereafter, the corporation shall continue its existence under the provisions of this code which are applicable thereto, and shall possess all the rights and powers, and shall be subject to all the obligations, restrictions, and limitations, prescribed thereby.

12704. If the corporate rights, privileges, and powers of a subject corporation have been suspended and are still suspended immediately prior to January 1, 1984 pursuant to the prior law, as a result of its incorporation of the General Nonprofit Corporation Law (commencing with Section 9000) in effect on December 31, 1979, and the incorporation by the General Nonprofit Corporation Law of Sections 5700 through 5908 of the prior law (Section 2300), such sections and provisions continue to apply to such corporation until restoration by the controller pursuant to such sections.

SEC. 4. Section 25100 of the Corporations Code is amended to read:

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

(a) Any security (including a revenue obligation) issued or guaranteed by the United States, any state, any city, county, city and county, public district, public authority, public corporation, public entity, or political subdivision of a state or any agency or corporate

or other instrumentality of any one or more of the foregoing; or any certificate of deposit for any of the foregoing.

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

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

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

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

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

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

(h) Any security issued or guaranteed by any federal credit union, or by any credit union organized and supervised, or regulated, under the Credit Union Law.

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

security is subject to registration with or authorization of issuance by such authority.

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

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

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

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

(n) Any beneficial interest in an employees' pension, profit sharing, stock bonus or similar benefit plan which meets the requirements for qualification under Section 401 of the Federal Internal Revenue Code or any statute amendatory thereof or supplementary thereto. A determination letter from the Internal

Revenue Service stating that an employees' pension, profit sharing, stock bonus or similar benefit plan meets such requirements shall be conclusive evidence that such plan is an employees' pension, profit sharing, stock bonus or similar plan within the meaning of the first sentence of this subdivision until the date such determination letter is revoked in writing by the Internal Revenue Service, regardless of whether or not such revocation is retroactive.

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

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

(1) Listing standards:

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

(ii) Net income of at least two hundred fifty thousand dollars ($250,000) after all charges including federal income taxes in the fiscal year immediately preceding the filing of a listing application and net income before such taxes of at least five hundred thousand dollars ($500,000).

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

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

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

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

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

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

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

(iv) If the aggregate market value of shares publicly held is less

than seven hundred fifty thousand dollars ($750,000).

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

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

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

(q) Any unincorporated interindemnity or reciprocal or interinsurance contract, which qualifies under the provisions of Section 1280.7 of the Insurance Code, between members of a cooperative corporation, organized and operating under Part 2 (commencing with Section 12200) of Division 3 of Title 1, and whose members consist only of physicians and surgeons licensed in California, which contracts indemnify solely in respect to medical malpractice claims against such members, and which do not collect in advance of loss any moneys other than contributions by each member to a collective reserve trust fund or for necessary expenses of administration.

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

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

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

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

(5) No person is excused from attending or testifying or from producing any document or record before the commissioner or in obedience to the subpoena of the commissioner or any officer designated by him, or in any proceeding instituted by the commissioner, on the ground that the testimony or evidence (documentary or otherwise), required of him may tend to incriminate him or subject him to a penalty or forfeiture, but no individual may be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after validly claiming his privilege against self-incrimination, to testify or produce evidence (documentary or otherwise), except that the individual testifying is not exempt from prosecution and punishment for perjury or contempt committed in testifying.

(r) Any shares or memberships issued by any corporation organized and existing pursuant to the provisions of Part 2 (commencing with Section 12200) of Division 3 of Title 1; provided (1) the corporation limits its shareholders or members primarily to ultimate consumers or ultimate producers or both and (2) the aggregate investment of any shareholder or member in shares or memberships sold pursuant to this subdivision does not exceed three hundred dollars ($300). This exemption does not apply to the shares or memberships of any such corporation if any promoter thereof expects or intends to make a profit directly or indirectly from any business or activity associated with the corporation or the operation of such corporation or from remuneration, other than reasonable salary, received from such corporation. This exemption does not apply to nonvoting shares or memberships of any such corporation issued to any person who does not possess, and who will not acquire in connection with the issuance of nonvoting shares or memberships, voting rights in the corporation.

(s) Any security consisting of or representing an interest in a pool of mortgage loans which meets each of the following requirements:

(1) The pool consists of mortgage loans originated or acquired in

the ordinary course of business by a national bank or federal savings and loan association having its principal office in this state, by a bank incorporated under the laws of this state or by a savings and loan association which is subject to the supervision and regulation of the Savings and Loan Commissioner and which at the time of transfer to the pool is an authorized investment for such origination or acquiring institution;

(2) The pool of mortgage loans is held in trust by a trustee which is a financial institution specified in paragraph (1) as trustee or otherwise;

(3) The loans are serviced by a financial institution specified in paragraph (1);

(4) Such security is not offered in amounts of less than twenty-five thousand dollars ($25,000) in the aggregate to any one purchaser; and

(5) Such security is offered pursuant to a registration under the Securities Act of 1933, or pursuant to an exemption under Regulation A under such act, or in the opinion of counsel for the issuer, is offered pursuant to an exemption under Section 4(2) of that act.

SEC. 4.5. Section 25100 of the Corporations Code is amended to read:

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

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

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

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

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

(e) Any security (other than an interest in all or portions of a parcel or parcels of real property which are subdivided land or a subdivision or in a real estate development), the issuance of which

is subject to authorization by the Insurance Commissioner, the Public Utilities Commission, or the Real Estate Commissioner of this state.

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

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

(h) Any security issued or guaranteed by any federal credit union, or by any credit union organized and supervised, or regulated, under the Credit Union Law.

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

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

(k) Any agreement, commonly known as a "life income contract," of an issuer (1) organized exclusively for educational, benevolent, fraternal, religious, charitable, social, or reformatory purposes and not for pecuniary profit and (2) which the commissioner designates

by rule or order, with a donor in consideration of a donation of property to such issuer and providing for the payment to the donor or persons designated by him of income or specified periodic payments from the donated property or other property for the life of the donor or such other persons.

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

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

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

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

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

(1) Listing standards:

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

(ii) Net income of at least two hundred fifty thousand dollars ($250,000) after all charges including federal income taxes in the

fiscal year immediately preceding the filing of a listing application and net income before such taxes of at least five hundred thousand dollars ($500,000).

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

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

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

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

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

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

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

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

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

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

(p) A promissory note secured by a lien on real property, which is neither one of a series of notes of equal priority secured by interests in the same real property nor a note in which beneficial interests are sold to more than one person or entity.

(q) Any unincorporated interindemnity or reciprocal or interinsurance contract, which qualifies under the provisions of Section 1280.7 of the Insurance Code, between members of a cooperative corporation, organized and operating under Part 2 (commencing with Section 12200) of Division 3 of Title 1, and whose members consist only of physicians and surgeons licensed in California, which contracts indemnify solely in respect to medical malpractice claims against such members, and which do not collect in advance of loss any moneys other than contributions by each member to a collective reserve trust fund or for necessary expenses of administration.

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

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

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

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

(5) No person is excused from attending or testifying or from producing any document or record before the commissioner or in obedience to the subpoena of the commissioner or any officer designated by him, or in any proceeding instituted by the commissioner, on the ground that the testimony or evidence (documentary or otherwise), required of him may tend to

incriminate him or subject him to a penalty or forfeiture, but no individual may be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after validly claiming his privilege against self-incrimination, to testify or produce evidence (documentary or otherwise), except that the individual testifying is not exempt from prosecution and punishment for perjury or contempt committed in testifying.

(r) Any shares or memberships issued by any corporation organized and existing pursuant to the provisions of Part 2 (commencing with Section 12200) of Division 3 of Title 1; provided (1) the corporation limits its shareholders or members primarily to ultimate consumers or ultimate producers or both and (2) the aggregate investment of any shareholder or member in shares or memberships sold pursuant to this subdivision does not exceed three hundred dollars ($300). This exemption does not apply to the shares or memberships of any such corporation if any promoter thereof expects or intends to make a profit directly or indirectly from any business or activity associated with the corporation or the operation of such corporation or from remuneration, other than reasonable salary, received from such corporation. This exemption does not apply to nonvoting shares or memberships of any such corporation issued to any person who does not possess, and who will not acquire in connection with the issuance of nonvoting shares or memberships, voting rights in the corporation.

(s) Any security consisting of or representing an interest in a pool of mortgage loans which meets each of the following requirements:

(1) The pool consists of mortgage loans originated or acquired in the ordinary course of business by a national bank or federal savings and loan association having its principal office in this state, by a bank incorporated under the laws of this state or by a savings and loan association which is subject to the supervision and regulation of the Savings and Loan Commissioner and which at the time of transfer to the pool is an authorized investment for such origination or acquiring institution;

(2) The pool of mortgage loans is held in trust by a trustee which is a financial institution specified in paragraph (1) as trustee or otherwise;

(3) The loans are serviced by a financial institution specified in paragraph (1);

(4) Such security is not offered in amounts of less than twenty-five thousand dollars ($25,000) in the aggregate to any one purchaser; and

(5) Such security is offered pursuant to a registration under the Securities Act of 1933, or pursuant to an exemption under Regulation A under such act, or in the opinion of counsel for the issuer, is offered pursuant to an exemption under Section 4(2) of that act.

SEC. 4.7. Section 14813 is added to the Financial Code, to read:

14813. Notwithstanding the provisions of Section 12405 or any

other provision to the contrary in Part 2 (commencing with Section 12200) of Division 3 of Title 1 of the Corporations Code, every credit union member shall have the right to vote by proxy, except that the right to vote by proxy may be limited or withdrawn by the articles of incorporation or bylaws.

SEC. 5. Section 12210 of the Government Code is amended to read:

12210. (a) The fee for filing the statement pursuant to Section 1502 of the Corporations Code is five dollars ($5).

(b) The fee for filing the statement pursuant to Section 6210, 8210, or 6210 as made applicable pursuant to Section 9660 of the Corporations Code is two dollars and fifty cents ($2.50).

(c) The fee for filing the statement pursuant to Section 12570 of the Corporations Code is two dollars and fifty cents ($2.50).

SEC. 6. Section 12210.5 of the Government Code is amended to read:

12210.5. The fee for furnishing a copy of a statement filed pursuant to Section 1502, 6210, 8210, 12570, or Section 6210 as made applicable pursuant to Section 9660 of the Corporations Code or Section 3301 of the Corporations Code as in effect prior to January 1, 1977, is one dollar ($1).

SEC. 7. This act shall become operative on January 1, 1984, except that the amendment to Section 12205 of the Corporations Code set forth in Section 1 of this act shall become operative January 1, 1983.

SEC. 8. It is the intent of the Legislature, if this bill and Assembly Bill No. 3034 are both chaptered and become effective on or before January 1, 1983, both bills amend Section 25100 of the Corporations Code, and this bill is chaptered after Assembly Bill No. 3034, that Section 25100 of the Corporations Code, as amended by Section 1 of Assembly Bill No. 3034, be further amended on the operative date of this act in the form set forth in Section 4.5 of this act to incorporate the changes in Section 25100 proposed by this bill. Therefore, if this bill and Assembly Bill No. 3034 are both chaptered and become effective on or before January 1, 1983, and Assembly Bill No. 3034 is chaptered before this bill and amends Section 25100, Section 4.5 of this act shall become operative on the operative date of this act and Section 4 of this act shall not become operative.

SEC. 9. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1626

An act to repeal and add Article 2 (commencing with Section 73340) of Chapter 10 of Title 8 of the Government Code, relating to courts.

[Became law without Governor's signature. Filed with Secretary of State October 1, 1982.]

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

SECTION 1. Article 2 (commencing with Section 73340) of Chapter 10 of Title 8 of the Government Code is repealed.

SEC. 2. Article 2 (commencing with Section 73340) is added to Chapter 10 of Title 8 of the Government Code, to read:

Article 2. Municipal Courts in Contra Costa County

73340. This article applies only to municipal courts established in judicial districts in Contra Costa County.

73341. Except as otherwise provided in this article, each municipal court district established in Contra Costa County shall have the number of judges set forth opposite the name of the judicial district over which such court has jurisdiction.

Bay Judicial District	5
Delta Judicial District	2
Mt. Diablo Judicial District	4
Walnut Creek-Danville Judicial District	3

73342. There shall be one marshal's office in Contra Costa County which shall serve all of the judicial districts of the county and shall maintain a branch at each judicial district.

73343. Official reporters shall be appointed by the judges of each municipal court district pursuant to the provisions of Section 72194 and shall serve at the pleasure of the judges.

The salary of each official reporter shall be at the rates provided for by Section 73348, which shall be a charge against the general fund of the county.

73344. Pursuant to Section 72194, the judges of the court may appoint as many additional reporters as the business of the court requires, who shall be known as official reporters pro tempore. They shall serve without salary but shall receive the fees provided by Sections 69947 to 69953, inclusive, except that in lieu of the per diem fees provided in the sections for reporting testimony and proceedings, the official reporters pro tempore shall in all cases receive seventy-five dollars ($75) a day, which shall upon order of the court be a charge against the general fund of the county.

73345. Any official reporter may be assigned by the presiding judge of his district to act as official reporter pro tempore in any

municipal court in Contra Costa County. During any such assignment he shall continue to receive his regular salary in lieu of any other compensation provided by law.

73346. Fees for transcription of testimony and proceedings in the court shall be paid by the litigants to official reporters and official reporters pro tempore as otherwise provided by law. In all cases where by law the court may direct the payment of transcription fees out of the county treasury, such fees shall, upon order of the court, be paid from the general fund including fees for transcription of testimony and proceedings in criminal cases as provided in Sections 69947 to 69953, inclusive, which shall be paid from the county treasury.

A reporter's fee of eighteen dollars ($18) shall be collected for the court reporter fund, in all applicable situations mentioned in Sections 68090.5, 72055, and 72056, to be paid by each party, or jointly by parties appearing jointly, only once in each such situation in each action or proceeding, and to be otherwise treated and applied as therein provided.

73347. The official reporters of the court shall be members of any retirement system maintained by the county. For the purposes of such retirement system, the salary provided for reporters in this article shall be deemed their entire compensation.

The official reporter shall perform the duties required of him by law. When not actually engaged in the performance of any other duty imposed on him by law, he shall render stenographic or clerical assistance, or both, to the judge or judges of the district to which he is assigned as such judge or judges may direct.

73348. (a) In Contra Costa County, the annual salary of each regular official reporter shall be based on a five-step salary plan with one-year increments as follows:

Step 1. Twenty-four thousand eight hundred sixteen dollars ($24,816).

Step 2. Twenty-six thousand sixty-four dollars ($26,064).

Step 3. Twenty-seven thousand three hundred sixty dollars ($27,360).

Step 4. Twenty-eight thousand seven hundred twenty-eight dollars ($28,728).

Step 5. Thirty thousand one hundred sixty-eight dollars ($30,168).

The step of entry to the above schedule shall be step 1. However, the judges of the court may appoint any such court reporter to a duly allocated exempt position at a higher step if, in the opinion of the appointing judge, an individual to be appointed has such experience and qualifications to entitle that individual to such higher initial step, and if such higher initial salary has the approval of the presiding judge of the court and the board of supervisors, but in no case may the initial salary be above the third step of the salary range. The compensation of each official reporter pro tempore shall be at the rate of seventy-five dollars ($75) a day for the days he actually is on duty under order of the court which per diem rate shall apply when

an official reporter is appointed pursuant to Section 869 of the Penal Code by a justice court judge acting as a magistrate.

(b) During the hours which the court is open for the transaction of the judicial business, the regular official reporter shall perform the duties required by law. When not engaged in the performance of any other duty imposed upon him by law, he shall render stenographic or clerical assistance to the judge of the court to which he is assigned as such judge may direct.

(c) The board of supervisors shall adjust the salary of regular official reporters as part of its regular review of county employee compensation. Such adjustment shall be to that salary level closest to the average percentage adjustment in basic salaries of the county classes of superior court clerk, legal clerk, legal services clerk, intermediate stenographer-clerk, and clerk (experienced level). Any such reporter salary adjustment shall be effective on the same day as the effective date of the board's action as to all of the aforesaid county classifications, but for official reporters of each municipal court district shall be effective only until January 1 of the second year following the calendar year in which the adjustment is made. The compensation of each official reporter pro tempore shall remain at the rate of seventy-five dollars ($75) a day for the days he actually is on duty until changed by the board of supervisors at the same time and on the same basis as regular official reporters.

73349. Except as provided in this article, all paid employments of any municipal court and the marshal's office now established or which may subsequently be established in Contra Costa County shall be under the merit system established in the county. The merit board of the county shall exercise the same jurisdiction over municipal court employments as it exercises over other county employments in the same manner as they apply to other merit system employments in the Contra Costa County service.

In the event that one or more eligibles are not certified to a vacancy within six months of the date the position became vacant, or of the date of receipt of an examination request, whichever is later, the appointing authority may fill the vacancy by appointing any candidate who meets the minimum qualifications for the class as set forth in the class specification. Such appointee shall thereby obtain merit system status as described above.

73350. Except as otherwise provided in this article, all employments of any municipal court and marshal's office now established or which may be established in Contra Costa County shall be compensated and receive other benefits in accordance with the provisions of the salary ordinance of the county governing other county employments. Any subsequent change in benefits provided by the salary ordinance to employees of the county shall apply equally to employees of the municipal courts and marshal's office, and shall have the same effective date. These benefits may also be retroactively applied. References hereafter to range allocation and salary steps apply to the basic salary schedule set forth in Section

73352.

Within range step increases shall be granted only upon the affirmative recommendation of the appointing authority.

Overtime payments must bear the same approval as within range step increases.

73351. There are the following classes of positions into which each of the positions of the municipal courts and marshal's office shall be assigned as prescribed in the section pertaining to each court or to the marshal's office.

(a) Deputy clerk I, which shall include all municipal courts and marshal's office employments assigned routine clerical tasks under continuous immediate supervision.

(b) Deputy clerk-data entry operator I, which shall include all municipal court employments at the entry level assigned to operate data entry devices for the purpose of entering and verifying a wide variety of data from coded or uncoded source documents.

(c) Deputy clerk II, which shall include all municipal courts and marshal's office employments assigned clerical tasks requiring exercise of discretion as to methods and priorities and which supervision is available on a periodic basis only.

(d) Deputy clerk-data entry operator II, which shall include all municipal court employments at the experienced working level assigned to operate data entry devices for the purpose of entering and verifying a wide variety of data from coded or uncoded source documents.

(e) Deputy clerk-criminal process, which shall include all municipal court employments assigned complex clerical work in the criminal section of a municipal court involving responsibility for the establishment, maintenance, calendaring, issuance of process and updating of criminal case records using manual and automated systems.

(f) Deputy clerk III, which shall include all municipal court employments assigned clerical duties of a complex and varied nature requiring exercise of initiative and discretion in work organization, methods and priorities and in which supervision is available only on policy matters. Positions of this class may assign and review the work of several deputy clerks I, deputy clerks II, or deputy clerks-criminal process.

(g) Process clerk, which shall include all marshal's office employments assigned clerical duties of a complex and varied nature requiring exercise of initiative and discretion in work organization, methods and priorities and in which supervision is available only on policy matters. Positions of this class may assign and review the work of several deputy clerks I or deputy clerks II.

(h) Supervising process clerk, which shall include all marshal's office employments assigned clerical duties of a complex and varied nature in which the incumbent plans, organizes and supervises the work of several deputy clerks I, deputy clerks II and process clerks.

(i) Executive secretary, which shall include one position in the

Marshal's Office assigned to serve as the confidential secretary to the marshal.

(j) Deputy clerk-courtroom clerk, which shall include all municipal court employments assigned clerical duties involving responsibility for keeping the minutes of court proceedings and the processing and maintenance of a variety of documents and records.

(k) Deputy clerk-division supervisor, which shall include all municipal court employments assigned responsibility for planning, organizing and directing the clerical activities of a division or branch office in a municipal court including the supervision of clerical staff.

(*l*) Chief deputy clerk, which shall include assisting in supervision and direction of court affairs, filling in for courtroom clerks and other employees during absences, and subject to the designation of the clerk-administrator, being responsible for court operations in the absence of the clerk-administrator.

(m) Clerk-administrator of the court, which shall include any municipal court position in a multijudge court (Schedule A in court with five through seven judges, Schedule B in court with two through four judges) charged with the overall responsibility for managing and supervising court clerical operations including courtroom duties.

(n) Deputy marshal-recruit, which shall not be a peace officer, and shall only be assigned to attend a basic academy course of study to gain P.O.S.T.: approved peace officer status.

(o) Deputy marshal, which shall include all marshal's office employments assigned to discharge the peace officer responsibilities of the marshal including establishment and maintenance of law and acting as bailiff when the municipal court is in session.

(p) Deputy marshal sergeant, which shall include any position in a marshal's office repsonsible for assigning and reviewing the work of several deputy marshals in serving court processes and other peace officer activities.

(q) Assistant marshal, which shall include any position in the marshal's office responsible for assigning and reviewing the work of a deputy marshal sergeant and several deputy marshals in serving court processes and other peace officer activities or, who, under direction of the marshal, shall be responsible for day-to-day operation of the marshal's office.

(r) Marshal, which shall be the nonelective position responsible for the management and supervision of the duties of the office of marshal for all the judicial districts.

(s) Traffic trial commissioner, which shall include all municipal court employments who exercise the same powers and duties of judges of the court with respect to traffic and small claims matters.

73352. Whenever reference is made to a numbered salary level in any section of this article, the H series salary schedule applicable to equivalent employees of Contra Costa County as set forth in Section 73354 shall apply. If the board of supervisors adopts a revised salary schedule for equivalent county employees the new schedule

shall apply equally to municipal courts and the marshal's office and conversion to the new schedule shall be effected for employees of the municipal courts or the marshal's office in the same manner and on the same date as for county employees, but any adjustment shall be effective only until January 1 of the second year following the calendar year in which the adjustment is made.

73353. Classes of positions provided in Section 73351 are allocated to the salary schedule as follows:

(a) Deputy clerk I	Level 670 H1
(b) Deputy clerk-data entry operator I	Level 768 H1
(c) Deputy clerk II	Level 810 H1
(d) Deputy clerk-data entry operator II	Level 865 H1
(e) Deputy clerk-criminal process	Level 869 H1
(f) Deputy marshal recruit	Level 956 H7
(g) Deputy clerk III	Level 007 H2
(h) Process clerk	Level 007 H2
(i) Supervising process clerk	Level 154 H2
(j) Deputy clerk-courtroom clerk	Level 220 H2
(k) Deputy clerk-division supervisor	Level 220 H2
(*l*) Deputy marshal	Level 377 H2
(m) Chief deputy clerk	Level 489 H2
(n) Deputy marshal sergeant	Level 523 H2
(o) Clerk-administrator of the court-Sch. B	Level 709 H2
(p) Assistant marshal	Level 786 H2
(q) Clerk-administrator of the court-Sch. A	Level 819 H2
(r) Marshal	Level 883 H2
(s) Executive secretary	Level 188 H8

73354. Certain classifications in the municipal courts and marshal's office are deemed to be equivalent in job and salary level to certain classifications in the service of Contra Costa County and whenever the salary of a classification in the service of Contra Costa County is adjusted by the board of supervisors, the salary of the comparable classification in the municipal courts or marshal's office shall be adjusted a commensurate number of levels on the salary schedule. Such adjustment shall be effective on the same day as the effective date of the action by the board of supervisors as it applies to the county classifications, but such adjustment shall be effective only until January 1 of the second year following the calendar year in which the adjustment is made.

(a) The class of deputy clerk I is equivalent in job and salary level to the class of Clerk (beginning level A2 to A6) in the service of Contra Costa County. The class of deputy clerk II is equivalent to Clerk (experienced level).

(b) The class of deputy clerk-data entry operator I is equivalent in job and salary level to the class of data entry operator I in the

service of Contra Costa County. The class of deputy clerk-data entry operator II is equivalent to data entry operator II.

(c) Whenever the salary of the class of deputy clerk II is adjusted as described above, the class of deputy clerk-criminal process, deputy clerk III, deputy clerk-courtroom clerk and process clerk shall be adjusted an equivalent number of levels on the salary schedule.

(d) The class of deputy marshal-recruit is equivalent in job and salary level to the class of deputy sheriff-recruit in the service of Contra Costa County.

(e) The class of deputy marshal is equivalent in job and salary level to the class of deputy sheriff in the service of Contra Costa County. The class of deputy marshal sergeant is equivalent in job and salary level to the class of deputy sheriff sergeant in the service of Contra Costa County. The class of assistant marshal shall be allocated to a salary level which is 67 levels on the H2 salary schedule above that of lieutenant in the service of Contra Costa County. The class of marshal shall be allocated to a salary level which is 97 levels on the H2 salary schedule above that of assistant marshal.

(f) The position of municipal court reporter is equivalent in job responsibility to positions described and functioning as superior court reporters in Contra Costa County. Whenever the superior court reporters are authorized a basic salary adjustment, the salary of municipal court reporters shall be adjusted. Such adjustment shall be effective on the same date as the superior court reporter salaries are adjusted.

(g) The class of supervising process clerk shall be allocated to a salary level which is 147 salary levels on the salary schedule above that of process clerk.

(h) The class of deputy clerk-division supervisor and the class of deputy clerk-Courtroom Clerk shall be allocated to a salary level which is 213 salary levels on the salary schedule above that of deputy clerk III.

(i) The class of chief deputy clerk shall be allocated to a salary level which is 269 salary levels on the salary schedule above that of deputy clerk division supervisor.

(j) The class of clerk-administrator of the court (schedule B and schedule A) shall be allocated to a salary level which is 220 and 330 salary levels, respectively, on the salary schedule above that of chief deputy clerk.

(k) The class of Traffic Trial Commissioner shall be allocated to a salary level which is equivalent to 85% of the salary of a Superior Court Judge in the County of Contra Costa.

73355. There shall be one clerk-administrator of the court for each court who shall be appointed by the presiding judge in a two-judge district, or a majority of the judges in districts having more than two judges.

Except as provided in Section 73356, the clerk-administrator of the particular municipal court shall appoint all other employments in the municipal court offices.

73356. Certain classifications in the municipal courts and marshal's department are excluded from the merit system.

(a) A majority of the municipal court judges in Contra Costa County shall appoint the marshal, whose position shall be exempt from the merit system. The marshal, who shall serve at the pleasure of the judges, may be removed by a majority of the municipal court judges in their discretion. The marshal shall be the appointing authority for all other employments in the marshal's office.

(b) Appointment to the classification of traffic trial commissioner shall be made by a majority of the judges in the court or courts, or by the presiding judge in a two-judge court, to which the traffic trial commissioner is appointed, with the approval of the chairman of the judicial council. The traffic trial commissioner, who shall serve at the pleasure of the majority of the judges in the court or courts, or the presiding judge in a two-judge court, to which the commissioner is appointed, may be removed by a majority of those judges in their discretion.

(c) Appointment to the classification of executive secretary in the marshal's department shall be made by the marshal.

73357. In Contra Costa County, the following positions are authorized:

(a) One marshal.

(b) Two assistant marshals.

(c) Four deputy marshal sergeants.

(d) Forty-eight deputy marshals or deputy marshal-recruits, not to exceed a combined total of 48 positions at any one time.

(e) One executive secretary.

(f) Three supervising process clerks.

(g) Six process clerks.

(h) Twenty-six deputy clerks II or deputy clerks I, not to exceed a combined total of 26 positions at any one time.

(i) Fifty deputies, who shall be custodians at the fee allowed by law for keeping property. They shall be paid only for their actual services as keepers of property taken under legal process and shall be paid out of the funds deposited by the parties to the action in which such services are rendered. Deputies serving under the provisions of this subdivision are not salaried employees of the judicial district for purposes of obtaining merit system status or any other benefits of this article.

73358. In a municipal court district having five judges, the following positions are authorized:

(a) One clerk-administrator of the court (schedule A).

(b) One chief deputy clerk.

(c) Five deputy clerk-division supervisors.

(d) Eight deputy clerk-courtroom clerks.

(e) Twenty-three deputy clerks III.

(f) Fourteen deputy clerks-criminal process.

(g) Five deputy clerks-data entry operator II or I, not to exceed a combined total of five positions at any one time.

(h) Forty deputy clerks II or deputy clerks I, not to exceed a combined total of 40 positions at any one time.

73359. In a municipal court district having four judges, the following positions are authorized:

(a) One clerk-administrator of the court (schedule B).

(b) One chief deputy clerk.

(c) Four deputy clerk-division supervisors.

(d) Five deputy clerk-courtroom clerks.

(e) Fifteen deputy clerks III.

(f) Ten deputy clerks-criminal process.

(g) Eight deputy clerks-data entry operator II or I, not to exceed a combined total of eight positions at any one time.

(h) Twenty-two deputy clerks II or deputy clerks I, not to exceed a combined total of 22 positions at any one time.

73360. In a municipal court district having three judges, the following positions are authorized:

(a) One clerk-administrator of the court (schedule B).

(b) One chief deputy clerk.

(c) Three deputy clerk-division supervisors.

(d) Four deputy clerk-courtroom clerks.

(e) Fifteen deputy clerks III.

(f) Eight deputy clerks-criminal process.

(g) Six deputy clerks-data entry operator II or I, not to exceed a combined total of six positions at any one time.

(h) Twenty-two deputy clerks II or deputy clerks I, not to exceed a combined total of 22 positions at any one time.

73361. In a municipal court district having two judges, the following positions are authorized:

(a) One clerk-administrator of the court (schedule B).

(b) One chief deputy clerk.

(c) Three deputy clerk-division supervisors.

(d) Three deputy clerk-courtroom clerks.

(e) Ten deputy clerks III.

(f) Six deputy clerks-criminal process.

(g) Four deputy clerks-data entry operator II or I, not to exceed a combined total of four positions at any one time.

(h) Eighteen deputy clerks II or deputy clerks I, not to exceed a combined total of 18 positions at any one time.

73362. Municipal court judicial districts in the county of Contra Costa may have no more than two traffic trial commissioners for all districts in total. Commissioners shall be appointed in accordance with subdivision (b) of Section 73356 and shall serve the court fulltime or, if appointed to serve two or more courts, sufficient time with each to total full time. Within the jurisdiction of the court(s) and under the direction of the judges, commissioners shall exercise all the powers and perform all of the duties authorized by law to be performed by commissioners of superior courts and such additional powers and duties as may be prescribed by law. At the direction of the judges, commissioners may have the same jurisdiction and

exercise the same powers and duties as the judges of the court with respect to any infraction or small claims action. The commissioners shall possess the same qualifications the law requires of a municipal court judge and shall not engage in the private practice of law. They shall be ex officio deputy clerks.

73363. Approval of the board of supervisors shall be obtained prior to filing any such position in Section 73357, 73358, 73359, 73360, 73361, or 73362 which has never been filled.

73364. In an increase in the business of the court or any other emergency that requires a greater number of employees for the prompt and faithful discharge of the business of the court than the number expressly provided by law or requires the performance of duties of positions in the lowest salary bracket where all such positions have been filled, with the approval of the judge in a single-judge district, the presiding judge in a two-judge district, and the majority of the judges in a three-or-more-judge district, and in all cases with the approval of the board of supervisors, the clerk or the marshal may appoint as many additional deputies as are needed. The additional deputies shall be appointed at the entrance level classification and shall be selected in the same manner as those for whom express provision is made, and they shall receive compensation on the basis of the hourly equivalent to the base rate of pay as provided in the salary schedule in the same amount as the lowest salary bracket provided for such class of employee. Employees may continue in such positions not longer than 90 days after the adjournment of the next regular session of the Legislature.

73365. Except as provided in this article (commencing with Section 73340), all persons presently serving as permanent employees of the municipal courts or marshal's office shall be assigned to the positions authorized in this article in accordance with the duties and responsibilities of their position classifications. Such assignments will be made by the appointing authority in accordance with the rules under the merit system.

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

CHAPTER 1627

An act to amend Section 74663 of the Government Code, relating to courts.

[Became law without Governor's signature. Filed with Secretary of State October 1, 1982.]

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

SECTION 1. Section 74663 of the Government Code is amended to read:

74663. In the Santa Clara County Judicial District there shall be one clerk-administrative officer who shall receive a salary as specified in range 30.6A and shall, notwithstanding the provisions of Section 74666, be appointed by and serve at the pleasure of a majority of the judges of the Municipal Court. The clerk-administrative officer may appoint all of the following:

(a) One assistant clerk-administrative officer who shall also act as secretary to the judges and shall receive a salary as specified in range 28.4A.

(b) One assistant clerk-administrative officer-calendar manager who shall receive a salary as specified in range 27.4A.

(c) One assistant calendar manager who shall receive a salary as specified in range 14.5B.

(d) One municipal court data system coordinator who shall receive a salary as specified in range 22.7A.

(e) One senior accountant who shall receive a salary as specified in range 26.5A.

(f) One accountant III who shall receive a salary as specified in range 18.9B.

(g) One secretary II who shall receive a salary as specified in range 10.9B.

(h) One municipal court division manager III who shall receive a salary as specified in range 27.3A.

(i) Three municipal court division managers II who shall receive a salary as specified in range 25.6A.

(j) Two municipal court division managers I who shall receive a salary as specified in range 24.3A.

(k) One chief deputy clerk II who shall receive a salary as specified in range 23.3A.

(*l*) Three chief deputy court clerks I who shall receive a salary as specified in range 22.3A.

(m) Eight supervising deputy court clerks II who shall receive a salary as specified in range 15.5B.

(n) Two supervising deputy court clerks I who shall receive a salary as specified in range 13.0B.

(o) Seven assistant supervising deputy court clerks who shall receive a salary as specified in range 9.5B.

(p) Forty-three municipal courtroom clerks who shall receive a salary as specified in range 13.5B.

(q) One hundred forty-six deputy court clerks II who shall receive a salary as specified in range 7.9B, or deputy court clerks I who shall receive a salary as specified in range 5.6B.

(r) Six accountant assistants who shall receive a salary as specified in range 9.7B.

(s) One senior data entry operator who shall receive a salary as specified in range 7.9B.

(t) Ten data entry operators who shall receive a salary as specified in range 6.2B.

(u) One messenger driver who shall receive a salary as specified in range 4.0B.

In the Santa Clara County Judicial District official reporters appointed pursuant to Section 72194 shall be attachés of such courts and in lieu of any other compensation provided by law for their services in reporting testimony and proceedings in such courts, shall receive a biweekly salary as specified in range 19.1B, which shall be a charge against the general fund of the county. If the board of supervisors increases salaries or adopts a pay plan for official reporters in the superior court pursuant to Section 70046.1, the salary increase or pay plan shall apply equally for all official reporters in municipal courts, but all such changes or adjustments shall be effective only until January 1, 1983. During the hours which the courts are open for transaction of judicial business, official reporters shall devote full time to the performance of the duties required of them by law, and shall not engage in or solicit to engage in any other employment in their professional capacity.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

CHAPTER 1628

An act to amend Sections 73107, 73110, 73113, 73113.5, 73793, 73794, 73796, 73797, 73798, 74782, 74783, 74784, and 74785 of the Government Code, relating to courts.

[Became law without Governor's signature. Filed with Secretary of State October 1, 1982.]

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

SECTION 1. 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, and serve at the pleasure of, a majority of the judges, from among applicants certified to such judges on the basis of a competitive examination pursuant to

personnel rules and regulations of the County of San Bernardino. The municipal court administrator shall receive a salary at a rate specified in range 112 of the salary schedule effective July 19, 1982, and shall be the appointing authority for those positions listed in Section 73113.

SEC. 1.2. 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 flat rate of forty-one thousand eight hundred dollars ($41,800) per annum effective on June 26, 1982. The marshal shall be the appointing power for those positions listed in Section 73113 as being appointed by the marshal.

SEC. 1.3. 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
Assistant municipal court administrator	1	101
Municipal court division manager II	2	98
Municipal court division manager I	6	94
Data-processing analyst I	1	92
Municipal court division supervisor II	2	90
Municipal court chief clerk	5	83
Courtroom Clerk II	31	80
Clerk IV	8	73
Fiscal clerk II	5	70
Fiscal clerk III	2	75
Clerk III	60	69
Clerk II	3	61
Legal procedures clerk I	33	71
Legal procedures clerk II	2	77

Appointed by Marshal

Job Classification	Number	Salary Range	Salary Range 6/25/83
Marshal's captain	3	371	
Marshal's lieutenant	5	368	
Marshal's sergeant	8	356	
Deputy marshal	50	315	321
Administrative clerk I	1	76	
Marshal's clerk II	11	70	
Marshal's clerk I	12	65	
Marshal's technician	18	71	
Marshal's radio dispatch clerk	4	67	

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. The flat hourly rate shall be in the sum of nine dollars and seventeen cents ($9.17) commencing June 26, 1982, and ten dollars and nine cents ($10.09) commencing June 25, 1983, and shall be payable 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. 1.4. 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 1, 1982, 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, 1984.

SEC. 1.5. Section 73793 of the Government Code is amended to read:

73793. There shall be one administrative officer of the court known as the municipal court clerk-administrator, who shall be appointed by a majority of the judges of the court. The court clerk-administrator shall receive a biweekly salary on range 53.

SEC. 2. Section 73794 of the Government Code is amended to read:

73794. There may be two traffic referees who shall be appointed by a majority of the judges of the court. A traffic referee shall receive a biweekly salary equal to 50 percent of the salary of a municipal court judge. The provisions of Section 72400 do not apply to the traffic referees appointed pursuant to this section.

A traffic referee of the court shall have the powers and duties specified for traffic referees in Sections 72401, 72402, and 72403.

SEC. 3. Section 73796 of the Government Code is amended to read:

73796. There shall be one marshal of the Merced County Municipal Court. The marshal shall receive a salary on range 53.5.

The office of marshal shall be filled initially by appointment by a majority of the judges of the court from among those persons who have served as constable of a justice court in Merced County during the year of 1976.

SEC. 4. Section 73797 of the Government Code is amended to read:

73797. (a) The marshal may appoint:

(1) One assistant marshal on range 49.5.

(2) Eight deputy marshals II on range 46.

(3) Three civil assistants on range 36.

(b) The initial appointments to the positions of assistant marshal and deputy marshal shall be made from persons who have served as constables in a justice court in Merced County during the year of 1976. Such appointees shall become deputy marshals and receive the salary provided at the fifth step of the range designated for deputy marshal. The assistant marshal initially appointed shall receive the salary provided at the fifth step of the range designated for assistant marshal.

SEC. 5. Section 73798 of the Government Code is amended to read:

73798. The clerk-administrator may appoint:

(a) One supervising municipal court clerk II on range 45.

(b) Four supervising municipal court clerks I on range 41.5.

(c) Eight deputy court clerks II on range 38.

(d) Twelve deputy court clerks I on range 36.

(e) One supervising account clerk I on range 42.

(f) Three account clerks I on range 36.5.

(g) Eight typist-clerks II on range 35.

(h) One pretrial release clerk on range 43.5.

(i) One typist-clerk III on range 38.

SEC. 6. Section 74782 of the Government Code is amended to read:

74782. (a) Whenever reference to a numbered salary range is made in any section of this article, the schedule found in the salary and position allocation resolution of the County of Stanislaus in effect December 1, 1981, shall apply.

(b) Except as otherwise provided in this article, each new officer or employee shall for the first 12 full calendar months of continuous service receive a salary at the monthly rate specified for step 1 of the applicable range; on the first day of the next calendar month thereafter, his salary may increase to the rate of step 2; after one, two and three additional years of continuous service, his salary may increase to the rates for steps 3, 4, and 5, respectively. These increases shall be granted only with the approval of the officer's or employee's appointing authority.

(c) Notwithstanding any other provision of law, the salary of any officer or employee may be increased by the board of supervisors in order to provide compensation that is comparable to that of county employees of similar qualifications and experience, holding equal or comparable positions in the Stanislaus County classified service, as the comparability is determined by the board. If the salaries of incumbent officers and employees are increased to provide compensation that is comparable to that of county employees holding comparable positions, the officers and employees may, with the approval of their appointing authority, retain the same salary step in the salary range made applicable to their position as they occupied under the superseded salary range. For the purpose of determining eligibility for subsequent annual increments, however, the officer's and employee's anniversary date for step advancement shall not change. Any pay increase authorized by this section shall only be effective until January 1 of the second calendar year after the calendar year in which the change occurs, unless ratified by the Legislature.

(d) If any officer or employee in the service of the court is appointed or promoted to another office or position in such service which is compensated at a higher salary range, he or she shall receive the compensation provided pursuant to the salary and classification procedures of the county.

(e) If any officer or employee in the service of the court is demoted to another office or position, he or she shall receive the compensation provided pursuant to the salary and classification procedures of the county.

SEC. 7. Section 74783 of the Government Code is amended to read:

74783. There shall be one clerk-administrator who shall be appointed by and serve at the pleasure of a majority of the judges of the court. The clerk shall be on salary range 62B. The clerk may

appoint, with the approval of the judges of the court:

(a) One assistant clerk-administrator on range 55C.

(b) Eight courtroom clerks on range 50B.

(c) Four senior legal clerks on range 49B.

(d) One accounting technician on range 48B.

(e) Three legal clerk III's on range 47B.

(f) One account clerk III on range 46B.

(g) One secretary on range 46B.

(h) Eight legal clerk II's on range 45B.

(i) Twenty legal clerk I's on range 43B.

SEC. 8. Section 74784 of the Government Code is amended to read:

74784. There shall be one marshal who shall be appointed by and serve at the pleasure of a majority of the judges of the court, and who shall be on range 60B. The marshal may appoint, with the approval of the judges of the court:

(a) One assistant marshal on range 57C.

(b) Eleven deputy marshals on range 52D.

(c) One supervising civil process technician on range 47B.

(d) One civil process technician on range 45B.

(e) Three civil process clerks on range 43B.

(f) Two deputy keepers who shall be custodians at the fee allowed by law for keeping property.

SEC. 9. Section 74785 of the Government Code is amended to read:

74785. Official reporters in the municipal court appointed pursuant to Section 72194 shall be attachés of the court, and in lieu of any other compensation provided by law for their services in reporting testimony in criminal proceedings in the court shall receive a monthly salary equivalent to range 59D.

SEC. 10. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

CHAPTER 1629

An act to amend Sections 69895, 69900, 73564, 74502, 74503, 74504, 74954, 74954.5, 74955, and 74956 of the Government Code, relating to courts.

[Became law without Governor's signature. Filed with Secretary of State October 1, 1982.]

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

SECTION 1. Section 69895 of the Government Code is amended to read:

69895. In the City and County of San Francisco, the superior court shall appoint an executive officer who shall act as a secretary to the judges of the superior court and perform the duties of jury commissioner pursuant to Section 69893. The salary of the executive officer shall be a minimum salary of three thousand nine hundred forty-five dollars ($3,945) monthly during his or her first year of service, four thousand one hundred forty-three dollars ($4,143) monthly during his or her second year of service, four thousand three hundred forty-three dollars ($4,343) monthly during his or her third year of service, and four thousand five hundred forty-one dollars ($4,541) monthly during his or her fourth year of service and thereafter.

In the city and county, on the authorization of the judges, the executive officer shall have three administrative assistants, one of whom shall receive a salary of three thousand two hundred forty-eight dollars ($3,248) monthly during his or her first year of service, three thousand four hundred eleven dollars ($3,411) monthly during his or her second year of service, three thousand five hundred seventy-four dollars ($3,574) monthly during his or her third year of service, and three thousand seven hundred thirty-five dollars ($3,735) monthly during his or her fourth year of service and thereafter; and two of whom shall each receive a salary of two thousand eight hundred ten dollars ($2,810) monthly during their first year of service, two thousand nine hundred sixty-three dollars ($2,963) monthly during their second year of service, three thousand one hundred five dollars ($3,105) monthly during their third year of service, and three thousand two hundred forty-eight dollars ($3,248) monthly during their fourth year of service and thereafter.

The increment shall be paid commencing on the first day of the month following the first, second, and third anniversary of the incumbent's appointment. All service included prior to the effective date of the amendment to this section enacted during the 1981–82 Regular Session of the Legislature shall constitute service for purpose of determining entitlement to increments.

The administrative assistants shall assist also in the performance of the duties of jury commissioner. The salaries of the executive officer and administrative assistants shall be paid by the city and county.

The court may delegate to the executive officer any administrative powers and duties as are now or hereafter by law may be vested in or required to be exercised by such court.

SEC. 2. Section 69900 of the Government Code is amended to read:

69900. In the City and County of San Francisco, a majority of the judges of the superior court may appoint the following employees, whose monthly salaries shall be as set forth hereafter:

	Step 1	Step 2	Step 3	Step 4
Four judicial secretaries	$1,441	$1,498	$1,555	$1,611
Seven judicial clerks, senior	1,441	1,498	1,555	1,611
Four assistant court commissioners	2,861	3,005	3,145	3,292
One legal research assistant to presiding judge	1,690	1,771	1,853	1,935
Two court assistants	1,470	1,569	1,666	1,764
Ten judicial clerks	1,081	1,136	1,179	1,231
Two information clerks	1,263	1,317	1,370	1,424
One chief assistant to calendar clerk	1,797	1,900	2,002	2,103
One chief calendar clerk	2,181	2,332	2,481	2,629
One criminal jury coordinator	1,982	2,109	2,236	2,363
One director family court services	2,431	2,540	2,649	2,758
Four counselors family court services	2,166	2,253	2,340	2,430
One mental health coordinator	2,497	2,639	2,781	2,922
Six court commissioners	3,506	3,765	3,946	4,127
One civil courts coordinator	2,497	2,639	2,781	2,922
One criminal courts coordinator	2,497	2,639	2,781	2,922
One pretrial clerk and statistician	2,497	2,639	2,781	2,922
Four legal research assistants	1,635	1,717	1,799	1,880
Three court investigators	2,071	2,155	2,240	2,324
One secretary to executive officer	1,576	1,634	1,691	1,747
One calendar control clerk	1,191	1,249	1,306	1,361
One calendar control clerk, senior	1,306	1,369	1,431	1,493
Three probate examiners	2,071	2,155	2,240	2,324
One court assistant, senior	1,752	1,813	1,873	1,933
Twenty-seven court reporters	2,573	2,715	2,864	3,020

All figures in the above columns represent the salaries to be paid monthly to each of the employees so appointed. All original appointments shall be at step 1, provided that on the first of the month following the first anniversary of the employee's appointment he or she shall advance to the second step, and thereafter on the first of the month following the second anniversary of the employee's appointment he or she shall advance to step 3, and thereafter on the first of the month following the third anniversary of the employee's

appointment he or she shall advance to step 4, and thereafter shall be paid at the rate established by step 4. Service in any position enumerated herein prior to the effective date of the amendments to this section enacted at the 1981–82 Regular Session of the Legislature shall constitute service for the purpose of determining the step at which the attaché is to be paid. Service in any position wherein substantially the same duties have been performed shall also be deemed service for the purpose of determining at which step the attaché is to be paid.

Employment by the court shall be deemed to be employment by the county, if approved by resolution of the court, for purposes of determining court employees' rights to sick leave, vacation, and holiday pay and accumulation thereof, as provided either by charter or ordinances of the county for miscellaneous employees.

With the approval of the board of supervisors the court may establish such additional titles and pay rates as are required and with the approval of the board of supervisors may appoint and employ such additional commissioners, officers and assistants and other employees as it deems necessary for the performance of the duties and exercise of the powers conferred by law upon it and its members. Rates of compensation of all officers and assistants and other employees may be adjusted by joint action and approval of the board of supervisors and a majority of the judges of the court. Such appointments or changes in compensation made pursuant to this paragraph shall be on an interim basis and shall expire on January 1 of the second year following the date of the appointment or change in compensation unless ratified by the Legislature.

The salaries of such employees shall be paid by the city and county.

SEC. 3. Section 73564 of the Government Code is amended to read:

73564. Notwithstanding Section 72190, the commissioner shall exercise, within the jurisdiction of the court, all the powers and perform all the duties authorized by law.

The commissioner shall receive a salary of 70 percent of the salary received by a judge of the municipal court. The commissioner shall be entitled to all employee benefits that are provided for or made applicable to the other employees of the court.

SEC. 4. Section 74502 of the Government Code is amended to read:

74502. (a) There shall be one clerk-executive officer who shall also serve as secretary to the judges and who shall be paid a salary of three thousand five hundred one dollars ($3,501) monthly during the first year of service, a salary of three thousand six hundred seventy-six dollars ($3,676) monthly after the first year of service, commencing on the first day of the month following the first anniversary of his or her appointment, a salary of three thousand eight hundred fifty-seven dollars ($3,857) monthly after the second year of service commencing on the first day of the month following the second anniversary of his or her appointment, and a maximum

salary of four thousand one hundred eighty dollars ($4,180) monthly after the third year of service commencing on the first day of the month following the third anniversary of his or her appointment. Whenever any vacancy occurs, the judges, or a majority of them, notwithstanding any other provisions of this code, shall appoint one clerk-executive officer who shall also serve as secretary to the judges, and who shall hold office at their pleasure and who shall receive the salary provided in this section.

(b) Notwithstanding the provisions of Section 72400, the judges, or a majority of them, shall appoint two traffic referees who shall hold office at their pleasure. The traffic referees shall have the powers and duties specified in Sections 72401, 72402 and 72403 and shall receive the salary specified in Section 72404.

(c) There shall be one executive assistant to the presiding judge who shall be paid a salary of two thousand six hundred twenty-three dollars ($2,623) monthly during the first year of service, a salary of two thousand seven hundred fifty-six dollars ($2,756) monthly after the first year of service, commencing on the first day of the month following the first anniversary of his or her appointment, and a maximum salary of two thousand eight hundred eighty-nine dollars ($2,889) monthly after the second year of service, commencing on the first day of the month following the second year of his or her appointment. Whenever a vacancy occurs, the judges, or a majority of them, notwithstanding any other provisions of this code, shall appoint one executive assistant to the presiding judge, who shall hold office at their pleasure and who shall receive the salary provided in this section. When the executive assistant to the presiding judge is a member of the state bar, the executive assistant may perform duties for the court in the field of law at the direction of the presiding judge with the concurrence of the administrative committee and be paid in addition to the salary provided by this article, the additional sum of four hundred dollars ($400) monthly.

(d) There shall be one executive secretary to the presiding judge who shall serve as executive secretary to the presiding judge who shall be paid the salary of one thousand six hundred seventy-five dollars ($1,675) monthly during the first year of service, a salary of one thousand seven hundred fifty-nine dollars ($1,759) monthly after the first year of service, commencing on the first day of the month following the first anniversary of his or her appointment, and a maximum salary of one thousand eight hundred fifty-three dollars ($1,853) monthly after the second year of service, commencing on the first day of the month following the second year of his or her appointment. Whenever a vacancy occurs, the judges, or a majority of them, shall appoint one executive secretary to the presiding judge who shall hold office at their pleasure and who shall receive the salary as provided in this section.

SEC. 5. Section 74503 of the Government Code is amended to read:

74503. (a) There shall be one chief deputy, who shall also serve

as jury commissioner and who shall exercise the powers of jury commissioner of superior courts insofar as they are applicable to the municipal court and who shall perform such other duties as assigned by the judges of the court and who shall be paid a minimum salary of three thousand one hundred eighty-seven dollars ($3,187) monthly during the first year of service, a salary of three thousand three hundred twenty-one dollars ($3,321) monthly after the first year of service, commencing on the first day of the month following the anniversary of his or her appointment, and a maximum salary of three thousand four hundred sixty-four dollars ($3,464) monthly after the second year of service commencing on the first day of the month following the second anniversary of his or her appointment. Whenever any vacancy occurs, the judges, or a majority of them, notwithstanding any other provisions of this code, shall appoint one chief deputy, who shall also serve as jury commissioner and who shall hold office at their pleasure, and who shall perform such other duties as assigned by the judges of the court, and who shall receive the salary hereinabove provided.

(b) Notwithstanding the provisions of Section 74507, the clerk shall appoint, or a majority of the judges of the municipal court may appoint, two deputy clerks who shall be the court systems coordinators and who shall perform such duties as assigned by the clerk of the court and who shall be paid a minimum salary of two thousand five hundred nine dollars ($2,509) monthly during the first year of service, a salary of two thousand six hundred twenty-four dollars ($2,624) monthly after the first year of service commencing on the first day of the month following the anniversary of his or her appointment, and a maximum salary of two thousand seven hundred forty-four dollars ($2,744) monthly after the second year of service commencing on the first day of the month following the second anniversary of his or her appointment. Whenever any vacancy occurs, the judges, or a majority of them, notwithstanding any other provisions of this code, shall appoint a deputy clerk who shall be court systems coordinator and who shall hold such position at their pleasure and who shall perform such duties as assigned by the judges of the court, and who shall receive the salary hereinabove provided.

(c) Notwithstanding the provisions of Section 74507, the clerk shall appoint, or a majority of the judges of the municipal court may appoint, one deputy clerk who shall be assistant court systems coordinator and who shall perform such duties as assigned by the clerk of the court and who shall be paid a minimum salary of two thousand one hundred eighty-five dollars ($2,185) monthly during the first year of service, a salary of two thousand two hundred eighty-eight dollars ($2,288) monthly after the first year of service commencing on the first day of the month following the first anniversary of his or her appointment, and a maximum salary of two thousand four hundred five dollars ($2,405) monthly after the second year of service commencing on the first day of the month following the second anniversary of his or her appointment. Whenever any

vacancy occurs, the judges, or a majority of them, notwithstanding any other provisions of this code, shall appoint one deputy clerk who shall be the assistant court systems coordinator and who shall hold such position at their pleasure and who shall perform such duties as assigned by the judges of the court, and who shall receive the salary hereinabove provided.

(d) Notwithstanding the provisions of Section 74507, the clerk shall appoint, or a majority of the judges of the municipal court may appoint a court fiscal officer who shall be paid a minimum salary of two thousand six hundred sixty-eight dollars ($2,668) monthly during the first year of service, a salary of two thousand seven hundred eighty-nine dollars ($2,789) monthly during the second year of service commencing on the first day of the month following the first anniversary of his or her appointment, and a salary of two thousand nine hundred fifteen dollars ($2,915) monthly after the second year of service commencing on the first day of the month following the second anniversary of his or her appointment.

(e) The clerk shall appoint three deputy clerks who shall be the chief division clerks in the civil, criminal and traffic departments of the court, and who shall be paid a minimum salary of two thousand five hundred nine dollars ($2,509) monthly during the first year of service, a salary of two thousand six hundred twenty-four dollars ($2,624) monthly after the first year of service commencing on the first day of the month following the first anniversary of his or her appointment, and a maximum salary of two thousand seven hundred forty-four dollars ($2,744) monthly after the second year of service commencing on the first day of the month following the second anniversary of his or her appointment.

(f) Notwithstanding the provisions of Section 74507, the clerk shall appoint, or a majority of the judges of the municipal court may appoint, one deputy clerk who shall be criminal courts calendar coordinator and who shall perform such duties as assigned by the clerk of the court and who shall be paid a minimum salary of two thousand five hundred nine dollars ($2,509) monthly during the first year of service, a salary of two thousand six hundred twenty-four dollars ($2,624) monthly after the first year of service commencing on the first day of the month following the first anniversary of his or her appointment, and a maximum salary of two thousand seven hundred forty-four dollars ($2,744) monthly after the second year of service commencing on the first day of the month following the second anniversary of his or her appointment. Whenever any vacancy occurs, the judges, or a majority of them, notwithstanding any other provisions of this code, shall appoint one deputy clerk who shall be the criminal courts calendar coordinator and who shall hold such position at their pleasure and who shall perform such duties as assigned by the judges of the court, and who shall receive the salary hereinabove provided.

(g) Notwithstanding the provisions of Section 74507, the clerk shall appoint, or a majority of the judges may appoint, one court

program analyst manager who shall be paid a salary of two thousand five hundred seventy-three dollars ($2,573) monthly during the first year of service, a salary of two thousand seven hundred seven dollars ($2,707) monthly after the first year of service, commencing on the first day of the month following the first anniversary of his or her appointment, a salary of two thousand eight hundred forty-three dollars ($2,843) monthly after the second year of service commencing on the first day of the month following the second anniversary of his or her appointment, a salary of two thousand nine hundred eighty-five dollars ($2,985) monthly after the third year of service commencing on the first day of the month following the third anniversary of his or her appointment, and a maximum salary of three thousand one hundred thirty-four dollars ($3,134) monthly after the fourth year of service, commencing on the first day of the month following the fourth anniversary of his or her appointment. Whenever a vacancy occurs, the judges, or a majority of them, notwithstanding any other provisions of this code, shall appoint one court program analyst manager, who shall hold such position at their pleasure and who shall perform such duties as assigned by the judges of the court, and who shall receive the salary hereinabove provided, except that the appointing authority, in its discretion, may start an appointee at a first or second anniversary salary level.

(h) Notwithstanding the provisions of Section 74507, the clerk shall appoint, or a majority of the judges of the municipal court may appoint, one assistant court program analyst manager who shall be paid a salary of two thousand fifty-six dollars ($2,056) monthly during the first year of service, a salary of two thousand one hundred sixty-six dollars ($2,166) monthly after the first year of service, commencing on the first day of the month following the first anniversary of his or her appointment, a salary of two thousand two hundred seventy-four dollars ($2,274) monthly after the second year of service commencing on the first day of the month following the second anniversary of his or her appointment, a salary of two thousand three hundred eighty-eight dollars ($2,388) monthly after the third year of service commencing on the first day of the month following the third anniversary of his or her appointment, and a maximum salary of two thousand five hundred eight dollars ($2,508) monthly after the fourth year of service, commencing on the first day of the month following the fourth anniversary of his or her appointment. Whenever a vacancy occurs, the judges, or a majority of them, notwithstanding any other provisions of this code, shall appoint one assistant court program analyst manager, who shall hold such position at their pleasure and who shall perform such duties as assigned by the judges of this court, and who shall receive the salary hereinabove provided, except that the appointing authority, in its discretion, may start an appointee at a first or second anniversary salary level.

SEC. 6. Section 74504 of the Government Code is amended to read:

74504. The clerk shall also appoint:

(a) Seven deputy clerks who shall be assistant chief division clerks and who shall be paid a minimum salary of two thousand one hundred eighty-five dollars ($2,185) monthly during the first year of service, a salary of two thousand two hundred eighty-eight dollars ($2,288) monthly after the first year of service commencing on the first day of the month following the first anniversary of his or her appointment and a maximum salary of two thousand four hundred five dollars ($2,405) monthly after the second year of service commencing on the first day of the month following the second anniversary of his or her appointment.

(b) Thirty-five deputy clerks who shall be paid a minimum salary of one thousand seven hundred sixty-eight dollars ($1,768) monthly during the first year of service, a salary of one thousand eight hundred eighty dollars ($1,880) monthly after the first year of service commencing on the first day of the month following the first anniversary of his or her appointment, and a maximum salary of two thousand twenty-eight dollars ($2,028) monthly after the second year of service commencing on the first day of the month following the second anniversary of his or her appointment.

(c) Twenty-five deputy clerks who shall be paid a minimum salary of one thousand five hundred thirty-two dollars ($1,532) monthly during the first year of service, a salary of one thousand five hundred eighty-five dollars ($1,585) monthly after the first year of service commencing on the first day of the month following the first anniversary of his or her appointment and a maximum salary of one thousand six hundred forty-two dollars ($1,642) monthly after the second year of service commencing on the first day of the month following the second anniversary of his or her appointment.

(d) One deputy clerk who shall be paid a minimum salary of one thousand four hundred thirty-four dollars ($1,434) monthly during the first year of service, a salary of one thousand four hundred seventy-two dollars ($1,472) monthly after the first year of service commencing on the first day of the month following the first anniversary of his or her appointment, and a maximum salary of one thousand five hundred fourteen dollars ($1,514) monthly after the second year of service commencing on the first day of the month following the second anniversary of his or her appointment.

(e) Notwithstanding the provisions of Section 74507, the clerk shall appoint, or a majority of the judges of the municipal court may appoint, one administrative legal stenographer who shall perform such duties as assigned by the clerk of the court and who shall be paid a minimum salary of one thousand five hundred seventy-eight dollars ($1,578) monthly during the first year of service, a salary of one thousand six hundred thirty-three dollars ($1,633) monthly after the first year of service commencing on the first day of the month following the first anniversary of his or her appointment, and a maximum salary of one thousand seven hundred twenty-one dollars ($1,721) monthly after the second year of service commencing on

the first day of the month following the second anniversary of his or her appointment. Whenever any vacancy occurs, the judges, or a majority of them, notwithstanding any other provisions of this code, shall appoint one administrative legal stenographer who shall hold such position at their pleasure, and who shall perform such duties as assigned by the judges of the court, and who shall receive the salary hereinabove provided.

(f) Thirty-seven deputy clerks who shall be paid a minimum salary of one thousand two hundred ninety-three dollars ($1,293) monthly during the first year of service, a salary of one thousand three hundred sixty-eight dollars ($1,368) monthly after the first year of service commencing on the first day of the month following the first anniversary of his or her appointment and a maximum salary of one thousand four hundred forty-seven dollars ($1,447) monthly after the second year of service commencing on the first day of the month following the second anniversary of his or her appointment.

(g) Seventy-eight deputy clerks who shall be paid a minimum salary of one thousand twenty dollars ($1,020) monthly during the first year of service, a salary of one thousand one hundred four dollars ($1,104) monthly after the first year of service commencing on the first day of the month following the first anniversary of his or her appointment, and a maximum salary of one thousand two hundred twenty dollars ($1,220) monthly after the second year of service commencing on the first day of the month following the second anniversary of his or her appointment.

(h) Two deputy clerk-information clerks who shall be paid a minimum salary of one thousand one hundred thirty-six dollars ($1,136) monthly during the first year of service, a salary of one thousand two hundred ninety-two dollars ($1,292) monthly after the first year of service commencing on the first day of the month following the first anniversary of his or her appointment, a salary of one thousand four hundred fifty-one dollars ($1,451) monthly after the second year of service commencing on the first day of the month following the second anniversary of his or her appointment, and a maximum salary of one thousand four hundred ninety-nine dollars ($1,499) monthly after the third year of service commencing on the first day of the month following the third anniversary of his or her appointment. Whenever any vacancy occurs, the clerk, with the approval of the judges, or a majority of them, notwithstanding any other provisions of this code, shall appoint a deputy clerk-information clerk, who shall perform such duties as assigned by the clerk and who shall receive the salary hereinabove provided.

(i) One deputy clerk designated in Section 74504 and while assigned by the clerk of the court as personnel-payroll deputy shall be paid in addition to the salary provided by this article, the additional sum of one hundred dollars ($100) monthly.

(j) One deputy clerk designated in Section 74504 and while assigned by the clerk of the court as budget-purchasing deputy to the court fiscal officer shall be paid in addition to the salary provided by

this article, the additional sum of fifty dollars ($50) monthly.

(k) Two deputy clerks designated in Section 74504 who shall serve as master calendar clerk, civil, and master calendar clerk, criminal, and while assigned to such position by the clerk of the court, shall be paid in addition to the salary provided by this article, the additional sum of one hundred dollars ($100) monthly.

(*l*) Five deputy clerks designated in Section 74504 and while assigned by the clerk of the court as the principal courtroom clerks serving in the arraignment courts and traffic courts, shall be paid in addition to the salary provided by this article, the additional sum of fifty dollars ($50) monthly.

(m) Two deputy clerks designated in Section 74504 who shall serve as master jury calendar clerk, civil, and master jury calendar clerk, criminal, and while assigned to such position shall be paid in addition to the salary provided by this article, the additional sum of one hundred dollars ($100) monthly.

(n) One deputy clerk designated in Section 74504 and while assigned by the clerk of the court as supervisor of the midnight to 8:00 a.m. shift shall be paid in addition to the salary provided by this article, the additional sum of fifty dollars ($50) monthly.

(o) Deputy clerks who are required and authorized to work more than 40 hours in a week shall be entitled to overtime pay for that period in excess of the 40 hours at a rate equal to one and one-half times the amount to which they are otherwise entitled.

SEC. 7. Section 74954 of the Government Code is amended to read:

74954. (a) Whenever a reference is made to a numbered salary range according to the standard salary schedule in any section of this article, the schedule found in the Napa County Departmental Allocation List in effect on November 17, 1981, shall apply.

(b) In the event the Board of Supervisors of the County of Napa amends the resolution establishing salary ranges and monthly salary rates on the standard salary schedule for the County of Napa, effective on the date of this act, or adopts a new resolution which provides for a change in compensation for ranges or steps, such changes shall be effective for the municipal court employees under this article on the effective date of the action of the board of supervisors and shall remain effective only until January 1 of the second year following the year in which such change is made.

SEC. 8. Section 74954.5 of the Government Code is amended to read:

74954.5. (a) Whenever a reference is made to a numbered salary range according to the management and nonclassified personnel salary schedule in any section of this article, the schedule found in the Napa County Departmental Allocation List in effect on November 17, 1981, shall apply.

(b) In the event the Board of Supervisors of the County of Napa amends the resolution establishing salary ranges and monthly salary rates for the management and nonclassified personnel of the County of Napa, or adopts a new resolution which provides for a change in

compensation for ranges or steps, such changes shall be effective for the municipal court management and nonclassified personnel under this article on the effective date of the action of the board of supervisors and shall remain effective only until January 1 of the second year following the year in which such change is made.

SEC. 9. Section 74955 of the Government Code is amended to read:

74955. There shall be one clerk who shall also be the court administrator, and who shall receive the monthly salary provided for salary range No. D105 in the salary schedule for management and nonclassified personnel. In addition to any other duties imposed by law, the clerk shall, at the direction of the presiding judge, perform the following duties:

(a) To direct and coordinate the nonjudicial activities of the court;

(b) To prepare and administer the budget of the court;

(c) To coordinate with other appropriate county agencies the acquisition, utilization, maintenance and disposition of county facilities, equipment and supplies necessary for the operation of the court;

(d) To collect, compare and analyze statistical data on a continuing basis concerning the status of judicial and nonjudicial business of the court and to prepare periodic reports and recommendations based on such data;

(e) To serve as liaison for the court with other persons, committees, boards, groups and associations as directed by the presiding judge.

SEC. 10. Section 74956 of the Government Code is amended to read:

74956. (a) There shall also be the following court employee positions, whose numbers and salary range on the standard salary schedule of the County of Napa shall be as specified:

Position title	Number of positions	Salary range
Assistant clerk of the court	1	B089
Supervising court clerk	3	B048
Senior municipal court clerk	2	A129
Municipal court clerk	1	A109
Deputy clerk III	5	A089
Deputy clerk II - interpreter	1	A089
Deputy clerk II	3	A069

(b) Each such person employed on the effective date of this article in the office of the clerk of the municipal court shall receive credit for prior continuous service in office, including service in a court superseded upon the establishment of the municipal court.

SEC. 11. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the

California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

CHAPTER 1630

An act to amend Sections 70045.6, 70046.2, 70047.1, 70111, 70113, 73433, 73433.1, 73434, 73435, 73436, 73682, 73683, 73691, 73692, 74922.5, 74923, 74923.5, 74924, and 74924.6 of, and to add Section 74923.6 to, the Government Code, relating to courts.

[Became law without Governor's signature. Filed with Secretary of State October 1, 1982.]

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

SECTION 1. Section 70045.6 of the Government Code is amended to read:

70045.6. (a) In Kern County each regular reporter shall be paid a biweekly salary of one thousand ninety-two dollars and five cents ($1,092.05). The court reporter shall be paid biweekly pursuant to the payroll procedures in effect in the County of Kern.

(b) Beginning January 1, 1980, the board of supervisors may adjust the salary of each regular official reporter as part of its county employee compensation plan. Any adjustment to reporter salaries shall be effective on the same date as the effective date of the board's action to adjust compensation of other county employees. Any adjustment shall be effective only until January 1 of the second year following the year in which the adjustment is made, unless ratified by the Legislature.

(c) In addition to the compensation provided for in this section, each regular official reporter shall be entitled to and shall receive, on the same basis as other county employees, the same benefits and privileges with respect to retirement, group insurance, sick leave, and vacations. Court reporters shall observe the same holidays as other court employees. For the purposes of determining participation in the county retirement system, the salary provided for such reporters in this section shall be deemed their entire compensation.

(d) Each pro tempore official reporter shall be paid seventy-five dollars ($75) a day for the days he or she is actually on duty under order of the court.

SEC. 2. Section 70046.2 of the Government Code is amended to read:

70046.2. In Fresno County, each reporter shall be paid an annual salary established according to the following salary schedule:

Step 1. $24,373

Step 2. $25,586
Step 3. $26,856
Step 4. $28,210

Reporters shall initially be placed at step 1 of the salary schedule except reporters may be placed at a higher step with the approval of the county administrative officer, and shall advance one step annually upon the anniversary date of the employment. If, because of recruitment difficulties, it is necessary to appoint a court reporter at a step of the salary schedule which is above the step at which any court reporters are currently employed, all court reporters below that step will move to the higher step at the discretion of the judges of the court.

Each pro tempore reporter shall be paid ninety-three dollars and seventy-four cents ($93.74) for each of the days the reporter actually is on duty under order of the court.

In addition to the salary herein provided, each regularly employed reporter shall accrue and be entitled to receive sick leave benefits at the rate of 3.6924 hours of sick leave with pay for each pay period or major fraction thereof, served up to an accumulative total of 156 working days. Each such reporter shall accrue and receive vacation at the same rate as judges of such court not to exceed 21 working days a year which may be accrued not to exceed 42 days to be taken at such time as the judge to which he has been assigned consents.

In such county the fee required by Section 70053 shall be eleven dollars and fifty cents ($11.50).

SEC. 2.5. Section 70047.1 of the Government Code is amended to read:

70047.1. In Stanislaus County, the duties of official reporters shall be performed as elsewhere provided by law. As full compensation for taking notes in criminal cases in the superior court each reporter shall receive a monthly salary of one thousand seven hundred seventy-eight dollars ($1,778), pro tempore reporters shall receive seventy-five dollars ($75) per diem, or any fractional part thereof, for reporting criminal matters, and the fee for reporting testimony and proceedings in civil contested cases is ninety-five dollars ($95) a day, or any fractional part thereof, and for the purposes of retirement, the compensation of each reporter shall be deemed to be the total of all per diem and transcription fees paid by the county to all of the reporters of the superior court for all phonographic reporting services, divided by the number of superior court official reporters, plus his salary. All other fees of such reporters shall be as elsewhere provided by law. In cases where it is necessary to appoint a pro tempore reporter, he shall be allowed the fees elsewhere provided by law.

The salary range of official court reporters may be adjusted by joint action and approval of the board of supervisors and a majority of the judges of the superior court. Such changes in compensation made pursuant to this provision shall be on an interim basis and shall expire January 1 following adjournment of the next regular session of the

Legislature unless ratified at such session.

SEC. 2.6. Section 70111 of the Government Code is amended to read:

70111. (a) Notwithstanding the provisions of Section 69948, the fee for official court reporters for reporting proceedings shall be ninety dollars ($90) a day. All other fees of such reporters shall be as elsewhere provided by law. Rates of compensation of all regular official reporters and official reporters pro tempore may be adjusted by the board of supervisors. Adjustments in compensation made pursuant to this subdivision shall be effective only until January of the second year following the year in which such adjustments are made, unless ratified by the Legislature.

(b) Where it is necessary to appoint a pro tempore reporter, the pro tempore reporter shall receive the same per diem fee paid regular official reporters of the superior court for the days the pro tempore reporter actually is on duty under order of the court.

(c) This per diem rate shall also apply when a reporter is appointed pursuant to Section 869 of the Penal Code by a justice court judge acting as a magistrate.

Regular official reporters and pro tempore reporters shall not receive more than one per diem fee a day from the county.

SEC. 2.7. Section 70113 of the Government Code is amended to read:

70113. Regular official reporters may, at the election of each regular official reporter, be members of any retirement system maintained by the county. For retirement credit purposes, compensation earnable shall be deemed to be the annual total of all per diem and transcription fees paid by the county to each regular official reporter up to a maximum of twenty-five thousand dollars ($25,000) per year.

Each regular official reporter performing services for the county on the effective date of this legislation shall make an election whether or not to remain in the Tulare County Retirement Association within 60 days after the effective date of this legislation. Thereafter each new regular official reporter shall make an election within 60 days of his appointment as a regular official reporter. Said election shall be an irrevocable decision not subject to later withdrawal, change or modification.

SEC. 3. Section 73433 of the Government Code is amended to read:

73433. There shall be one clerk-administrator in each municipal court who shall be appointed by and serve at the pleasure of a majority of the judges of the court to which the clerk-administrator is appointed. In a court with less than three judges, the presiding judge shall appoint the clerk-administrator of the court. The clerk-administrator of the East Kern Municipal Court shall receive the biweekly salary specified in range 44.1 of the salary schedule. The clerk-administrator of the West Kern Municipal Court shall receive the biweekly salary specified in range 49.9 of the salary schedule. The

salary of the West Kern Municipal Court clerk-administrator shall be not less than 12 full range steps higher than the salary range in which the position of chief deputy court clerk is compensated.

SEC. 4. Section 73433.1 of the Government Code is amended to read:

73433.1. There shall be one assistant clerk-administrator in the West Kern Municipal Court who shall be appointed by and serve at the pleasure of the majority of the judges of the court. The assistant clerk-administrator shall receive the biweekly salary specified in range 45.9 of the salary schedule.

SEC. 5. Section 73434 of the Government Code is amended to read:

73434. There shall be one judicial secretary in the West Kern Municipal Court who shall be appointed by and serve at the pleasure of a majority of the judges of the court. The judicial secretary shall receive a biweekly salary specified in range 36.8 of the salary schedule.

SEC. 6. Section 73435 of the Government Code is amended to read:

73435. The clerk-administrator of the West Kern Municipal Court may appoint:

(a) Four chief deputy court clerks who shall act as the supervisors of the civil, criminal, traffic, and accounting divisions of the court and each of whom shall receive the biweekly salary specified in range 37.3 of the salary schedule.

(b) Five deputy court clerks III, each of whom shall receive the biweekly salary specified in range 35.4 of the salary schedule.

(c) Fourteen municipal courtroom clerks or junior municipal courtroom clerks, each of whom shall receive the biweekly salary specified in ranges 35.4 and 32.6, respectively, of the salary schedule.

Junior municipal courtroom clerk shall be the entrance position to courtroom clerk. The clerk-administrator, with the concurrence of the presiding judge, may advance any junior municipal courtroom clerk to the position of municipal courtroom clerk without further examination, if the junior municipal courtroom clerk has served for six months and otherwise meets the qualifications for municipal courtroom clerk and if the presiding judge is satisfied with the junior municipal courtroom clerk's performance during the six-month period.

(d) One data entry operator III who shall receive the biweekly salary specified in range 32.3 of the salary schedule.

(e) Four data entry operators II or I, each of whom shall receive the biweekly salary specified in ranges 30.3 and 28.3, respectively, of the salary schedule. Data entry operator I shall be the entrance position to the data entry operator series. The clerk-administrator may advance any data entry operator I to the position of data entry operator II without further examination if the data entry operator I has served for one year and otherwise meets the qualifications for data entry operator II.

(f) One account clerk IV who shall receive the biweekly salary specified in range 34.9 of the salary schedule.

(g) One account clerk III who shall receive the biweekly salary specified in range 32.1 of the salary schedule.

(h) Four account clerks II or I each of whom shall receive the biweekly salary specified in ranges 29.4 and 26.6, respectively, of the salary schedule. Account clerk I shall be the entrance position to the account clerk series. The clerk-administrator may advance any account clerk I to the position of account clerk II without further examination if the account clerk I has served for one year and otherwise meets the qualifications for account clerk II.

(i) Thirty-one full-time deputy court clerks II, I, or junior deputy court clerks, each of whom shall receive the biweekly salary specified in ranges 32.6, 28.6, and 25.8, respectively, of the salary schedule.

Junior deputy court clerk shall be the entrance position to the clerk's staff. The clerk-administrator may advance any junior deputy court clerk to the position of deputy court clerk I without further examination, if the junior deputy has served for six months and otherwise meets the qualifications for deputy court clerk I. The clerk-administrator may advance any deputy court clerk I to the position of deputy court clerk II without further examination if the deputy clerk I has served for six months and otherwise meets the qualifications for deputy court clerk II.

(j) One secretary who shall receive the biweekly salary specified in range 33.5 of the salary schedule.

(k) One legal clerk I who shall receive the biweekly salary specified in range 34 of the salary schedule.

(*l*) One records clerk who shall receive the biweekly salary specified in range 32.1 of the salary schedule.

(m) One accountant II or I who shall receive the biweekly salary specified in range 41.6 or 38.9, respectively, of the salary schedule.

SEC. 7. Section 73436 of the Government Code is amended to read:

73436. The clerk-administrator of the East Kern Municipal Court may appoint:

(a) Three deputy court clerks III, each of whom shall receive the biweekly salary specified in range 35.4 of the salary schedule.

(b) Six full-time and two part-time deputy court clerks II, I, or, junior deputy court clerks, each of whom shall receive the biweekly salary specified in ranges 32.6, 28.6, and 25.8, respectively, of the salary schedule.

Junior deputy court clerk shall be the entrance position to the clerk's staff. The clerk-administrator may advance any junior deputy court clerk to the position of deputy court clerk I without further examination, if the junior deputy has served for six months and otherwise meets the qualifications for deputy court clerk I. The clerk-administrator may advance any deputy court clerk I to the position of deputy court clerk II without further examination if the deputy court clerk I has served for six months and otherwise meets

the qualifications for deputy court clerk II.

SEC. 8. Section 73682 of the Government Code is amended to read:

73682. There shall be one clerk to be appointed by the judges of the court in the manner provided by law who shall be the clerk, administrator and secretary of the court. He or she shall receive a salary at range 1139 of the Fresno County Salary Resolution effective July 3, 1981.

SEC. 9. Section 73683 of the Government Code is amended to read:

73683. (a) The clerk may appoint the following court personnel who shall receive a salary at the range indicated in the Fresno County Salary Resolution effective July 3, 1981:

(1) Three chief deputy clerks at salary range 711.
(2) Ten court clerks at salary range 585.
(3) Seven deputy clerks II at salary range 585.
(4) One deputy clerk II-Conf. at salary range 585.
(5) Five deputy clerks I at salary range 469.
(6) One administrative secretary-Conf. at salary range 650.
(7) One stenographer II-Conf. at salary range 393.
(8) One stenographer I-Conf. at salary range 322.
(9) One data entry supervisor at salary range 442.
(10) Five data entry operators II at salary range 400.
(11) Five data entry operators I at salary range 334.
(12) Twenty-seven office assistants III at salary range 442.
(13) Twenty-seven office assistants II at salary range 400.
(14) Twenty-seven office assistants I at salary range 334.

(b) The clerk may appoint any combination of stenographers described in paragraphs (7) and (8) of subdivision (a) not to exceed a total of one, may appoint any combination of office assistants described in paragraphs (12), (13) and (14) of subdivision (a) not to exceed a total of 27 and may appoint any combination of data entry operators described in paragraphs (10) and (11) of subdivision (a) not to exceed a total of five.

(c) The clerk may appoint the following court personnel in the Clovis Branch who shall receive a salary at the range indicated in the Fresno County Salary Resolution effective July 3, 1981:

(1) One court clerk at salary range 585.
(2) One deputy clerk II at salary range 585.
(3) Four office assistants III at salary range 442.
(4) Four office assistants II at salary range 400.
(5) Four office assistants I at salary range 334.

The clerk may appoint any combination of office assistants described in paragraphs (3), (4), and (5) of subdivision (c) not to exceed a total of four.

SEC. 10. Section 73691 of the Government Code is amended to read:

73691. A majority of the judges may appoint eight full-time court reporters to serve at the pleasure of the judges and to be paid an

annual salary established according to the following salary schedule:

Step 1. $24,373
Step 2. $25,586
Step 3. $26,856
Step 4. $28,210

Reporters shall initially be placed at step 1 of the salary schedule except reporters may be placed at a higher step with the approval of the county administrative officer, and shall be advanced one step annually upon the anniversary date of such employment. If, because of recruitment difficulties, it is necessary to appoint a court reporter at a step of the salary schedule which is above the step at which any court reporters are currently employed, all court reporters below that step will move to the higher step at the discretion of the judges of the court. Each such reporter shall accrue and be entitled to receive sick leave benefits at the rate of 3.6924 hours of sick leave with pay for each pay period or major fraction thereof, served up to an accumulative total of 156 working days. Each such reporter shall accrue and receive vacation at the same rate as judges of such court not to exceed 21 working days a year which may be accrued not to exceed 42 days to be taken at such time as the judge to which he has been assigned consents.

SEC. 11. Section 73692 of the Government Code is amended to read:

73692. Pursuant to Section 72194, the judges of the court may appoint as many additional reporters as the business of the court requires, who shall be known as official reporters pro tempore. They shall serve without salary but shall receive the fees provided by Sections 69947 to 69953, inclusive, except that in lieu of the per diem fees provided in the section for reporting testimony and proceedings the official reporters pro tempore shall in all cases receive ninety-three dollars and seventy-four cents ($93.74) for each of the days the reporter actually is on duty under order of the court, which shall upon order of the court be a charge against the general fund of the county.

SEC. 12. Section 74922.5 of the Government Code is amended to read:

74922.5. There shall be one marshal for each municipal court who shall receive a biweekly salary of nine hundred sixty-eight dollars and forty cents ($968.40). The marshal of the Visalia Judicial District may appoint four deputy marshals and one account clerk. The marshals of the Porterville and Tulare-Pixley Judicial Districts may each appoint two deputy marshals and one account clerk, each of whom shall receive a salary in accordance with Sections 74923 and 74924.

SEC. 13. Section 74923 of the Government Code is amended to read:

74923. The biweekly salaries for the following classes of positions shall be 80 times the hourly rate set forth in the following schedule:

	Range	Hourly rate A	B	C	D	E
Clerk of the municipal court	154	9.0830	9.5430	10.0280	10.5380	11.0730
Assistant clerk of the municipal court	139	7.8300	8.2270	8.6440	9.0830	9.5430
Court clerk III	123	6.6850	7.0230	7.3790	7.7530	8.1460
Court clerk II	106	5.6520	5.9380	6.2380	6.5540	6.8860
Court clerk I	92	4.9240	5.1730	5.4340	5.7080	5.9970
Account clerk	92	4.9240	5.1730	5.4340	5.7080	5.9970
Intermediate clerk-typist	88	4.7340	4.9730	5.2240	5.4880	5.7650
Deputy marshal	140	7.9080	8.3090	8.7300	9.1730	9.6380

SEC. 14. Section 74923.5 of the Government Code is amended to read:

74923.5. Notwithstanding the provisions of Section 72400, a majority of the presiding judges of the municipal courts of Tulare County may appoint one full-time or part-time traffic referee who shall hold office at the pleasure of a majority of the presiding judges. The traffic referee shall serve in all the municipal courts in Tulare County by agreement of the presiding judges. The traffic referee shall be a member of the State Bar of California. The traffic referee shall receive a salary of 50 percent of the salary received by a judge of the municipal court. The salary may be increased by the board of supervisors up to 65 percent of a municipal court judge's salary. The traffic referee shall be an ex officio deputy clerk of the court and shall receive the same fringe benefits as granted to other attachés of the court. Membership in the Tulare County Retirement System shall be optional at the election of the traffic referee. The traffic referee shall make an irrevocable election whether or not to participate in the retirement system no later than 60 days after appointment to the position.

SEC. 15. Section 74923.6 is added to the Government Code, to read:

74923.6. Notwithstanding the provisions of Section 72190, a

majority of the presiding judges of the municipal courts of Tulare County may appoint one commissioner who shall hold office at the pleasure of a majority of the presiding judges. The commissioner shall serve in all the municipal courts in Tulare County by agreement of the presiding judges. The appointment may only be made in lieu of appointing a traffic referee pursuant to Section 74923.5. The commissioner shall receive a salary of 70 to 80 percent of the salary received by a judge of the municipal court. The salary shall be determined by the board of supervisors. The commissioner shall possess the same qualifications as the law requires of a judge of the municipal court and shall not engage in the private practice of law. The commissioner shall be an ex officio deputy clerk of the court and shall receive the same fringe benefits as granted to other attachés of the court.

Membership in the Tulare County Retirement System shall be optional at the election of the commissioner. The commissioner shall make an irrevocable election whether or not to participate in the retirement system no later than 60 days after appointment to the position.

SEC. 16. Section 74924 of the Government Code is amended to read:

74924. Subject to the provisions of Section 72001, the compensation of officers and attachés shall be governed as follows:

(a) The initial hiring rate for each position shall be at step A. If it is difficult to secure qualified personnel at such rate, or if a person of unusual qualifications is hired, the appointing authority, with the approval of the board of supervisors, may employ such person at one of the higher salary steps provided for the position.

(b) All step increases shall not be given as a matter of right but only when the presiding judge of the court determines that the officer or employee is properly entitled to receive it. Each person employed in the office of the clerk or marshal, including the clerk, may be advanced from step A to step B of a position after the completion of 13 full pay periods of service in the position. A person may be advanced to steps C, D and E upon completion of 26 full pay periods of service in the same position.

(c) Certain classes of positions in the municipal courts in Tulare County are deemed to be comparable in job and salary level to certain positions in the service of the County of Tulare, or in some instances to such positions with a range adjustment on the salary schedule of the County of Tulare. Whenever the salary of a classification in the service of Tulare County is adjusted by the board of supervisors the salary of the comparable classification in the municipal courts shall be adjusted an equal number of ranges on the currently effective salary schedule established by the board of supervisors. Such adjustments shall be effective on the same date as the effective date of the action by the board of supervisors as it applies to classifications in the county service, but such adjustments shall be effective only until January 1 of the second year following the

year in which such adjustments are made, unless ratified by the Legislature. The following table sets forth the municipal court classification with the comparable county classification with appropriate range adjustment, if any, shown opposite thereto:

Municipal court classification	County classification
Clerk of the municipal court	Assistant county clerk minus 16 ranges
Assistant clerk, municipal court	Assistant clerk, superior court
Court clerk III	Court clerk III
Court clerk II	Court clerk II
Court clerk I	Court clerk I
Account clerk	Account clerk
Intermediate clerk-typist	Intermediate clerk-typist
Marshal	Sheriff's sergeant
Deputy marshal	Bailiff plus 2 ranges

SEC. 17. Section 74924.6 of the Government Code is amended to read:

74924.6. (a) Notwithstanding Section 72194, each judge of the municipal court districts in the County of Tulare may appoint a competent phonographic reporter, to be known as a regular official reporter of such court, and such pro tempore reporters as necessary to report the proceedings of the court. Regular official reporters shall hold office during the pleasure of the appointing judge. The duties of regular official reporters appointed pursuant to this section shall be performed as elsewhere provided by law.

(b) The fee for official court reporters for reporting proceedings shall be ninety dollars ($90) a day. All other fees of such reporters shall be as elsewhere provided by law. Where it is necessary to appoint a pro tempore reporter, the pro tempore reporter shall receive the same per diem fee paid regular official reporters of the municipal courts for the days the pro tempore reporter actually is on duty under order of the court. Regular official reporters and pro tempore reporters shall not receive more than one per diem fee a day from the county. Rates of compensation of all regular official reporters and official reporters pro tempore may be adjusted by the board of supervisors. Adjustments in compensation made pursuant to this subdivision shall be effective only until January of the second year following the year in which such adjustments are made, unless ratified by the Legislature.

(c) Regular official reporters may, at the election of each regular official reporter, be members of any retirement system maintained by the county. For retirement credit purposes, compensation earnable shall be deemed to be the annual total of all per diem and transcription fees paid by the county to each regular official reporter up to a maximum of twenty-five thousand dollars ($25,000) per year. Each regular official reporter performing services for the county on

the effective date of this legislation shall make an election whether or not to remain in the Tulare County Retirement Association within 60 days after the effective date of this legislation. Thereafter each new regular official reporter shall make an election within 60 days of his appointment as a regular official reporter. Said election shall be an irrevocable decision not subject to later withdrawal, change or modification.

SEC. 18. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

CHAPTER 1631

An act to amend Sections 74936, 74937, 74940, and 74941 of the Government Code, relating to courts.

[Became law without Governor's signature. Filed with Secretary of State October 1, 1982.]

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

SECTION 1. Section 74936 of the Government Code is amended to read:

74936. There shall be one clerk of the court who shall receive the salary specified in range No. 21.0.

SEC. 2. Section 74937 of the Government Code is amended to read:

74937. The clerk of the court may appoint:

(a) Three deputy court clerks I or II.

(b) Two deputy court clerks I or typist clerks II.

(c) One account clerk or typist clerk II.

(d) Five typist clerks I or II.

The aforesaid positions shall receive the salary specified in the range number listed below with the position:

(a) Deputy Court Clerk I	9.5
(b) Deputy Court Clerk II	11.5
(c) Typist Clerk II	8.5
(d) Account Clerk	9.5
(e) Typist Clerk I	6.5

The number of the foregoing positions may be increased as required with the consent of the Board of Supervisors of the County of Butte, and such additional positions shall receive the salary specified in the range applicable to that position.

SEC. 3. Section 74940 of the Government Code is amended to read:

74940. Whenever reference is made to a range number in any section of this article, the following schedule of biweekly salaries shall apply:

Range Number	Hourly Rate	Salary Steps A	B	C	D	E
6.5	4.48	358	376	397	413	435
8.5	4.96	397	413	435	456	479
9.5	5.16	413	435	456	479	504
11.5	5.70	456	479	504	527	554
21.0	9.06	725	761	800	839	881

SEC. 4. Section 74941 of the Government Code is amended to read:

74941. Subject to the provisions of Section 72001, the compensation of officers and attaches shall be governed as follows:

(a) The initial hiring rate for each position shall be at step A. If it is difficult to secure qualified personnel at such rate, or if a person of unusual qualifications is hired, the appointing authority, with the approval of the Board of Supervisors of the County of Butte, may employ such person at one of the higher salary steps provided for the position.

(b) A person may advance to steps B, C, D, and E upon completion of successive 260-day periods of compensated service in the same position. A step advancement shall become effective in accordance with personnel rules of the County of Butte.

(c) The salaries of municipal court officers and attaches may, upon recommendation by the appointing authority and approval of the board of supervisors, be increased or decreased within the limits set forth in Section 74940 in order to provide compensation which is comparable to compensation received by county employees of similar qualifications and experience and holding equal or comparable positions, as said comparability is determined by the board of supervisors.

(d) If the Board of Supervisors of the County of Butte enacts a general adjustment either increasing or decreasing the salaries of the employees of the County of Butte, such adjustment shall also apply to the salaries of those positions specified in Sections 74936 and 74937. Such adjustment insofar as it applies to the positions specified in Sections 74936 and 74937, shall become effective at the same time as the general adjustment, and any change in compensation made pursuant to this subdivision 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. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and

Taxation Code because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

CHAPTER 1632

An act to add Article 6.5 (commencing with Section 11094) to Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code, relating to state government, and declaring the urgency thereof, to take effect immediately.

[Became law without Governor's signature. Filed with Secretary of State October 1, 1982.]

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

SECTION 1. Article 6.5 (commencing with Section 11094) is added to Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code, to read:

Article 6.5. Distribution of State Publications

11094. (a) It is the intent of the Legislature, in enacting this article, to reduce the excessive flow of unsolicited state agency reports which, after being written, printed, and distributed at significant public expense, are received without having been requested by legislative offices, state agency offices, and other recipients who often shelve, destroy, or otherwise dispose of the unsolicited material often, again, at significant public expense.

(b) In enacting this article, it is not the intent of the Legislature to reduce the free flow of information between state government and the public but, rather, to reduce the use of state government publications for other than required informational purposes and to effect a reduction in the escalating public expense of writing, printing, and distributing unsolicited state agency reports.

11095. Unless specified to the contrary, all reports by state agencies required to be submitted to the Legislature shall be required to be submitted only to the following offices of the Legislature:

(a) The Speaker of the Assembly.

(b) The President pro Tempore of the Senate.

(c) The minority floor leader of each house.

(d) Legislative offices with specific responsibilities in the policy or fiscal areas applicable to the subject matter of the report.

(e) The member who was the lead author of the legislation authorizing the preparation of the report.

(f) The Secretary of the Senate.

(g) The Chief Clerk of the Assembly. If a report is submitted to

both the policy and fiscal committees of either house, then it shall also be submitted to the minority staff of the fiscal committee.

(h) The Assembly Office of Research.

(i) The Senate Office of Research.

11096. (a) No state agency shall distribute a state publication, as defined in Section 14902, except in response to a specific request therefor, or to the subjects of a mailing list or distribution list who have previously requested the automatic receipt of reports of this type, or pursuant to Sections 14900, 14901, 14903, 14904, 14905.1, and 14907. This section shall not apply to the following publications:

(1) Public information pamphlets.

(2) Copies of legislative bills.

(3) Copies of statutes, laws, and regulations.

(4) Any information disseminated to the press.

(5) Publications which are applications, instructions, or guidelines for complying with any state or federal law, regulation, or policy.

(6) Directories.

(b) Nothing in this section shall be construed to prohibit a state agency from distributing an abstract which contains a description of any reports submitted to the Legislature, and of any other information that is available upon request.

11097. (a) For the 1983–84 fiscal year, each state agency shall include the following information in its budget request:

(1) A list of titles and brief descriptions of every state publication, as defined in Section 14902, produced by the agency which is legislatively mandated and requires 100 or more employee hours to produce.

(2) The authority for the production of the state publication by the agency.

(3) A recommendation by the state agency whether the production of the state publication should be discontinued.

(b) The requirement of subdivision (a) shall not apply to the following publications:

(1) Public information pamphlets.

(2) Copies of legislative bills.

(3) Copies of statutes, laws, and regulations.

(4) Any information disseminated to the press.

(c) The Legislative Analyst shall review the information provided by a state agency under subdivision (a) and shall make a recommendation whether any state publication should be discontinued. The Legislative Analyst may also obtain from a state agency the estimated total development, printing, and distribution cost for any specific state publication listed pursuant to paragraph (1) of subdivision (a).

(d) The Legislative Analyst shall compile and provide upon request a complete annual listing of all state publications discontinued by the Budget Act.

(e) Beginning with the 1984–85 fiscal year, each state agency shall include in its budget request a listing of state publications, as defined

in Section 14902, which were added by legislative mandate or otherwise during the previous fiscal year.

11098. Notwithstanding any other provision of law, when funding for any legislatively mandated publication is discontinued in the Budget Act, the statutory mandate for that publication shall be automatically suspended.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make the provisions of this act applicable to the preparation of state agency budgets for the 1983–84 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 1633

An act to amend Sections 69994.2, 74192, 74193, 74194, and 74195 of, to add Sections 74196 and 74201 to, and to repeal Section 74196 of, the Government Code, relating to courts.

[Became law without Governor's signature. Filed with Secretary of State October 1, 1982.]

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

SECTION 1. Section 69994.2 of the Government Code is amended to read:

69994.2. The regular official phonographic reporters shall be compensated at an annual salary of twenty-eight thousand eighty dollars ($28,080), except that such reporters may be employed at an annual salary of twenty-three thousand one hundred ninety-six dollars ($23,196) for the first year of service, at an annual salary of twenty-four thousand three hundred seventy-two dollars (24,372) for the second year of service, at an annual salary of twenty-five thousand four hundred seventy-six dollars ($25,476) for the third year of service, and at an annual salary of twenty-six thousand seven hundred forty-eight dollars ($26,748) for the fourth year of service. The judges of the superior and municipal courts of such county, a majority concurring, may appoint a supervising phonographic reporter at an annual salary of thirty-two thousand eight hundred twenty-three dollars ($32,823).

SEC. 2. Section 74192 of the Government Code is amended to read:

74192. (a) There shall be one administrator who shall be appointed by the judges of the court and who shall be clerk of the court. The administrator shall receive a biweekly salary at a rate specified in range 1600. The position of administrator shall not be deemed a civil service position. The administrator shall be the

appointing authority for the positions set forth in this section. Each person appointed shall serve at the pleasure of the administrator.

(b) There shall be one director of judicial services. The director of judicial services for the court shall receive a biweekly salary at a rate specified in range 1317. The position of director of judicial services for the court shall not be deemed a civil service position.

(c) There shall be one director of administrative services. The director of administrative services for the court shall receive a biweekly salary at a rate specified in range 1488. The position of director of administrative services shall not be deemed a civil service position.

(d) There shall be two senior legal stenographers. The senior legal stenographer for the court shall receive a biweekly salary at a rate specified in range 720. The position of senior legal stenographer shall not be deemed a civil service position.

(e) There shall be four senior deputy clerks. The senior deputy clerks for the court shall receive a biweekly salary at a rate specified in range 660. The positions of senior deputy clerk for the court shall not be deemed civil service positions.

(f) There shall be one principal deputy clerk. Each principal deputy clerk for the court shall receive a salary at a rate specified in range 1009. The position of principal deputy clerk for the court shall not be deemed a civil service position.

(g) There shall be one system manager coordinator. The system manager coordinator shall receive a biweekly salary at a rate specified in range 1208. The position of system manager coordinator shall not be deemed a civil service position.

(h) There shall be one court interpreter. The court interpreter shall receive a biweekly salary at a rate specified in range 777. The position of court interpreter shall not be deemed a civil service position.

(i) There shall be one director of operations. The director of operations shall receive a biweekly salary at a rate specified in range 1317. The position of director of operations shall not be deemed a civil service position.

(j) There shall be nine associate deputy clerks. The associate deputy clerks shall receive a biweekly salary at a rate specified in range 551. The position of the court associate deputy clerk shall not be deemed a civil service position.

SEC. 3. Section 74193 of the Government Code is amended to read:

74193. The administrator shall appoint:

(a) Two justice court clerks, who shall receive a biweekly salary at a rate specified in range 693.

(b) Four deputy clerks, who shall be principal deputy clerks, each of whom shall receive a biweekly salary at a rate specified in range 1009.

(c) Eighteen deputy clerks, who shall be court clerks, each of whom shall receive a biweekly salary at a rate specified in range 927.

(d) Eleven deputy clerks who shall be typist-clerks II, each of whom shall receive a biweekly salary at a rate specified in range 525.

(e) Fifteen deputy clerks, who shall be senior deputy clerks, each of whom shall receive a biweekly salary at a rate specified in range 660.

(f) Sixteen deputy clerks, who shall be associate deputy clerks, each of whom shall receive a biweekly salary at a rate specified in range 551.

(g) Ten deputy clerks, who shall be cashier-clerks, each of whom shall receive a biweekly salary at a rate specified in range 563.

(h) One deputy clerk, who shall be a special student trainee, who shall receive a biweekly salary at a rate specified in range 272. Appointment to such position shall be at step E.

(i) Four deputy clerks, who shall be account clerks II, each of whom shall receive a biweekly salary at a rate specified in range 630.

(j) One deputy clerk, who shall be a data-processing technician III, who shall receive a biweekly salary at a rate specified in range 826.

(k) One deputy clerk, who shall be a data-processing technician II, who shall receive a biweekly salary at a rate specified in range 689.

(*l*) One deputy clerk, who shall be a data entry supervisor, who shall receive a biweekly salary at a rate specified in range 720.

(m) Eight deputy clerks, who shall be data entry operators, each of whom shall receive a biweekly salary at a rate specified in range 574.

(n) One deputy clerk, who shall be a senior personnel clerk who shall receive a biweekly salary at a rate specified in range 660.

SEC. 4. Section 74194 of the Government Code is amended to read:

74194. There shall be one marshal, Sacramento County, who shall be appointed by the judges of the court, and who shall receive a biweekly salary at a rate specified in range 1577. The position of marshal shall not be deemed to be a civil service position.

SEC. 5. Section 74195 of the Government Code is amended to read:

74195. The marshal shall appoint:

(a) One deputy marshal who shall be marshal's captain, who shall receive a biweekly salary at a rate specified in range 1240.

(b) Two deputy marshals, who shall be marshal's lieutenants, each of whom shall receive a biweekly salary at a rate specified in range 1128.

(c) Six deputy marshals, who shall be marshal's sergeants, each of whom shall receive a biweekly salary at a rate specified in range 1071.

(d) Twenty-seven deputy marshals, who shall be deputy marshals, each of whom shall receive a biweekly salary at a rate specified in range 926.

(e) One deputy marshal, who shall be a principal deputy clerk, who shall receive a biweekly salary at a rate specified in range 1009.

(f) One typist-clerk III, who shall receive a biweekly salary at a

rate specified in range 630.

(g) Three deputy marshals, who shall be senior deputy clerks, each of whom shall receive a biweekly salary at a rate specified in range 660.

(h) Five deputy marshals, who shall be associate deputy clerks, each of whom shall receive a biweekly salary at a rate specified in range 551.

All deputy marshals listed in subdivisions (a) to (d), inclusive, are authorized incentive pay in addition to the above rates as follows:

2½% of base pay	(1) Intermediate POST Certificate
5% of base pay	(1) AA Degree
7½% of base pay	(1) AA Degree + Intermediate or Advance POST Certificate
10% of base pay	(1) BS Degree
12½% of base pay	(1) AA Degree + Advance POST Certificate
15% of base pay	(1) BS Degree + Intermediate POST Certificate
17½% of base pay	(1) BS Degree + Advance POST Certificate

SEC. 6. Section 74196 of the Government Code, is repealed.

SEC. 7. Section 74196 is added to the Government Code, to read:

74196. (a) All attaches and employees of the Sacramento Municipal Court District shall be entitled to anniversary dates and salary step increases and shall receive the same vacation, sick leave, leave of absence, overtime, reinstatement and similar privileges and benefits provided for the officers and employees of the County of Sacramento in the manner provided in the Sacramento County Personnel Ordinance or applicable agreements with recognized employee organizations. Rights provided by the county to return to formerly held employment in county civil service shall be applicable only to the positions of administrator and marshal and to any person appointed to the position of director of administrative services before June 1, 1982.

(b) Except as otherwise provided in this article, the provisions of the Sacramento County Charter relating to the civil service system of the county and the rules of the Civil Service Commission adopted pursuant thereto shall be applicable to all attaches and employees of the Sacramento Municipal Court District in the same manner and to the same extent as applicable generally to the officers and employees of Sacramento County. The Sacramento County Civil Service

Commission shall exercise the same jurisdiction over the attaches and employees of the Sacramento Municipal Court District as it exercises over the officers and employees of the county.

(c) The provisions of subdivision (b) shall not apply to any officer or employee in a position which this article expressly provides is not to be deemed a part of county civil service.

(d) Whenever reference to a numbered salary range is made in any section of this article, the range referred to is one of the ranges provided for in Section 2.78.410(d) of the Sacramento County Personnel Ordinance.

SEC. 8. Section 74201 is added to the Government Code, to read:

74201. There shall be one pretrial release program manager. The appointing authority for the position shall be the judges of the Sacramento Municipal Court. The position shall not be deemed to be a civil service position and the incumbent shall serve at the pleasure of the judges of the Sacramento Municipal Court. The salary range for the position shall be the same as for the Sacramento County civil service class of Supervising Deputy Probation Officer. If the person first appointed to the position is a county employee with permanent status in a county civil service position, that person shall have a right to return to a position in county civil service as provided in the Sacramento County Personnel Ordinance. The right shall expire at the end of the second calendar year following the date of the appointment.

SEC. 9. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

CHAPTER 1634

An act to add Section 426.1 to the Streets and Highways Code, relating to state highways.

[Became law without Governor's signature. Filed with Secretary of State October 1, 1982.]

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

SECTION 1. Section 426.1 is added to the Streets and Highways Code, to read:

426.1. If funds are available to carry out the 1980 state transportation improvement program as programmed, the commission shall program and allocate funds for the improvement of Route 126, as defined in the 1980 state transportation improvement program.

CHAPTER 1635

An act to add Chapter 20.6 (commencing with Section 9891) to Division 3 of the Business and Professions Code, relating to tax preparers, and making an appropriation therefor.

[Became law without Governor's signature. Filed with Secretary of State October 1, 1982.]

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

SECTION 1. Chapter 20.6 (commencing with Section 9891) is added to Division 3 of the Business and Professions Code, to read:

CHAPTER 20.6. TAX PREPARERS

Article 1. General Provisions

9891. This chapter may be cited as the Tax Preparers Act.

9891.1. For the purposes of this chapter, the following words have the following meanings:

(a) (1) Except as otherwise provided in paragraph (2), "tax preparer" includes:

(A) Any person, as defined in subdivision (g), who, for a fee, assists with or prepares tax returns for another person or entity or who assumes final responsibility for completed work on a return on which preliminary work has been done by another person. Each person engaged in such activity shall be deemed to be a separate person for the purposes of this chapter, irrespective of affiliation with or employment by another tax preparer.

(B) Any corporation, partnership, association, or other entity which has associated with it persons not exempted from this chapter under Section 9891.2, which persons shall have as part of their responsibilities the preparation of data and ultimate signatory authority on tax returns. Persons employed by or otherwise associated with these entities and not exempted under Section 9891.2 shall, for the purposes of this chapter, be deemed to be tax interviewers, as defined in subdivision (j).

(2) Notwithstanding paragraph (1), "tax preparer" does not include an employee who, as part of the regular clerical duties of his or her employment, prepares his or her employer's income, sales, or payroll tax returns, or a person employed by a corporation, partnership, association, or other entity described in subparagraph (B) of paragraph (1).

(b) "Administrator" means the official appointed by the Governor to head the program.

(c) "Chief" means the Chief of the Division of Consumer Services.

(d) "Division" means the Division of Consumer Services of the

Department of Consumer Affairs.

(e) "Director" means the Director of the Department of Consumer Affairs.

(f) "Fee" means any money or valuable consideration paid or promised to be paid for services rendered or promised to be rendered by any tax preparer.

(g) "Person" means an individual, irrespective of relationship to any firm, partnership, association, joint venture, or corporation.

(h) "Program" includes all procedures, regulations, and activities authorized by or associated with this chapter.

(i) "Registrant" includes any tax preparer, or tax interviewer not specifically exempted by Section 9891.2, and those persons otherwise entitled to exemption under Section 9891.2 who have voluntarily expressed desire to be registered under the program.

(j) "Tax interviewer" means a person who is associated with a tax preparer and who by delegation or authorization from such preparer assumes responsibility for the preparation of returns for third parties, or the signing of returns prepared by those in the control of such preparer, or both. A preparer having associated with him or her a tax interviewer shall assume responsibility for the bonding of such interviewer, and the reporting to the administrator with payment of appropriate fees of the association of such interviewer within 30 days of the beginning of such association.

(k) "Tax return" means any return, declaration, statement, refund claim or other document required to be made or filed in connection with state or federal income taxes or state bank and corporation franchise taxes.

9891.2. The following persons are exempt from the requirements of this chapter:

(a) Any person regulated by the State Board of Accountancy.

(b) Any person who is a member of the State Bar of California.

(c) Employees of any trust company or trust business as defined in Chapter 1 (commencing with Section 99) of Division 1 of the Financial Code.

(d) Financial institutions regulated by the state or federal government, and employees thereof, insofar as the activities of the employees are related to their employment and the activities of the financial institution with respect to tax preparation are subject to federal or state examination or oversight.

(e) Any person who is authorized to practice before the Internal Revenue Service pursuant to Subpart A (commencing with Section 10.1) of Part 10 of Title 31 of the Code of Federal Regulations.

(f) Any person authorized to make loans pursuant to Division 7 (commencing with Section 18000), Division 9 (commencing with Section 22000), or Division 10 (commencing with Section 24000) of the Financial Code, or its wholly owned subsidiary.

Article 2. Administration

9891.10. (a) The duty of enforcing and administering this chapter is vested in the administrator who is responsible to the chief.

(b) The Governor shall appoint, subject to confirmation by the Senate, an Administrator—Tax Preparer Program at a salary to be fixed by the chief with the approval of the Director of Finance. The Administrator—Tax Preparer Program shall serve under the direction and supervision of the chief and at the pleasure of the Governor.

9891.11. With the approval of the chief, the administrator may adopt whatever rules and regulations he or she determines are reasonably necessary to carry out the purposes of this chapter. The rules and regulations shall be adopted pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

9891.12. The administrator shall maintain a record of registered tax preparers and interviewers. The record shall include a list of the names and addresses of the tax preparer locations of all registered tax preparers, which list is a public record and open to public inspection at reasonable times.

9891.13. The administrator shall, on his or her own initiative or in response to complaints, investigate and gather evidence of violations of this chapter and of any rule or regulation adopted pursuant to this chapter by any tax preparer, whether registered or not, and by any employee, partner, officer, agent, or member of any tax preparer.

Article 3. Registration Procedures

9891.20. (a) Every tax preparer shall register upon forms prescribed by the administrator. The forms shall contain sufficient information to identify the tax preparer, including name, address, identification numbers, and other identifying data which is prescribed by the administrator.

(b) Any tax preparer maintaining more than one tax preparer location shall be permitted to file a single form which, in addition to the information required in subdivision (a), clearly designates each location, identifying one location as the principal location and all others as additional locations, and the individual or individuals in charge of each location. The form shall also provide for information required in subdivisions (b) and (c) of Section 9891.22.

(c) Every person engaged in the activity of a tax preparer, or tax interviewer, as defined in this section and required to register under this section shall, as a precondition of registration, comply with all of the following requirements:

(1) Be at least 18 years of age.

(2) Possess a high school diploma or have passed an equivalency examination.

(3) Present evidence to the administrator of either:

(A) Completion with the previous 18 months of not less than 60 hours of instruction in basic personal income tax law, theory and practice. The instruction shall be given in subjects and in a setting approved by the administrator or the State Board of Education.

(B) At least two years experience in the preparation of personal income tax returns acceptable to the administrator as being the equivalent of 60 hours of instruction in personal income tax law.

(d) If any of the information required by this section changes, the tax preparer shall promptly notify the administrator of the changes.

9891.21. (a) Any person engaged in the activity of a tax preparer, or tax interviewer, as defined in this chapter, and not exempted from the requirements of this chapter under Section 9891.2, shall be required to register with the administrator of the program annually and pay fees as designated by the administrator under authority of Article 6 (commencing with Section 9891.40).

(b) Any person eligible for exemption from the requirements of this chapter under Section 9891.2 may voluntarily register by application to the administrator and payment of appropriate fees. Such voluntary registrants shall be required to comply with all requirements as pertain to nonvoluntary registrants.

9891.22. Any person who is registered as a tax preparer pursuant to this chapter shall:

(a) Annually pay by October 31 the renewal fee specified in Section 9891.42 and billed to registrant at his or her last known address by the administrator on or before July 1 of each year.

(b) Furnish to the administrator by October 31 proof that surety bond or equivalent coverage as required for the ensuing calendar year has been acquired.

(c) Furnish to the administrator by October 31 proof that continuing education requirements as required have been met.

(d) Notify the administrator within 30 days of any change in business address.

Upon receipt of the form properly filled out, and receipt of the required fee, and receipt of proof of deposit of the bond required by this chapter, if the administrator determines that the applicant is eligible, he or she shall validate the registration and send a proof of such valid registration to the tax preparer.

9891.23. Every registration shall cease to be valid on October 31st, unless the tax preparer has paid the renewal fee required by this chapter.

9891.24. On or after January 31, 1983, it shall be unlawful for any person to be a tax preparer unless such person is registered in accordance with the provisions of this chapter. Any person who violates this section is guilty of a misdemeanor, punishable by a fine of not less than fifty dollars ($50) or more than five hundred dollars ($500), or jail for a period of not more than 60 days, or both, for each violation of this section.

9891.25. (a) The administrator may refuse to validate or may suspend or revoke, temporarily or permanently, the registration of

a tax preparer for any of the following acts or omissions relating to preparing tax returns for others for a fee by any registrant:

(1) Making, or authorizing the making of, any statement or representation, oral or written or recorded by any means, which is intended to induce persons to use the tax preparation service of the tax preparer, which statement or representation is fraudulent, untrue, or misleading.

(2) Obtaining the signature of a customer to a tax return or authorizing document which contains blank spaces to be filled in after it has been signed.

(3) Failing or refusing to give a customer, for his or her own records, a copy of any document requiring his or her signature, within a reasonable time after the customer signs such document.

(4) Failing to maintain a copy of any tax return prepared for a customer for four years from the date of completion or the due date of the return, whichever is later.

(5) Engaging in any fraudulent conduct.

(6) Engaging in advertising practices which are fraudulent, untrue, or misleading, including but not limited to assertions that registration in any way implies licensure or endorsement of a tax preparer or interviewer by the State of California.

(7) Failing to report changes in the information required by Section 9891.20 within 60 days.

(8) Violating the provisions of Section 17530.5.

(9) Violating the provisions of Section 7216 of Title 26 of the United States Code.

(10) Failing to post the certificate of registration in the tax preparer's place of business so that it may easily be read by customers.

(11) Failing to sign a customer's tax return as prescribed by the administrator.

(12) Gross negligence as defined by the administrator with the advice of the State Preparer Advisory Committee.

(13) Failing to return, upon the demand by or on behalf of a client and after payment for services rendered, records or other data provided to the tax preparer by the client.

(14) Willfully misrepresenting any material fact in an application for registration or renewal of registration.

(15) Failing to provide to the administrator by October 31 proof of compliance with continuing education requirements for the current year, unless the registrant has previously specified inactive status pursuant to Section 9891.34.

(b) In addition to the grounds specified in subdivision (a), the administrator may refuse to validate or may suspend or revoke, temporarily or permanently, the registration of a tax preparer or tax interviewer if he or she enters a plea of guilty or nolo contendere to, or if he or she has been convicted of a crime which is substantially related to the qualifications, functions or duties of a tax preparer, and the time for appeal has elapsed or the judgment of conviction has

been affirmed on appeal, irrespective of an order granting probation following the conviction, or suspending the imposition of sentence, or of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty, or setting aside the plea or verdict of guilty, or dismissing the accusation or information.

9891.26. If the administrator refuses to validate a registration, he or she shall notify the applicant by personal service or registered mail return receipt requested mailed to the address as shown on the registration form. In the event the notice is given, the applicant shall be given a hearing under Section 9891.29 if he or she files a written request with the administrator within 60 days after the notice is given.

9891.27. (a) If the administrator determines that a registrant has committed one or more violations of this chapter which require disciplinary action, the administrator shall file an accusation as required by the procedure specified in Section 9891.29. Upon receiving notice of the accusation, any registrant may, in addition to requesting a hearing, submit, and the administrator may accept, an assurance of voluntary compliance.

(b) As a condition of accepting an assurance of voluntary compliance, the administrator shall require that:

(1) The registrant pay all investigative costs actually incurred in discovering the alleged violations, not to exceed five hundred dollars ($500).

(2) The registrant establish procedures which will enable him or her to avoid future violations. The administrator may impose such additional requirements upon the registrant as a condition of accepting an assurance of voluntary compliance as may be necessary to protect the public interest and the interests of those persons for whom the registrant has prepared tax returns.

(c) If the administrator accepts an assurance of voluntary compliance from a registrant, he or she shall not proceed with disciplinary action against the registrant for the same alleged violations. An assurance of voluntary compliance shall not be evidence of a prior violation of this chapter. However, if the registrant violates the terms of an assurance of voluntary compliance, the violation shall constitute sufficient grounds for the administrator to revoke or suspend the tax preparer's or tax interviewer's registration.

9891.28. Each tax preparer shall maintain such records as are required by rules and regulations adopted by the administrator. The records shall be open for reasonable inspection by the administrator.

9891.29. All hearings relating to a refusal to validate a registration, or revocation or suspension of a registration, shall be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

9891.30. The expiration of a valid registration shall not deprive the administrator of jurisdiction to proceed with any investigation or

disciplinary proceeding against a tax preparer or to render a decision invalidating, revoking or suspending a registration.

9891.31. The superior court in and for the county wherein any person acts as a tax preparer in violation of the provisions of this chapter, or any regulation adopted pursuant to this chapter, may, upon a petition filed by the administrator with the approval of the chief, issue an injunction or other appropriate order restraining such conduct. The proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of the Code of Civil Procedure, except that no undertaking shall be required, and the administrator shall not be required to allege facts necessary to show or tending to show lack of an adequate remedy at law or irreparable injury.

9891.32. Nothing in the provisions of this chapter shall prohibit the bringing of a civil action against a tax preparer by an individual.

9891.33. If any provision of this chapter or the application thereof to any person or circumstance is held unconstitutional, the remainder of the chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

9891.34. (a) Any registrant otherwise in good standing may exempt himself or herself from subsequent year bonding and registration fee and continuing education requirements by notifying the administrator of the desire for that status by October 31 of any year.

(b) No registrant in inactive status shall engage in activities of a tax preparer, or tax interviewer unless he or she is qualified for exemption from this chapter under Section 9891.2.

(c) Any registrant in inactive status may be returned to active status by complying with applicable bonding fees and continuing education requirements for the year in which registration to active status is desired, as well as other requirements as may be specified by the administrator.

Article 4. Bonds

9891.35. A tax preparer, other than a tax preparer operating solely in the capacity of a tax interviewer, shall deposit with the division, prior to registration or registration renewal, one of the following:

(a) A cash deposit in the penal sum of two thousand dollars ($2,000).

(b) A bond issued by an admitted surety payable to the people of the State of California in the penal sum of two thousand dollars ($2,000).

(c) Certificates of deposit in the penal sum of two thousand dollars ($2,000) assigned to the division on behalf of the people of the State of California issued by banks doing business in this state and insured by the Federal Deposit Insurance Corporation.

(d) Investment certificates or share accounts in the penal sum of

two thousand dollars ($2,000) assigned to the division on behalf of the people of the State of California and issued by a savings and loan association doing business in this state and insured by the Federal Savings and Loan Insurance Corporation.

(e) Certificates for funds or share accounts in the penal sum of two thousand dollars ($2,000) assigned to the division on behalf of the people of the State of California and issued by a credit union, as defined in Section 14000 of the Financial Code, whose share deposits are guaranteed by the National Credit Union Administration or guaranteed by any other agency approved by the Department of Corporations.

Any of the above forms of security shall be conditioned that the person applying for registration or registration renewal will comply with this chapter and will pay all damages occasioned to any person by reason of misstatement, misrepresentation, fraud, deceit or any unlawful acts or omissions by the tax preparer, or interviewer while acting in the scope of their employment. The aggregate liability of the surety shall in no event exceed the penal sum of the bond or deposit.

A tax interviewer associated with a tax preparer shall be covered by the bond of the tax preparer with which the tax interviewer is associated. However, in no event shall the total bond required for any single tax preparer and associated tax interviewers be required to exceed fifty thousand dollars ($50,000).

9891.36. If any tax preparer fails to file a new bond with the division within 30 days after notice of cancellation by the surety of the bond required under Section 9891.35, the registration under this chapter is suspended until such time as a new bond is filed. A person whose registration is suspended pursuant to this section shall not, for a fee, assist with or prepare the income or franchise tax returns of others during the period of such suspension.

Article 5. Issuance of Registration Certificate

9891.37. The administrator shall issue certificates of registration to registrants on the following basis:

(a) For an initial period which shall last no later than the next subsequent October 31, after the date of initial registration upon a showing by the registrant of compliance with bonding requirements, satisfactory fulfillment of minimum registration requirements as listed in subdivision (c) of Section 9891.20, and the payment of required fees.

(b) For subsequent one-year periods upon showing of continued compliance with bonding requirements, payment of required fees, and compliance with continuing education requirements.

(c) A tax interviewer certificate under sponsorship and supervision of a tax preparer, which certificate shall be valid as long as all of the following requirements are met:

(1) The sponsorship of the tax interviewer is continued by the tax

preparer and the administrator shall have approved of the tax interviewer's compliance with minimum registration requirements as listed in subdivision (c) of Section 9891.20.

(2) Registration of the tax preparer remain valid.

(3) Continuing education and fee requirements as specified in Sections 9891.39 and 9891.42 are met.

(4) No contrary action has been taken by the administrator.

9891.39. (a) Commencing January 31, 1983, the administrator of the program shall evaluate and consider, with the advice of the State Preparer Advisory Committee, courses and activities eligible for continuing education credit related to the tax preparation field submitted to him or her for approval and shall either endorse or decline to endorse such programs within 90 days of submission. A listing of approved courses and activities shall be made available upon request to registrants and shall be updated monthly.

(b) Commencing January 31, 1983, registrants under the program shall be required to establish by October 31 of each calendar year that they have successfully completed or are in the process of completing by the end of the year at least 20 hours of continuing education in courses approved for continuing education by the administrator. Persons stipulating to the administrator that they are in the process of completing continuing education requirements as of October 31 shall submit proof of the successful completion of such requirements to the administrator by December 31 of that calendar year.

Article 6. Revenue

9891.40. All fees and revenues collected pursuant to this chapter shall be paid in the State Treasury to the credit of the Tax Preparers Fund, which is hereby created.

9891.41. The administrator shall report to the Controller at the beginning of each month, for the month preceding, the amount and source of all fees and revenues received by the division pursuant to this chapter, and at that time shall pay the entire amount of such fees and revenues into the State Treasury for credit to the Tax Preparers Fund.

9891.42. The fees prescribed by this chapter shall be set by the administrator in an amount estimated to provide for the administration of this chapter within the limits of the following schedule:

(a) The tax preparer registration fee for tax preparers and tax interviewers shall be established by the administrator at a sum not more than fifty dollars ($50) per registrant. However, no single tax preparer shall be required to pay registrant fees on behalf of itself and associated tax interviewers in excess of one thousand five hundred dollars ($1,500) in a single calendar year.

(b) If a tax preparer maintains more than one tax preparer location within this state, an additional fee shall be established by the

administrator at a sum not more than twenty-five dollars ($25) for each additional location.

(c) The annual renewal fees for a tax preparer registration shall be established by the administrator at amounts not to exceed the schedule for registration fees, if the registration is renewed prior to its expiration date.

(d) The penalty fee for renewal of a registration that is not renewed prior to its expiration date shall be the lesser of twenty-five dollars ($25) or 50 percent of the renewal fee required for a registration renewal prior to its expiration date.

9891.43. All salaries, expenses, or costs incurred or sustained pursuant to this chapter shall be payable only out of the Tax Preparers Fund.

9891.44. There is hereby appropriated for the purposes of this chapter the money in the Tax Preparers Fund necessary for the administration of this chapter. Such money shall be continuously appropriated for such purposes.

Article 7. Preparer Committees

9891.50. (a) The administrator of the program shall designate a State Preparer Advisory Committee composed of 9 members divided equally between registrants, branches of the tax preparation industry exempted under Section 9191.2, and the general public.

(b) The State Preparer Advisory Committee shall advise the administrator as to the suitability of proposed continuing education programs and activities and advise the administrator upon request as to the interpretation of gross negligence and recommend disposition of consumer complaints.

(c) The presence of a majority of the State Preparer Advisory Committee, which majority shall include public, registrant, and industry representatives shall constitute a quorum.

(d) The State Preparer Advisory Committee may be assigned additional advisory duties by the administrator, including specifically the holding of public hearings relative to establishing and revising standards of ethical conduct relative to the tax preparation industry.

(e) Members of the State Preparer Advisory Committee shall be entitled to expenses and per diem rates pursuant to Section 103 of the Business and Professions Code.

(f) All meetings of the State Preparer Advisory Committee shall be held in accordance with provisions of the State Agency Open Meeting Act, Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of the Government Code.

(g) Members of the State Preparer Advisory Committee shall be appointed by the administrator and shall serve for a term of four years beginning with the first day of January of the year in which they are appointed. Notice of proposed appointments shall be made available by the administrator for public comment 90 days before such appointments are made official. Appointees to positions vacated

before the end of a term shall initially be appointed for the unexpired portion of a term. No individual shall serve on the State Preparer Advisory Committee for more than two full four-year terms.

SEC. 2. The sum of two hundred fifty thousand dollars ($250,000) is hereby appropriated from the General Fund to the Tax Preparers Fund, which sum shall be a loan to be repaid to the General Fund with interest at the rate earned by moneys invested in the Pooled Money Investment Account and shall be repaid during the 1982–83 fiscal year from fees collected pursuant to the Tax Preparers Act.

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1636

An act to amend Sections 72602.12, 72608, 72640, 72645, 72646, 72649, 72701, 72702, 72702.5, 72703, 72704, 72704.5, 72712, 72717.5, 72750.5, 72751, 72751.1, 72751.5, 72752, 72753, 72754, and 72755 of, and to add Sections 72719, 72719.5, and 72645.5 to, the Government Code, relating to courts.

[Became law without Governor's signature. Filed with Secretary of State October 1, 1982.]

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

SECTION 1. Section 72602.12 of the Government Code is amended to read:

72602.12. (a) In addition to the number of judges specified in Section 72602, there shall be one additional judge in the East Los Angeles Municipal Court District.

(b) Notwithstanding any other provision of this code, the judges of the East Los Angeles Municipal Court District may appoint one special assistant, East Los Angeles municipal court, who shall be entitled to the same benefit as, and receive a monthly salary at the same rate specified for, the clerk-administrative officer of such court.

SEC. 2. Section 72608 of the Government Code is amended to read:

72608. Certain classes of positions prescribed in Articles 2 (commencing with Section 72640), 3 (commencing with Section 72700) and 4 (commencing with Section 72750) of this chapter are deemed to be related in job and compensation to position classifications included in the Los Angeles County code. In order to

maintain the relationship of compensation and employee rights and benefits between such officers and attachés of municipal courts and county employees having commensurate duties and responsibilities and to provide appropriate salary adjustments and employee rights and benefits for related classes of court positions, the provisions of this section shall govern salary adjustments and employee rights and benefits for officers and attachés of municipal courts in Los Angeles County.

On the effective date of any amendment to such code adjusting the salary of a county employee classification listed in the table of positions set forth in this section, the salary of the equivalent court position listed opposite thereto and each other class of court position indented immediately thereunder shall be adjusted an equivalent number of schedules in the salary schedule to which such position is attached. In no event shall any one such salary adjustment exceed eight schedule numbers. If the level of compensation established by any such salary adjustment is not reflected in the salary schedule number provided for any court classification, the adjustment shall apply to each position in such classification on the effective date of the act fixing such salary schedule number.

Likewise, the salary of any court classification being enumerated in Article 2 (commencing with Section 72640), Article 3 (commencing with Section 72700), or Article 4 (commencing with Section 72750) of this chapter for the first time as an amendment to this chapter shall be adjusted as necessary on the effective date of such amendment to provide the same relationship to the county classification to which it is attached as that established when the court classification was approved in accordance with the provisions of Section 72607.

Table of Positions

Court classification	County classification
Officer Series	
Inspector	Inspector
Marshal	
Assistant marshal	
Captain	Captain
Lieutenant	Lieutenant
Sergeant	Sergeant
Deputy marshal IV	Deputy sheriff IV
Deputy marshal	Deputy sheriff
Deputy marshal trainee	Deputy sheriff trainee
Deputy marshal-matron	Corrections officer
Deputy clerk	
Custody officer	
Legal services specialist,	Security officer II

marshal

Program Analysis Series

Chief program analyst	Deputy county counsel III
Program analyst	Deputy county counsel II
Legal research assistant	Law clerk
Assistant program analyst	Assistant administrative analyst

Administrative—Branch Supervisor—Courtroom Series

All positions subject to civil service provisions enumerated in Articles 2, 3, and 4 which are not listed in this table, except those specified in Section 72704.5	Superior court clerk
Clerk, Los Angeles Judicial District	
Court Administrator, Los Angeles	
Personnel officer	Personnel officer II
Special assistant, administrative services	Accountant III

Administrative Services Series

Head, fiscal and administrative services, marshal	Administrative analyst
Senior staff assistant, marshal	
Staff assistant, marshal	
Executive assistant, presiding judges' association	
Senior administrative assistant	Administrative assistant II
Administrative assistant	Administrative assistant I
Staff assistant, municipal court	Staff assistant I
Personnel assistant	Departmental personnel assistant
Accounting technician, municipal court	Accounting technician I
Personnel technician	Senior departmental personnel technician

Secretarial and Stenographic Series

Secretary to presiding judge, Los Angeles municipal court	Executive secretary group
Secretary to clerk-administrative officer, Los Angeles municipal court	
Secretary to executive officer, Los Angeles municipal court	
Executive secretary, marshal	
Senior secretary II, Los Angeles municipal court	Senior secretary group
Management secretary, marshal	
Senior judicial secretary, municipal court	
Senior secretary III, municipal court	
Senior secretary, marshal	
Senior secretary I, Los Angeles municipal court	
Secretary, marshal	
Secretary, Los Angeles municipal court	
Stenographer, municipal court	Legal stenographer
Senior stenographer, municipal court	

Clerical Series

Deputy clerk II	Intermediate typist-clerk
Deputy clerk I	
Deputy clerk III	
Administrative clerk	
Typist-clerk	
Senior payroll clerk, marshal	Supervising payroll clerk I
Payroll supervisor	
Payroll assistant	Payroll clerk I
Marshal's dispatcher	Sheriff's dispatcher II

Supply and Duplicating Series

Supply and reproduction supervisor	Warehouse worker II
Supply and reproduction assistant	
Stockroom supervisor, municipal court	
Supply clerk	Warehouse worker aide
Offset duplicator operator, municipal court	Offset duplicator operator

Salary adjustments made pursuant to this section shall be on an interim basis and shall expire 90 days after the adjournment of the next regular session of the Legislature unless ratified at such session.

Officers and attachés of municipal courts in Los Angeles County shall be entitled to all employee rights and benefits including, but not limited to, paid medical plans, parking and cafeteria privileges, longevity pay, shooting allowance, uniform and equipment allowance, and the same rights to meet with those entities which prescribe their compensation, that are provided for or made applicable to the equivalent Los Angeles County employee classification.

Bonus Level I assignments of deputy marshals are as follows:

Nineteen positions—assistant commander, small division

Nine positions—bailiff supervisor

Eight positions—field supervisor

Nine positions—counter deputy

One position—vehicle coordinator

One position—training officer

One position—real estate levy/bookkeeping section supervisor

Bonus Level II assignments of deputy marshals are as follows:

Two positions—commander, small division

One position—headquarters communications center supervisor

One position—operations bureau deputy

One position—security and intelligence officer

One position—assistant procedures officer

Deputy marshals with Bonus Level I assignments shall receive additional compensation in the same amounts, for the same periods, and paid on the same terms, as deputy sheriffs assigned to Bonus Level I positions. Deputy marshals with Bonus Level II assignments shall receive additional compensation in the same amounts, for the same periods, and paid on the same terms, as deputy sheriffs assigned to Bonus Level II positions.

In addition to the salary adjustment otherwise provided by this section, all persons employed in the classifications of chief, administrative services division; chief, civil division; chief, criminal division; chief, data-processing division; chief, traffic division; chief, valley division; special assistant to the executive officer; chief deputy clerk; chief deputy clerk (Los Angeles), and clerk-administrative

officer (one-, two-, three-, four-, five-, six-, and seven-judge court) shall receive a one time only one-schedule salary increase. Likewise, all persons employed in the classifications of chief clerk, administrative services, chief clerk, court services; chief clerk, civil; chief clerk, criminal; chief clerk, traffic; deputy chief, and principal clerk (Los Angeles Judicial District) shall receive a one time only four-level salary increase. The resulting salary rates shall constitute the base rates for subsequent salary adjustments. The term "schedule" herein refers to the salary schedule and the term "level" herein refers to the subschedule increments of the salary schedule of the Los Angeles County code.

SEC. 3. Section 72640 of the Government Code is amended to read:

72640. There shall be one marshal for all municipal courts established in judicial districts in Los Angeles County, who shall be appointed pursuant to this article, and who shall receive the monthly compensation specified in Schedule 93A.

SEC. 4. Section 72645 of the Government Code is amended to read:

72645. The marshal shall appoint:

(a) One assistant marshal who shall receive the monthly compensation specified in Schedule 89A. The marshal shall make such appointment from the peace officer members of his office of the rank of lieutenant or higher and the appointee shall serve solely at the pleasure of the marshal. The provisions of Section 72649 shall not be applicable to the appointment to nor removal of a person from this position, but all other provisions of Section 72649 shall be applicable. Upon removal by the marshal for any reason other than that which would be cause for the discharge of any other member, an appointee shall revert to the rank held by him prior to his appointment to the position of assistant marshal.

(b) Three inspectors, each of whom shall receive monthly compensation as provided in Schedule 83A.

(c) Ten captains, each of whom shall receive monthly compensation as provided in Schedule 77A.

(d) Twenty-two lieutenants, each of whom shall receive monthly compensation as provided in Schedule 71G.

(e) Thirty-six sergeants, each of whom shall receive monthly compensation as provided in Schedule 65C.

(f) Four hundred forty-six deputy marshals, each of whom shall receive monthly compensation as provided in Schedule 54HW; except that the number of deputy marshals shall be reduced by the number of deputy marshal IV positions required to be retained pursuant to Section 72645.5.

(g) Twenty-seven deputy marshal trainees, each of whom shall receive monthly compensation as provided in Schedule 54H. Appointments to such positions shall be made from civil service lists resulting from open competitive examinations, provided that notwithstanding the provisions of 72649, such appointees shall be

subject to a 12-month period of probation.

(h) Four deputy marshal-matrons, each of whom shall receive monthly compensation as provided in Schedule 46G, and shall have completed a course of training which meets the requirements of the POST commission for a specialized law enforcement basic certificate.

(i) Four deputy clerk-custody officers, each of whom shall receive monthly compensation as provided in Schedule 41E.

(j) Ten legal services specialists, marshal, each of whom shall receive monthly compensation at the same rate specified for the county's class of security officer II.

SEC. 5. Section 72645.5 is added to the Government Code, to read:

72645.5. There shall be retained a number of deputy marshal IV positions equal to the number of persons who held those positions immediately prior to January 1, 1982, and who continue to hold those positions. Incumbents of such positions shall receive monthly compensation as provided in Schedule 58H. When an incumbent for any reason vacates a deputy marshal IV position, that position shall automatically cease to exist, and an additional deputy marshal position, under Section 72645(f), shall automatically be created.

SEC. 6. Section 72646 of the Government Code is amended to read:

72646. The marshal shall appoint:

(a) One head, fiscal and administrative services, marshal, who shall receive compensation as provided in Schedule 70K.

(b) One senior staff assistant, marshal, who shall receive compensation as provided in Schedule 59F.

(c) One executive secretary, marshal, who shall receive monthly compensation as provided in Schedule 52C. Appointment to said position shall be at step 3 of said schedule.

(d) Two staff assistants, marshal, each of whom shall receive compensation as provided in Schedule 49H.

(e) One management secretary, marshal, who shall receive monthly compensation as provided in Schedule 49C. Appointment to said position shall be at step 3 of said schedule.

(f) Two principal clerks, each of whom shall receive monthly compensation as provided in Schedule 46J.

(g) One supply and reproduction supervisor who shall receive monthly compensation as provided in Schedule 45F.

(h) Two senior secretaries, marshal, each of whom shall receive monthly compensation as provided in Schedule 44B.

(i) Ten administrative clerks, each of whom shall receive monthly compensation as provided in Schedule 42E.

(j) One senior payroll clerk, marshal, who shall receive monthly compensation as provided in Schedule 42B.

(k) One supply and reproduction assistant who shall receive monthly compensation as provided in Schedule 39F.

(*l*) Sixty-five deputy clerks, grade III, each of whom shall receive

monthly compensation as provided in Schedule 38F.

(m) Three secretaries, marshal, each of whom shall receive monthly compensation as provided in Schedule 40B.

(n) Seventy-five deputy clerks, grade II, each of whom shall receive monthly compensation as provided in Schedule 32G.

(o) Fifteen deputy clerks, grade I, each of whom shall receive monthly compensation as provided in Schedule 27D. Appointments to such positions shall be at step 4 of such schedule.

(p) Such deputies who shall be keepers, as may be reasonably required pursuant to law, at the fee allowed by law for keeping property.

(q) Six marshal's dispatchers, each of whom shall receive monthly compensation as provided in Schedule 43C.

SEC. 7. Section 72649 of the Government Code is amended to read:

72649. Except where this title otherwise provides, all deputies and other employees of the marshal of municipal courts, Los Angeles County, may be appointed, removed, suspended, or discharged for cause by the marshal, subject in such appointment, removal, suspension, or discharge to all civil service provisions applicable to the personnel of the office of sheriff, Los Angeles County:

(a) Whenever reference to a numbered salary schedule is made in any section of this article, the schedule found in the code of the County of Los Angeles shall apply.

(b) Unless otherwise specifically provided, each person appointed to a position, the compensation of which is fixed by reference to the salary schedule, shall, for the first six months of service, receive monthly the rate of compensation specified in the first step of the salary schedule for the position to which he is appointed. Upon the first day of the month following six months' continuous service in a class, the initial rate of compensation of such person shall be increased to the next higher step of the salary schedule for the position occupied. On and after the first day of the month following each ensuing 12 months of such service such compensation shall be increased to the rate specified in the next higher step of the salary schedule for the position occupied until such compensation equals the sum specified in step 5 of such schedule.

(c) When any person in the service of the court or of the marshal is appointed or promoted to another office or position in such service compensated at a higher numbered schedule, he shall receive step 1 of such schedule if step 1 is at least one step higher than the salary received in the office or position relinquished; but if not, he shall receive initially that step of the schedule pertaining to such office or position which will provide a one-step increase in his compensation. Provided, whenever a person occupying a permanent superior position is supervising a subordinate and the subordinate is receiving compensation at a rate equal to or greater than that which the superior is receiving, the person occupying the superior position shall be entitled to be advanced in steps to the highest salary paid to

the highest ranking subordinate which he supervises plus one dollar ($1).

(d) Notwithstanding the above, each person appointed to a peace officer position set forth in Section 72608, 72640, or 72645 shall be entitled to the same salary step placement during his employment by the marshal and upon appointment, promotion or demotion as an employee of the marshal, as he would receive if he were employed in a related position in the classified service of the County of Los Angeles.

(e) Persons appointed to deputy marshal shall, upon the first day of the month following completion of six years' service including at least two years in a court-related assignment and two years in a field assignment, at least six months of which must have included service as a full-time warrant deputy, receive monthly the rate of compensation specified in Step 6 of the schedule.

(f) When any person is demoted to another office or position he shall receive the fifth step rate of salary for the position to which he is demoted, except that if such demotion is due to disciplinary action, the appointing power may indicate any step rate of the lower position which provides compensation not higher than that last previously received by such person.

SEC. 8. Section 72701 of the Government Code is amended to read:

72701. The judges of the municipal court shall appoint as many commissioners, not exceeding 13, as the business of the court requires. Each commissioner shall possess the same qualifications as the law requires of a judge of the court. Within the jurisdiction of the court and under the direction of the judges, each commissioner shall exercise the powers and perform the duties authorized by law to be performed by commissioners of the superior court and such additional powers and duties as may be prescribed by law. Each commissioner shall hold office at the pleasure of the judges and shall receive a monthly salary in the same sum as is paid the court commissioners of the Superior Court of the County of Los Angeles. If, however, the amount of the salary is fixed under a step plan of compensation based upon tenure of service, each incumbent shall nevertheless receive a salary equal to the top step thereof. In no event shall such salary exceed the salary provided for the judges of the municipal courts. The commissioners shall be ex officio deputy clerks of the court and shall be members of any retirement system which includes attachés of the court. They shall not engage in the private practice of law.

There shall be one court administrator who shall be appointed by, and hold office at the pleasure of, the judges of the court and who shall receive a monthly salary at the same rate specified in Section 72702 for the clerk or clerk-administrative officer of the court. The judges of the court may delegate to the court administrator such administrative powers and duties as they deem necessary for the administration of the court.

SEC. 9. Section 72702 of the Government Code is amended to read:

72702. There shall be one clerk or clerk-administrative officer who shall be appointed by the judges of the court and who shall receive a monthly salary at a rate specified in Schedule 84A of the salary schedule. Notwithstanding any other provisions of law, whenever any vacancy occurs, the judges shall appoint one clerk who shall hold office at their pleasure and who shall receive the salary hereinabove provided.

SEC. 10. Section 72702.5 of the Government Code is amended to read:

72702.5. The clerk may appoint one chief deputy clerk who shall be assistant clerk-administrative officer and who shall receive a monthly salary at a rate specified in Schedule 73K of the salary schedule.

SEC. 11. Section 72703 of the Government Code is amended to read:

72703. The clerk may appoint:

(a) One deputy clerk who shall be chief, traffic division, and who shall receive a monthly salary at a rate specified in Schedule 66K.

(b) One deputy clerk who shall be chief, civil division, and who shall receive a monthly salary at a rate specified in Schedule 66K.

(c) One deputy clerk who shall be chief, criminal division, and who shall receive a monthly salary at a rate specified in Schedule 66K.

(d) One deputy clerk who shall be chief, data-processing division, and who shall receive a monthly salary at a rate specified in Schedule 66K.

(e) One deputy clerk who shall be chief, valley division, and who shall receive a monthly salary at the same rate specified for chief, traffic, civil and criminal division.

(f) Seven deputy clerks, deputy chiefs, each of whom shall receive a monthly salary at a rate four schedules more than the rate specified for principal clerk.

(g) One deputy clerk who shall be chief, administrative services, and who shall receive a monthly salary at a rate specified in Schedule 66K.

(h) One deputy clerk who shall be special assistant to the executive officer, and who shall receive a monthly salary at the rate specified in Schedule 66K.

(i) Ten deputy clerks, principal clerk, each of whom shall receive a monthly salary at a rate specified in Schedule 57L.

(j) Two deputy clerks who shall be special assistants to the chief, administrative services division, and who shall receive a monthly salary at a rate specified in Schedule 55F.

(k) One deputy clerk who shall be personnel officer and who shall receive a monthly salary at a rate specified in Schedule 67F.

(*l*) One deputy clerk who shall be personnel technician and who shall receive a monthly salary at the same rate specified for the

county's class of senior departmental personnel technician.

(m) One deputy clerk, personnel assistant, who shall receive a monthly salary at the same rate specified for the county's class of departmental personnel assistant.

(n) One deputy clerk who shall be senior administrative assistant and who shall receive a monthly salary at the same rate specified for the county's class of administrative assistant II.

(o) One deputy clerk who shall be administrative assistant and who shall receive a monthly salary at the same rate specified for the county's class of administrative assistant I. Appointments to this position shall be at step 2 of the schedule.

(p) One deputy clerk, stockroom supervisor, who shall receive a monthly salary at the same rate specified for the county's class of warehouse worker II.

(q) One deputy clerk, supply clerk I, who shall receive a monthly salary at the same rate specified for the county's class of warehouse worker aide.

(r) One deputy clerk, payroll supervisor, who shall receive a monthly salary at the same rate specified for the county's class of supervising payroll clerk I.

(s) Three deputy clerks, payroll assistants, who shall receive a monthly salary at the same rate specified for the county's class of payroll clerk I.

(t) One deputy clerk, accounting technician, who shall receive a monthly salary at the same rate specified for the county's class of accounting technician I.

(u) Two deputy clerks, staff assistants, who shall receive a monthly salary at the same rate specified for the county's class of staff assistant I.

(v) One deputy clerk, offset duplicator operator, who shall receive a monthly salary at the same rate specified for the county's class of offset duplicator operator. Appointment to this position shall be at step 2 of the schedule.

The value, in dollars, of each monthly salary herein shall be at the rates indicated opposite the respective schedule number in the salary schedule.

SEC. 12. Section 72704 of the Government Code is amended to read:

72704. The clerk may also appoint:

(a) One hundred ten deputy clerks grade IV, plus one additional such deputy clerk for each judge in excess of 74 and each commissioner or traffic referee in excess of 18 to which the court is or may become entitled by law, each of whom shall receive a monthly salary at a rate specified in Schedule 54C.

(b) One deputy clerk, secretary to presiding judge, who shall receive a monthly salary at a rate specified in Schedule 56B. Appointments to said position shall be at step 3 of the schedule.

(c) One deputy clerk, secretary to clerk, and one deputy clerk, secretary to executive officer, each of whom shall receive a monthly

salary at a rate specified in Schedule 52C. Appointments to said positions shall be at step 3 of the schedule.

(d) Fifteen deputy clerks, senior judicial secretary, each of whom shall receive a monthly salary at the same rate specified for the superior court class of senior judicial secretary. Appointments to the positions shall be at step 3 of the schedule.

(e) Seventy-five deputy clerks grade III, each of whom shall receive a monthly salary at a rate specified in Schedule 38F.

(f) Five deputy clerks, supervising clerk, each of whom shall receive a monthly salary at a rate specified in Schedule 42K.

(g) One hundred eighty-two deputy clerks grade II, each of whom shall receive a monthly salary at a rate specified in Schedule 32G.

(h) One hundred ten deputy clerks grade I, each of whom shall receive a monthly salary at a rate specified in Schedule 29D. Appointments to such positions shall be at step 3 of the schedule.

(i) Five deputy clerks, senior secretary II, each of whom shall receive a monthly salary at a rate specified in Schedule 42B.

(j) One deputy clerk, senior secretary I, who shall receive a monthly salary at a rate specified in Schedule 40B.

(k) One deputy clerk, secretary, who shall receive a monthly salary at a rate specified in Schedule 38B.

The value, in dollars, of each monthly salary herein shall be at the rates indicated opposite the respective schedule number in the salary schedule.

SEC. 13. Section 72704.5 of the Government Code is amended to read:

72704.5. The clerk may also appoint the following deputy clerks as needed:

(a) One computer operations supervisor, who shall receive a monthly salary 10 schedules more than the schedule specified for supervising computer operators.

(b) One data conversion supervisor III, who shall receive a monthly salary at a rate specified in Schedule 50K.

(c) Three data conversion supervisors I, each of whom shall receive a monthly salary at a rate specified in Schedule 41D.

(d) Twelve senior data conversion equipment operators, each of whom shall receive a monthly salary at a rate specified in Schedule 38B.

(e) Fifty-seven data conversion equipment operators I, each of whom shall receive a monthly salary at a rate specified in Schedule 34B.

(f) Two EDP data systems analysts who shall receive a monthly salary at a rate specified in Schedule 58L.

(g) One EDP staff aide who shall receive a monthly salary at a rate specified in Schedule 41E.

(h) Six supervising computer operators, each of whom shall receive a monthly salary at a rate specified in Schedule 52A.

(i) Six computer systems operators, each of whom shall receive a

monthly salary at a rate specified in Schedule 45L.

(j) Six computer equipment operators, each of whom shall receive a monthly salary at a rate specified in Schedule 40D.

(k) One senior data control clerk, who shall receive a monthly salary at the rate specified in Schedule 36E.

(*l*) Two data control clerks, each of whom shall receive a monthly salary at the rate specified in Schedule 32G.

On the effective date of any amendment to the Los Angeles County code adjusting the salary of any position having the same classification as a court position listed in this section, the salary of such listed court position shall be adjusted an equivalent number of schedules in the salary schedule to which it is attached. If the level of compensation established by any such salary adjustment is not reflected in the salary schedule number provided for any court classification, the adjustment shall apply to each position in such classification on the effective date of the act fixing such salary schedule number. Such salary adjustments shall be on an interim basis and shall expire 90 days after the adjournment of the next regular session of the Legislature, unless ratified at such session.

Persons occupying positions listed in this section shall be entitled to all employee benefits that are provided for or made applicable to a Los Angeles County employee having an equal period of service.

SEC. 14. Section 72712 of the Government Code is amended to read:

72712. There shall be set aside from the revenue of the court a revolving fund in the amount of five hundred thousand dollars ($500,000). The fund shall be known as the reporters' salary fund.

At the time of each monthly distribution of the revenue of the court to the cities within the judicial district and to the county within which the court is established, the clerk of the court shall deduct proportionately from their respective total shares such sum as will, when added to the sum then remaining in the fund, equal five hundred thousand dollars ($500,000) and deposit it in the fund. Such sum shall include the cost incurred pursuant to Section 72194.5 from electronic recording devices, appurtenant equipment, supplies, recordings and transcriptions produced from electronic recording of testimony and proceedings in the court.

Deductions from the county's share of the revenue shall be made from that portion of it distributable to the salary fund of the county, and deductions from each city's share shall be made from that portion of it distributable to the general fund of each city.

For the purposes of this section the "revenue" of the court includes all fines, forfeitures, and fees accruing to the cities or the county, except law library fees.

SEC. 15. Section 72717.5 of the Government Code is amended to read:

72717.5. The chief program analyst, municipal courts, may appoint:

(a) Five program analysts, municipal courts, each of whom shall

receive a monthly salary at the same rate specified for the county's class of deputy county counsel II.

(b) The chief program analyst, municipal courts, may also appoint:

(1) One senior secretary III who shall receive a monthly salary at the same rate specified for senior judicial secretary in Section 72704. Appointments to the position shall be at step 3 of the schedule.

(2) One senior stenographer, municipal courts, who shall receive a monthly salary at a rate specified in Schedule 42B.

(3) One stenographer, municipal courts, who shall receive a monthly salary at a rate specified in Schedule 40B, but in no event less than step 3.

(4) Fifteen research assistants, each of whom shall receive compensation at the rate of seven dollars and seventy-five cents ($7.75) per hour.

(c) The chief program analyst may designate one program analyst as assistant chief program analyst who shall, for the duration of the assignment, receive an increase in basic compensation of two salary schedules.

(d) The chief program analyst may appoint an assistant program analyst in lieu of a program analyst on a one for one substitute basis. The assistant program analyst shall receive a monthly salary at the same rate specified for the county class of assistant administrative analyst.

SEC. 16. Section 72719 is added to the Government Code, to read:

72719. The judges of the municipal courts of Los Angeles County may appoint one executive assistant, presiding judges' association, who shall receive a monthly salary at a rate specified in Schedule 59H. Appointment to this position shall be at step 4 of the schedule. The term "level" herein refers to the subschedule increments of the salary schedule of the Los Angeles County code.

SEC. 17. Section 72719.5 is added to the Government Code, to read:

72719.5. The executive assistant, presiding judges' association, may appoint one senior judicial secretary, municipal court who shall receive a monthly salary at the rate specified for this classification in Section 72704. Appointment to this position shall be at step 3 of the schedule.

SEC. 18. Section 72750.5 of the Government Code is amended to read:

72750.5. In each municipal court district having seven judges authorized by law the officers and attachés shall be appointed and compensated as follows:

There shall be one clerk-administrative officer appointed by the judges of the court, who shall receive a monthly salary at a rate specified in Schedule 71K.

The clerk may appoint:

(a) Eleven deputy clerks grade I, each of whom shall receive a monthly salary at a rate specified in Schedule 29D. Appointment to

said positions shall be at step 3 of the schedule.

(b) Thirteen deputy clerks grade II, each of whom shall receive a monthly salary at a rate specified in Schedule 32G.

(c) Nine deputy clerks grade III, each of whom shall receive a monthly salary at a rate specified in Schedule 38F.

(d) Nine deputy clerks grade IV, plus one additional such deputy clerk for each commissioner or traffic referee appointed pursuant to Section 72400 or 72757, each of whom shall receive a monthly salary at a rate specified in Schedule 54C.

(e) One deputy clerk, senior judicial secretary, who shall receive a monthly salary at the same rate specified for senior judicial secretary in Section 72704. Appointment to such position shall be at step 3 of such schedule.

(f) One chief clerk-administrative services, who shall receive a monthly salary at a rate specified in Schedule 58K.

(g) One chief clerk-court services who shall receive a monthly salary at a rate specified in Schedule 58K.

(h) One chief clerk-civil, who shall receive a monthly salary at a rate specified in Schedule 58K.

(i) One chief clerk-criminal, who shall receive a monthly salary at a rate specified in Schedule 58K.

(j) One chief clerk-traffic, who shall receive a monthly salary at a rate specified in Schedule 58K.

(k) One occupant of chief clerk position as set forth in this section shall be designated by the clerk-administrative officer as assistant clerk-administrative officer and shall receive a monthly salary eight schedules less than the schedule specified for the clerk-administrative officer of the court.

SEC. 19. Section 72751 of the Government Code is amended to read:

72751. In each municipal court district having six judges authorized by law the officers and attachés shall be appointed and compensated as follows:

There shall be one clerk-administrative officer appointed by the judges of the court, who shall receive a monthly salary at a rate specified in Schedule 69K.

The clerk may appoint:

(a) Ten deputy clerks grade I, each of whom shall receive a monthly salary at a rate specified in Schedule 29D. Appointment to the positions shall be at step 3 of the schedule.

(b) Twelve deputy clerks grade II each of whom shall receive a monthly salary at a rate specified in Schedule 32G.

(c) Nine deputy clerks grade III, each of whom shall receive a monthly salary at a rate specified in Schedule 38F.

(d) Eight deputy clerks grade IV, plus one additional such deputy clerk for each commissioner or traffic referee appointed pursuant to Section 72400 or 72757, each of whom shall receive a monthly salary at a rate specified in Schedule 54C.

(e) One chief deputy clerk who shall be assistant

clerk-administrative officer and who shall receive a monthly salary eight schedules less than the schedule specified for the clerk-administrative officer of the court.

SEC. 20. Section 72751.1 of the Government Code is amended to read:

72751.1. In each municipal court district having five judges authorized by law the officers and attachés shall be appointed and compensated as follows:

There shall be one clerk-administrative officer appointed by the judges of the court, who shall receive a monthly salary at a rate specified in Schedule 68K.

The clerk may appoint:

(a) Nine deputy clerks grade I, each of whom shall receive a monthly salary at a rate specified in Schedule 29D. Appointments to said positions shall be at step 3 of said schedule.

(b) Eleven deputy clerks grade II, each of whom shall receive a monthly salary at a rate specified in Schedule 32G.

(c) Nine deputy clerks grade III, each of whom shall receive a monthly salary at a rate specified in Schedule 38F.

(d) Seven deputy clerks grade IV, plus one additional such deputy clerk for each commissioner or traffic referee appointed pursuant to Section 72400 or 72757, each of whom shall receive a monthly salary at a rate specified in Schedule 54C.

(e) One chief deputy clerk who shall be assistant clerk-administrative officer and who shall receive a monthly salary eight schedules less than the schedule specified for the clerk-administrative officer of said court.

SEC. 21. Section 72751.5 of the Government Code is amended to read:

72751.5. In each municipal court district having four judges authorized by law the officers and attachés shall be appointed and compensated as follows:

There shall be one clerk-administrative officer appointed by the judges of the court, who shall receive a monthly salary at a rate specified in Schedule 68K.

The clerk may appoint:

(a) Nine deputy clerks grade I, each of whom shall receive a monthly salary at a rate specified in Schedule 29D. Appointments to said positions shall be at step 3 of the schedule.

(b) Eleven deputy clerks grade II, each of whom shall receive a monthly salary at a rate specified in Schedule 32G.

(c) Nine deputy clerks grade III, each of whom shall receive a monthly salary at a rate specified in Schedule 38F.

(d) Six deputy clerks grade IV, plus one additional such deputy clerk for each commissioner or traffic referee appointed pursuant to Section 72400 or 72757, each of whom shall receive a monthly salary at a rate specified in Schedule 54C.

(e) One chief deputy clerk who shall be assistant clerk-administrative officer and who shall receive a monthly salary

eight schedules less than the schedule specified for the clerk-administrative officer of the court.

SEC. 22. Section 72752 of the Government Code is amended to read:

72752. In each municipal court district having three judges authorized by law the officers and attachés shall be appointed and compensated as follows:

There shall be one clerk-administrative officer appointed by the judges of the court, who shall receive a monthly salary at a rate specified in Schedule 67K.

The clerk may appoint:

(a) Nine deputy clerks grade I, each of whom shall receive a monthly salary at a rate specified in Schedule 29D. Appointments to said positions shall be at step 3 of the schedule.

(b) Eleven deputy clerks grade II, each of whom shall receive a monthly salary at a rate specified in Schedule 32G.

(c) Nine deputy clerks grade III, each of whom shall receive a monthly salary at a rate specified in Schedule 38F.

(d) Five deputy clerks grade IV, plus one additional such deputy clerk for each commissioner or traffic referee appointed pursuant to Section 72400 or 72757, each of whom shall receive a monthly salary at a rate specified in Schedule 54C.

(e) One chief deputy clerk who shall be assistant clerk-administrative officer and who shall receive a monthly salary eight schedules less than the schedule specified for the clerk-administrative officer of the court.

SEC. 23. Section 72753 of the Government Code is amended to read:

72753. In each municipal court district having two judges authorized by law the officers and attachés shall be appointed and compensated as follows:

There shall be one clerk-administrative officer appointed by the judges of the court, who shall receive a monthly salary at a rate specified in Schedule 67K.

The clerk may appoint:

(a) Six deputy clerks grade I, each of whom shall receive a monthly salary at a rate specified in Schedule 29D. Appointments to these positions shall be at step 3 of said schedule.

(b) Eight deputy clerks grade II, each of whom shall receive a monthly salary at a rate specified in Schedule 32G.

(c) Six deputy clerks grade III, each of whom shall receive a monthly salary at a rate specified in Schedule 38F.

(d) Three deputy clerks grade IV, plus one additional such deputy clerk for each commissioner appointed pursuant to Section 72757, each of whom shall receive a monthly salary at a rate specified in Schedule 54C.

(e) One chief deputy clerk who shall be assistant clerk-administrative officer and who shall receive a monthly salary eight schedules less than the schedule specified for the

clerk-administrative officer of said court.

SEC. 24. Section 72754 of the Government Code is amended to read:

72754. In each municipal court district having one judge authorized by law the officers and attachés shall be appointed and compensated as follows:

There shall be one clerk-administrative officer appointed by the judge of the court, who shall receive a monthly salary at a rate specified in Schedule 65K.

The clerk may appoint:

(a) Two deputy clerks grade I, each of whom shall receive a monthly salary at a rate specified in Schedule 29D. Appointments to said positions shall be at step 3 of the schedule.

(b) Three deputy clerks grade II, each of whom shall receive a monthly salary at a rate specified in Schedule 32G.

(c) Two deputy clerks grade III, each of whom shall receive a monthly salary at a rate specified in Schedule 38F.

(d) Two deputy clerks grade IV, plus one additional such deputy clerk for each commissioner appointed pursuant to Section 72757, each of whom shall receive a monthly salary at a rate specified in Schedule 54C; provided, however, that one of such deputy clerks grade IV whose regular duties shall include the supervision of clerical personnel shall, for the duration of such assignment, receive compensation at the rate of the next higher numbered salary schedule which will increase his basic compensation by one step.

SEC. 25. Section 72755 of the Government Code is amended to read:

72755. In those positions for which this article provides a five-step rate of compensation, the provisions of this section shall apply.

(a) Except in the case of transfer, demotion, promotion or where otherwise specifically provided, original appointments to such positions shall be at the rate designated for step 1 of the salary schedule pertaining to the position occupied.

(b) The initial rate of compensation shall be increased to the next higher step of the schedule applicable to the position occupied upon the completion of six months' continuous service in the same position. Upon the completion of each ensuing 12 months of such service, such compensation shall be increased to the rate specified in the next higher step of the salary schedule for the position occupied until such compensation equals the sum specified in step 5 of such schedule.

(c) A step advancement shall not be granted to any person if his superior finds that his work has been unsatisfactory and so notifies the Civil Service Commission.

(d) When a person is promoted to a position on a five-step basis, he shall receive the first-step rate in the salary schedule of the new position which results in an increase in salary.

(e) A person demoted to a lower position shall be entitled to receive whichever of the following rates is lower:

1. Step 5 of the salary schedule pertaining to the position to which he is demoted.

2. The same rate of pay which he was receiving prior to demotion.

(f) The appointing power who demotes a person for disciplinary reasons may specify any step rate in the salary schedule pertaining to the lower position except that it shall not be higher than the step rate held by the employee in the higher position.

(g) If a person begins employment between the 1st and 15th of any calendar month, inclusive, his step advancement shall be calculated from the first day of that month. Where a person begins employment on or after the 16th day of a calendar month, the step advancement shall be calculated from the first of the next month.

(h) Upon demotion, a person shall retain the anniversary date held in the higher position.

(i) Any deputy clerk grade III who is necessarily assigned to the regular duties of a deputy clerk grade IV because of an absence of such deputy clerk grade IV shall, for any period of such assignment in excess of 30 calendar days, receive compensation at the rate of that higher numbered salary schedule which will increase his basic compensation by two steps.

(j) One deputy clerk I, II, or III in each municipal court of six judges or less, who having passed the stenographic skills proficiency examination given by the County of Los Angeles for the county position of stenographer, shall be entitled to receive a bonus equivalent to a two-step salary increase when regularly required to provide stenographic and secretarial services to the judge or judges of the court.

SEC. 26. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

CHAPTER 1637

An act to add Chapter 3.3 (commencing with Section 6215) to Division 7 of Title 1 of the Government Code, relating to language usage by state government.

[Became law without Governor's signature. Filed with Secretary of State October 1, 1982.]

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

SECTION 1. Chapter 3.3 (commencing with Section 6215) is added to Division 7 of Title 1 of the Government Code, to read:

CHAPTER 3.3. GOVERNMENTAL LINGUISTICS

6215. (a) Each department, commission, office or other administrative agency of state government shall write each document which it produces in plain, straightforward language, avoiding technical terms as much as possible, and using a coherent and easily readable style.

(b) As used in this section, a "state agency document" means any contract, form, license, announcement, regulation, manual, memorandum, or any other written communication that is necessary to carry out the agency's responsibilities under the law.

SEC. 2. It is the intent of the Legislature that this act shall apply only to regulations enacted or amended on or after the effective date of this act.

CHAPTER 1638

An act to amend Section 410 of the Food and Agricultural Code, to amend Section 7909 of the Government Code, to amend Section 42311 of the Health and Safety Code, to amend Sections 2228, 2233, and 2255 of, and to add Section 2246.2 to, the Revenue and Taxation Code, and to amend Sections 10131 and 10175 of, and to add Section 10101.5 to, the Welfare and Institutions Code, relating to fiscal affairs, and declaring the urgency thereof, to take effect immediately.

[Became law without Govenor's signature. Filed with Secretary of State October 1, 1982.]

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

SECTION 1. Section 410 of the Food and Agricultural Code is amended to read:

410. It is the intent of the Legislature that the Department of Food and Agriculture, in cooperation with appropriate county officials and industry representatives, develop mutually satisfactory sources of nonstate funding to augment budget programs in the areas of county agricultural commissioners and weights and measures.

SEC. 2. Section 7909 of the Government Code is amended to read:

7909. No later than May 1 of each year, the Department of Finance shall notify each local agency of the change in the cost of living or change in California per capita personal income, whichever is less, and population for each local agency for the prior calendar year.

No later than May 1 of each year, the Department of Finance shall notify the Department of Education and the Chancellor's Office of the California Community Colleges of the change in the cost of living or change in California per capita personal income, whichever is less.

These agencies shall inform the school districts, county superintendents of schools, and community college districts for which they are respectively responsible.

SEC. 3. Section 42311 of the Health and Safety Code is amended to read:

42311. (a) A district board may adopt, by regulation, a schedule of annual fees to be paid for the evaluation, issuance, and renewal of permits to cover the cost of district programs related to permitted stationary sources authorized or required under the provisions of Division 26 (commencing with Section 39000) that are not otherwise funded. In no event shall the fees assessed under this section exceed for any fiscal year the actual cost of district programs for the immediately preceding fiscal year with an adjustment no greater than the change in the annual California Consumer Price Index as determined pursuant to Section 2212 of the Revenue and Taxation Code for the preceding year. Any revenues received by the district pursuant to the fees, which exceed the cost of the programs, shall be carried over for expenditure in the subsequent fiscal year, and the schedule of fees shall be changed to reflect that carryover. Every person applying for a permit, notwithstanding the provisions of Section 6103 of the Government Code, shall pay the fees required by the schedule.

(b) In addition to the fees authorized by subdivision (a), the district board may adopt by regulation a fee schedule for district programs related to permitted stationary sources for fiscal years ending before July 1, 1984, which allows the district to offset the loss of any state and federal subvention funds. In no event shall the total amount raised by this fee schedule exceed the amount of funds lost from state and federal subventions.

(c) Except as provided in Section 42313, all the fees shall be paid to the district treasurer to the credit of the district.

(d) This section shall not apply to the south coast district board which shall be governed by Section 40510.

(e) In addition to providing notice as otherwise required, before adopting a regulation charging fees pursuant to this section, the district board shall hold at least one public meeting, at which oral or written presentations can be made, as part of a regularly scheduled meeting. Notice of the time and place of the meeting, including a general explanation of the matter to be considered, and a statement that the information required by this section is available, shall be mailed at least 14 days prior to the meeting to any interested party who files a written request with the district board. Any written request for the mailed notices shall be valid for one year from the date on which it is filed unless a renewal request is filed. Renewal requests for the mailed notices shall be filed on or before April 1 of each year. The district board may establish a reasonable annual charge for sending the notices based on the estimated cost of providing that service. At least 10 days prior to the meeting, the district board shall make available to the public information

indicating the amount of cost, or estimated cost, required to provide the service for which the fee is charged and the revenue sources anticipated to provide the service. Any costs incurred by the district board in conducting the required meeting may be recovered from fees charged for the programs which were the subject of the meeting.

(f) The Legislature finds and declares that because districts vary greatly in their dependence on state and federal subvention programs, county and district property tax support, and permit fees, it is necessary to provide a transition period to develop an equitable funding mechanism for local districts. Subdivision (b) accordingly authorizes districts to adopt certain fee schedules only for fiscal years ending before July 1, 1984, unless a later enacted statute deletes or extends this date.

(g) The Legislative Analyst shall:

(1) Review the fee systems established pursuant to this section to determine their capability to finance the activities of local air pollution control districts.

(2) Evaluate the overall equity and reasonableness of the fees as they affect segments of industry and agriculture which pay the fees.

(3) Report his or her findings, and any recommended revisions, to the Legislature by October 1, 1983.

SEC. 4. Section 2228 of the Revenue and Taxation Code is amended to read:

2228. (a) The annual percentage change in population for special districts shall be the percentage changes established pursuant to Section 2227 and this section:

(i) If a special district is located entirely within a city, the annual percentage change in population for the district shall be that established for the city pursuant to Section 2227.

(ii) If a special district is located entirely within the unincorporated area of a county, the annual percentage change in population for the district shall be that established for the county or the unincorporated area of the county.

(iii) If a special district is located within a single county or within more than one city or any combination of cities and incorporated areas within a single county, the annual percentage change in population for the district shall be that established for the county or the weighted average of the percentage change of each city and the unincorporated area.

(iv) If a special district is located within more than one county, the annual percentage change in population for the district shall be the weighted average of the percentage change of each county or city or unincorporated area within the district or any combination, provided that the areas selected are mutually exclusive.

(b) The Department of Finance may request data from any local jurisdiction to be used to prepare the percentage change in population required by this section. The Department of Finance shall determine the weights to be used in establishing weighted

averages.

(c) If the governing body of a special district determines that the percentage change in population in subdivision (a) will not be accurate for the district, it may, before June 1, request the Department of Finance to prepare a special population change estimate for the district. The department shall comply with the request before September 1, and the estimate prepared by the department shall be used to determine population change for purposes of this chapter. The district shall reimburse the department for the actual cost of preparing the estimate.

SEC. 5. Section 2233 of the Revenue and Taxation Code is amended to read:

2233. (a) The Director of Finance shall include in the Governor's Budget an appropriation for a statute which has an otherwise minimal fiscal effect on local agencies or school districts if the director determines that the fiscal effect of the statute and other related statutes is, in the aggregate, significant.

(b) No claim shall be made pursuant to Sections 2229 and 2231, nor shall any payment be made on claims submitted pursuant to Sections 2229 and 2231, unless such claims exceed two hundred dollars ($200), provided that a county superintendent of schools or county may submit a combined claim on behalf of direct service districts or special districts within their county if the combined claim exceeds two hundred dollars ($200) even if the individual direct service or special district's claims do not each exceed two hundred dollars ($200). The county superintendent of schools or county shall determine if the submission of such combined claim is economically feasible and shall be responsible for disbursing such funds to each direct service or special district. Such combined claims may be filed only when the superintendent of schools or county is the fiscal agent for such districts. All subsequent claims based upon the same mandate shall only be filed in such combined form.

SEC. 6. Section 2246.2 is added to the Revenue and Taxation Code, to read:

2246.2. The Director of Finance shall include in the Governor's Budget an appropriation for statutes identified pursuant to Section 2246 which increase the penalty for a crime or infraction if the director determines that the statutes would increase the total detention and probation costs to local agencies by more than 1 percent of the actual statewide detention and probation costs incurred in the preceding fiscal year, as compiled by the Controller pursuant to Section 12463 of the Government Code. The director shall rely on written requests from affected local agencies, supported by fiscal data. Any funds so appropriated shall be used to reimburse only one-half of the costs incurred by local agencies in excess of the amounts determined to be 1 percent of the actual detention and probation costs to local agencies in the preceding fiscal year. Funds shall be appropriated to the Controller for allocation and disbursement to local agencies.

SEC. 7. Section 2255 of the Revenue and Taxation Code, as amended by Chapter 327 of the Statutes of 1982, is amended to read:

2255. (a) At least twice each calendar year the Board of Control shall report to the Legislature on the number of mandates it has found and the estimated statewide costs of these mandates. This report shall identify the statewide costs estimated for each mandate and the reasons for recommending reimbursement. The report may be included in the report required by Section 13928 of the Government Code. Immediately on receipt of the report a local government claims bill shall be introduced in the Legislature. The local government claims bill, at the time of its introduction, shall provide for an appropriation sufficient to pay the estimated costs of these mandates, pursuant to the provisions of this article.

(b) If the Legislature deletes from a local government claims bill funding for a mandate imposed either by legislation or by a regulation adopted 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, it may take one of the following courses of action:

(1) Include a finding that the legislation or regulation does not contain a mandate.

(2) Include a finding that the legislation or regulation contains a mandate but that the mandate is not reimbursable.

(3) Include a finding that the regulation contains a reimbursable mandate and direct that the Office of Administrative Law shall order the repeal of the regulation in accordance with Section 11349.11 of the Government Code.

(4) Include a finding that the legislation or regulation contains a reimbursable mandate and direct that the legislation or regulation shall not be enforced against local agencies and school districts until funds otherwise become available.

(5) Include a finding that the Legislature cannot determine if the legislation or regulation contains a reimbursable mandate and that the legislation or regulation shall remain in effect and enforceable against local agencies and school districts unless a court determines that the legislation or regulation contains a reimbursable mandate, in which case the effectiveness of the legislation or regulation shall be suspended and the legislation or regulation shall not be enforced against local agencies and school districts until funding becomes available.

(6) Include a finding that the Legislature cannot determine if the legislation or regulation contains a reimbursable mandate and that the legislation or regulation shall be suspended and shall not be enforced against local agencies and school districts until a court determines whether the legislation or regulation contains a reimbursable mandate.

(c) If the Legislature deletes from a local government claims bill funding for a mandate but does not follow one of the courses of action as provided in subdivision (b) or if a local agency or school district

believes that the action is not consistent with Article XIII B of the California Constitution, the local agency or school district may file in the Superior Court of the County of Sacramento an action in declaratory relief to declare the mandate void and enjoin its enforcement.

SEC. 8. Section 10101.5 is added to the Welfare and Institutions Code, to read:

10101.5. The Legislature further finds that the federal Social Services Block Grant Act (Section 2352 of Public Law 97-35) substantially reduces the planning and reporting requirements imposed on state governments and further declares that a review of these requirements is needed.

The Department of Social Services shall review the requirements of the Social Services Block Grant Act and existing state law, and shall provide a report to the Legislature by January 1, 1983, which includes all of the following:

(a) A list of planning and reporting requirements currently imposed on counties.

(b) A list of those requirements which are not needed to comply with the requirements of federal law.

(c) Recommended amendments to state law which will eliminate requirements not needed to comply with the requirements of federal law.

SEC. 9. Section 10131 of the Welfare and Institutions Code is amended to read:

10131. Each county shall prepare annually for submission by September 15 to the director a county social services plan which meets the objectives specified in Section 10120. The county plan, in support of the services it proposes to provide, shall contain all the information and data required for, and in the format and organization specified by, this part. County plans shall be prepared and submitted in accordance with the guidelines issued by the director.

The county plan submitted for state approval shall include at least the following:

(a) A description of the planning process.

(b) Qualitative and quantitative statement of needs and problems.

(c) A resource inventory that includes, but is not limited to:

(1) Source, amount, and funding period for all available public and private social service funds.

(2) Federal block grants available to the county or to communities in the county which are used for social services or which are not committed and may be available for social services.

(d) Statement of social service goals addressed by the plan.

(e) Statement of prioritied social service objectives which are measurable and designed to have a specific client impact.

(f) Program coordination statement developed pursuant to Section 10135.

(g) Descriptions of each social service program including the sets of activities or resources designed to attain an objective given a specific priority, which description shall include family planning. For the purposes of this chapter, family planning is defined to include those activities referenced in subdivisions (a), (b), (c), and (d) of Section 14503.

(h) Statement of capacity to meet identified goals and identification of state and local constraints preventing the attainment of goals.

(i) Process for monitoring program implementation.

(j) A summary of the monitoring and reporting activities taking place in each of the local agencies.

(k) An evaluation of the effectiveness of the prior year's performance in relation to the measurable goals and objectives of social services for that year. This evaluation shall show the extent to which the numbers of persons and families proposed to be served have been served; the direct cost per unit for the delivery of those services; and the administrative cost per unit of social service for each category. The results of these evaluations shall be used to identify needs and establish priorities for the coming year.

(*l*) Total program cost and cost per unit for the delivery of the individual service program.

(m) Description of the process by which public input is solicited.

(n) Summary of public response to the plan and its priorities.

(o) Description of the process by which the plan can be amended pursuant to federal and state laws and regulations.

Notwithstanding any other provision of this part, and to the extent permitted by federal law, no new state social service plan shall be submitted by a county until September 15, 1984. Each county plan and budget approved for the 1981–82 fiscal year shall be updated on or before September 15 by the governing body of each county for the 1982–83, 1983–84, and 1984–85 fiscal years pursuant to regulations promulgated by the department. On or before September 15, 1984, the governing body of each county shall prepare and submit to the department a multi-year base plan and budget for the 1985–86 fiscal year which shall be annually updated on or before September 15 of each subsequent year pursuant to instructions promulgated by the department.

The department shall develop and implement the format and procedures for the preparation and submission of a multi-year base plan update in order for the counties to have sufficient time prior to September 15, 1984, to prepare and submit their multi-year plan by September 15, 1984.

For the purpose of simplifying and reducing plan requirements, the Legislature intends that the annual update shall not duplicate any of the material in the multi-year base plan, but serve as a progress report both evaluating what has been accomplished over the past year and describing in more detail what will be accomplished in relation to each of the elements in the base plan during the coming

year.

SEC. 10. Section 10175 of the Welfare and Institutions Code is amended to read:

10175. The first planning cycle shall begin on January 1, 1984, and conclude with the publication of the multi-year base plan as described in Section 10131. The department shall submit to the Legislature on or before November 1, 1987, a report which evaluates the effectiveness of the multi-year planning approach contained in Section 10131. Counties shall be permitted a period not to exceed three years to phase into full compliance with the provisions of this chapter. The director shall specify the series of steps in sequence which the counties must carry out in order to achieve full implementation by the end of the three year phase-in period. Each county shall assess its capacity to implement the provisions of this chapter and shall notify the director at what level it will commence planning.

County plans for each of these three years shall, at a minimum, include those components specified by the director. During the phase-in period, counties and the state shall submit a new plan each year until full implementation is achieved.

SEC. 11. It is the intent of the Legislature to investigate new opportunities for reducing the costs of administering programs in which both the state and the counties share responsibility. The Legislative Analyst is hereby requested to evaluate specific proposals to be submitted by the County Supervisors Association of California by October 15, 1982, and report to the Legislature at the completion of his or her evaluation. The Legislative Analyst shall, working in conjunction with county officials, estimate the savings to the state and the counties if each proposal were implemented, along with the probable effects on program beneficiaries. The Legislative Analyst shall submit progress reports to the Legislature by January 1, 1983, and July 1, 1983, and a final report by January 1, 1984.

SEC. 12. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

SEC. 13. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that this act, which would provide necessary statutory adjustments to implement the Budget Act of 1982 may take effect during the 1982–83 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 1639

An act to amend Sections 75033.5, 75060, and 75080 of the Government Code, relating to the Judges' Retirement System.

[Became law without Governor's signature. Filed with Secretary of State October 1, 1982.]

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

SECTION 1. Section 75033.5 of the Government Code, is amended to read:

75033.5. Notwithstanding any other provision of this chapter, any judge with at least five years of service, and prior to attaining age 70, may retire, and upon his application therefor to the State Controller after reaching the age which would have permitted him to retire for age and length of service under Section 75025 had he remained continuously in service as a judge up to such age, receive a retirement allowance based upon the judicial service as a judge of a court of record, with which he is credited, in the same manner as other judges, except as otherwise provided by this section the retirement allowance is an annual amount equal to 3.75 percent of the compensation payable, at the time payments of the allowance fall due, to the judge holding the office which the retired judge last held prior to his discontinuance of his service as judge, multiplied by the number of years and fractions of years of service with which the retired judge is entitled to be credited at the time of his retirement, not to exceed 20 years.

If a judge has served more than five years but less than 12 years, the above percentage of compensation payable shall be reduced 0.25 percent for each year that the service of the judge is less than 12 years.

No judge shall be eligible to receive an allowance pursuant to this section until the attainment of age 63 unless the judge is credited with 20 years of judicial service and has attained age 60.

The surviving spouse of any judge who has so elected to retire under this section shall receive for life an allowance equal to one-half of the retirement allowance that would be payable to the judge were he living and receiving the benefits accorded by this section, commencing with his death, if the judge dies after commencement of receipt of benefits, or the date the judge would have been able to commence receipt of benefits but for his death, if his death occurs prior to commencement of receipt of benefits.

An election to retire under this section shall be made in writing and filed with the State Controller, and shall be without right of revocation, and upon such filing said judge shall be deemed retired with receipt of benefits deferred until herein provided, and the judicial office from which he has retired shall become vacant. Said notice and election of retirement shall be sufficient if it states in

substance that said judge elects to retire under the benefits of this section.

A judge who leaves his office to accept any lucrative office under the United States within the purview of Section 28 of Article IV of the Constitution shall have any benefits receivable hereunder reduced by the amount of any salary or retirement benefits he receives by virtue of his service in such office.

SEC. 2. Section 75060 of the Government Code is amended to read:

75060. (a) Any judge who is unable to discharge efficiently the duties of his office by reason of mental or physical disability that is or is likely to become permanent may, with his consent and with the approval of the Chief Justice or Acting Chief Justice and the Commission on Judicial Qualifications, be retired from office. The consent of the judge shall be made on a written application to the Commission on Judicial Qualifications. The retirement shall be effective upon approval by the designated officers, except as provided in subdivision (b) of this section. A certificate evidencing such approval shall be filed with the Secretary of State. Upon the filing of the certificate, a successor shall be appointed to fill the vacancy.

(b) Any judge who dies after executing an application evidencing his consent that has been received in the office of the commission and before the approval of both of the designated officers has been obtained shall be deemed to have retired on the date of his death if the designated officers, prior to the filling of the vacancy created by such judge's death, file with the Secretary of State their certificate of approval.

(c) No retirement under this section may be approved unless a written statement by a physician or psychiatrist that he has personally examined the judge applying for retirement under this section and that he is of the opinion that the judge is unable to discharge efficiently the duties of his office by reason of a mental or physical disability that is or is likely to become permanent is presented to the persons having the responsibility to approve or disapprove the retirement.

SEC. 3. Section 75080 of the Government Code is amended to read:

75080. (a) If, after retirement for disability, a retired judge engages in the practice of law or other gainful occupation while less than 70 years of age, the retirement allowance otherwise payable to him or her shall cease permanently, except as provided in this section. If a retired judge becomes entitled to any salary for assignment to a court by the Chairman of the Judicial Council after retirement under Section 75060, the retirement allowance otherwise payable to him shall, during the time he is entitled to receive that salary or other compensation, be reduced by the amount of such salary or compensation.

(b) A judge who is retired for disability and is less than 70 years of age may, without loss or reduction in allowance, engage in the

practice of law or any other gainful occupation other than a public office as long as the compensation earned in any month when combined with the judge's allowance does not exceed 75 percent of the salary payable to the judge holding the judicial office to which the retired judge was last elected or appointed, and the retirement allowance otherwise payable to the judge shall be reduced by the amount of any earning in excess of that amount. The judge shall report the compensation earned during each month to the board by the eighth day of the following month.

(c) Persons affected by this section shall report all compensation earned in a form and manner required by the Board of Administration of the Public Employees' Retirement System under penalty of perjury. The board shall have the authority to require these persons to grant the board permission to request wage information for the purposes of verifying the reported compensation earned. The Employment Development Department shall report compensation in a form and manner required by the board in accordance with Section 1798.24 of the Civil Code. The board shall reimburse the Employment Development Department for the costs that the department incurs in searching for and providing that information.

When a person affected by this section reaches age 70, his or her retirement allowance shall be made equal to the amount it would be if not reduced under this section, and shall not again be modified for any cause.

(d) A judge who is retired for disability or becomes entitled to any salary for assignment to a court by the Chairman of the Judicial Council after retirement under Section 75060 shall not be eligible to receive service credit in another public retirement system or under this chapter or to be reinstated to this system.

The Legislature reserves the right to increase or reduce the benefits prescribed by this section as it may find appropriate.

The Board of Administration of the Public Employees' Retirement System shall study and make recommendations regarding the implementation of this section and shall transmit a report to the Legislature prior to January 1, 1987.

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

SEC. 4. Section 75080 of the Government Code is amended to read:

75080. If, after retirement for disability, a retired judge engages in the practice of law or other gainful occupation while less than 70 years of age, the retirement allowance otherwise payable to him or her shall cease permanently, except as provided in this section.

This section shall become operative on January 1, 1987.

CHAPTER 1640

An act to amend Sections 75033.5 and 75080 of the Government Code, relating to the Judges' Retirement System.

[Became law without Governor's signature. Filed with Secretary of State October 1, 1982.]

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

SECTION 1. Section 75033.5 of the Government Code is amended to read:

75033.5. Notwithstanding any other provision of this chapter, any judge with at least five years of service, and prior to attaining age 70, may retire, and upon his application therefor to the State Controller after reaching the age which would have permitted him to retire for age and length of service under Section 75025 had he remained continuously in service as a judge up to such age, receive a retirement allowance based upon the judicial service as a judge of a court of record, with which he is credited, in the same manner as other judges, except as otherwise provided by this section the retirement allowance is an annual amount equal to 3.75 percent of the compensation payable, at the time payments of the allowance fall due, to the judge holding the office which the retired judge last held prior to his discontinuance of his service as judge, multiplied by the number of years and fractions of years of service with which the retired judge is entitled to be credited at the time of his retirement, not to exceed 20 years.

If a judge has served more than five years but less than 12 years, the above percentage of compensation payable shall be reduced 0.25 percent for each year that the service of the judge is less than 12 years.

No judge shall be eligible to receive an allowance pursuant to this section until the attainment of age 63 unless the judge is credited with 20 years of judicial service and has attained age 60.

The surviving spouse of any judge who has so elected to retire under this section shall receive for life an allowance equal to one-half of the retirement allowance that would be payable to the judge were he living and receiving the benefits accorded by this section, commencing with his death, if the judge dies after commencement of receipt of benefits, or the date the judge would have been able to commence receipt of benefits but for his death, if his death occurs prior to commencement of receipt of benefits.

An election to retire under this section shall be made in writing and filed with the State Controller, and shall be without right of revocation, and upon such filing said judge shall be deemed retired with receipt of benefits deferred until herein provided, and the judicial office from which he has retired shall become vacant. Said notice and election of retirement shall be sufficient if it states in

substance that said judge elects to retire under the benefits of this section.

If after retirement and actual commencement of benefits hereunder, said retired judge becomes entitled to any salary or other compensation as the incumbent of any statewide, legislative, board of equalization, or federal office, the retirement allowance otherwise payable to him shall, during the time he is entitled to receive such salary or other compensation, be reduced by the amount of such salary or other compensation.

A judge who leaves his office to accept any lucrative office under the United States within the purview of Section 7 of Article VII of the Constitution shall have any benefits receivable hereunder reduced by the amount of any salary or retirement benefits he receives by virtue of his service in such office.

SEC. 1.5. Section 75033.5 of the Government Code, is amended to read:

75033.5. Notwithstanding any other provision of this chapter, any judge with at least five years of service, and prior to attaining age 70, may retire, and upon his application therefor to the State Controller after reaching the age which would have permitted him to retire for age and length of service under Section 75025 had he remained continuously in service as a judge up to such age, receive a retirement allowance based upon the judicial service as a judge of a court of record, with which he is credited, in the same manner as other judges, except as otherwise provided by this section the retirement allowance is an annual amount equal to 3.75 percent of the compensation payable, at the time payments of the allowance fall due, to the judge holding the office which the retired judge last held prior to his discontinuance of his service as judge, multiplied by the number of years and fractions of years of service with which the retired judge is entitled to be credited at the time of his retirement, not to exceed 20 years.

If a judge has served more than five years but less than 12 years, the above percentage of compensation payable shall be reduced 0.25 percent for each year that the service of the judge is less than 12 years.

No judge shall be eligible to receive an allowance pursuant to this section until the attainment of age 63 unless the judge is credited with 20 years of judicial service and has attained age 60.

The surviving spouse of any judge who has so elected to retire under this section shall receive for life an allowance equal to one-half of the retirement allowance that would be payable to the judge were he living and receiving the benefits accorded by this section, commencing with his death, if the judge dies after commencement of receipt of benefits, or the date the judge would have been able to commence receipt of benefits but for his death, if his death occurs prior to commencement of receipt of benefits.

An election to retire under this section shall be made in writing and filed with the State Controller, and shall be without right of

revocation, and upon such filing said judge shall be deemed retired with receipt of benefits deferred until herein provided, and the judicial office from which he has retired shall become vacant. Said notice and election of retirement shall be sufficient if it states in substance that said judge elects to retire under the benefits of this section.

A judge who leaves his office to accept any lucrative office under the United States within the purview of Section 7 of Article VII of the Constitution shall have any benefits receivable hereunder reduced by the amount of any salary or retirement benefits he receives by virtue of his service in such office.

SEC. 2. Section 75080 of the Government Code, as amended by Section 1 of Chapter 585 of the Statutes of 1981, is amended to read:

75080. (a) If, after retirement for disability, a retired judge engages in the practice of law or other gainful occupation while less than 70 years of age, the retirement allowance otherwise payable to him or her shall cease permanently, except as provided in this section. If a retired judge becomes entitled to any salary or other compensation as the incumbent of any statewide, legislative, board of equalization, or federal office after retirement under Section 75025 or 75060, or any salary for assignment to a court by the Chairman of the Judicial Council after retirement under Section 75060, the retirement allowance otherwise payable to him shall, during the time he is entitled to receive that salary or other compensation, be reduced by the amount of such salary or compensation.

(b) A judge who is retired for disability and is less than 70 years of age may, without loss or reduction in allowance, engage in the practice of law or any other gainful occupation other than a public office as long as the compensation earned in any month when combined with the judge's allowance does not exceed 75 percent of the salary payable to the judge holding the judicial office to which the retired judge was last elected or appointed, and the retirement allowance otherwise payable to the judge shall be reduced by the amount of any earning in excess of that amount. The judge shall report the compensation earned during each month to the board by the eighth day of the following month.

(c) Persons affected by this section shall report all compensation earned in a form and manner required by the Board of Administration of the Public Employees' Retirement System under penalty of perjury. The board shall have the authority to require these persons to grant the board permission to request wage information for the purposes of verifying the reported compensation earned. The Employment Development Department shall report compensation in a form and manner required by the board in accordance with Section 1798.24 of the Civil Code. The board shall reimburse the Employment Development Department for the costs that the department incurs in searching for and providing that information.

When a person affected by this section reaches age 70, his or her

retirement allowance shall be made equal to the amount it would be if not reduced under this section, and shall not again be modified for any cause.

(d) The retired judge shall not be eligible to receive service credit in another public retirement system or under this chapter or to be reinstated to this system.

The Legislature reserves the right to increase or reduce the benefits prescribed by this section as it may find appropriate.

The Board of Administration of the Public Employees' Retirement System shall study and make recommendations regarding the implementation of this section and shall transmit a report to the Legislature prior to January 1, 1987.

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

SEC. 2.5. Section 75080 of the Government Code, as amended by Section 1 of Chapter 585 of the Statutes of 1981, is amended to read:

75080. (a) If, after retirement for disability, a retired judge engages in the practice of law or other gainful occupation while less than 70 years of age, the retirement allowance otherwise payable to him or her shall cease permanently, except as provided in this section. If a retired judge becomes entitled to any salary for assignment to a court by the Chairman of the Judicial Council after retirement under Section 75060, the retirement allowance otherwise payable to him shall, during the time he is entitled to receive that salary or other compensation, be reduced by the amount of such salary or compensation.

(b) A judge who is retired for disability and is less than 70 years of age may, without loss or reduction in allowance, engage in the practice of law or any other gainful occupation other than a public office as long as the compensation earned in any month when combined with the judge's allowance does not exceed 75 percent of the salary payable to the judge holding the judicial office to which the retired judge was last elected or appointed, and the retirement allowance otherwise payable to the judge shall be reduced by the amount of any earning in excess of that amount. The judge shall report the compensation earned during each month to the board by the eighth day of the following month.

(c) Persons affected by this section shall report all compensation earned in a form and manner required by the Board of Administration of the Public Employees' Retirement System under penalty of perjury The board shall have the authority to require these persons to grant the board permission to request wage information for the purposes of verifying the reported compensation earned. The Employment Development Department shall report compensation in a form and manner required by the board in accordance with Section 1798.24 of the Civil Code. The board shall reimburse the Employment Development Department for the costs that the department incurs in searching for and providing that

information.

When a person affected by this section reaches age 70, his or her retirement allowance shall be made equal to the amount it would be if not reduced under this section, and shall not again be modified for any cause.

(d) A judge who is retired for disability or becomes entitled to any salary for assignment to a court by the Chairman of the Judicial Council after retirement under Section 75060 shall not be eligible to receive service credit in another public retirement system or under this chapter or to be reinstated to this system.

The Legislature reserves the right to increase or reduce the benefits prescribed by this section as it may find appropriate.

The Board of Administration of the Public Employees' Retirement System shall study and make recommendations regarding the implementation of this section and shall transmit a report to the Legislature prior to January 1, 1987.

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

SEC. 3. Section 75080 of the Government Code, as added by Section 2 of Chapter 585 of the Statutes of 1981, is amended to read:

75080. If, after retirement for disability, a retired judge engages in the practice of law or other gainful occupation while less than 70 years of age, the retirement allowance otherwise payable to him or her shall cease permanently, except as provided in this section. If, after retirement either under Section 75025 or Section 75060, a retired judge becomes entitled to any salary or other compensation as the incumbent of any statewide, legislative, board of equalization, or federal office, the retirement allowance otherwise payable to him or her shall, during the time he or she is entitled to receive such salary or other compensation, be reduced by the amount of that salary or compensation.

This section shall become operative on January 1, 1987.

SEC. 3.5. Section 75080 of the Government Code is amended to read:

75080. If, after retirement for disability, a retired judge engages in the practice of law or other gainful occupation while less than 70 years of age, the retirement allowance otherwise payable to him or her shall cease permanently, except as provided in this section.

This section shall become operative on January 1, 1987.

SEC. 4. If this bill is chaptered after Assembly Bill 330, Sections 1.5, 2.5, and 3.5 of this bill shall become operative and Sections 1, 2, and 3 of this act shall not become operative. If Assembly Bill 330 is not chaptered, Sections 1, 2, and 3 of this act shall become operative and Sections 1.5, 2.5, and 3.5 of this act not become operative.

CHAPTER 1641

An act to amend Sections 24253 and 24628.5 of, and to add Sections 20560.1, 20560.2, and 24675 to, the Water Code, relating to irrigation districts.

[Became law without Governor's signature. Filed with Secretary of State October 1, 1982.]

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

SECTION 1. Section 20560.1 is added to the Water Code, to read:

20560.1. Notwithstanding any other provision of law, any district that owns and operates facilities for the generation, transmission, distribution, and retail sale of electric power on the effective date of this act shall be exempt from all provisions of the Districts Securities Law (Division 10 (commencing with Section 20000)) and, except for the provisions of Section 20560.2, from all provisions requiring State Treasurer approvals, consents, findings, reports, and submissions contained in this division in connection with any proceedings for the issuance of any bonds, warrants, notes, or other evidences of indebtedness to finance any works of the district for the generation, transmission, distribution, or sale of electric power, and none of the sections of this division requiring any such approvals, consents, findings, reports, and submissions shall be conditions precedent to or limitations on the exercise of any powers of the district in connection with such proceedings.

SEC. 2. Section 20560.2 is added to the Water Code, to read:

20560.2. In the case of any district described in Section 20560.1, the district shall give notice to the California Debt Advisory Commission, at least 30 days prior to the proposed sale date, of the proposed sale of any bonds to provide permanent financing of any works of the district described in Section 20560.1. The notice shall include the information required by subdivision (h) of Section 8855 of the Government Code. Failure to give this notice shall render the sale invalid.

In carrying out the purpose of this section, the California Debt Advisory Commission may charge fees payable solely from the proceeds of the sale of the bond issue in an amount equal to one-fortieth of 1 percent of the principal amount of the issue, but not to exceed five thousand dollars ($5,000) for any one issue.

The bonds shall be legal investments for all trust funds, for the funds of all insurance companies, commercial banks, savings banks, trust companies, the state school funds, and for any funds which may be invested in bonds of cities, cities and counties, counties, school districts, or municipalities in the state.

SEC. 3. Section 24253 of the Water Code is amended to read:

24253. If the largest payment to be made under any one lease or contract for any property exceeds in any year an amount equal to

one-fourth of 1 percent of the total valuation of the land in the district according to the assessment next equalized before the making of the lease or contract, the lease or contract shall not be valid unless either:

1. The district has appropriate funds on hand at the time the lease or contract is made, sufficient to meet all payments to be made thereunder and in excess of the district's normal requirements for the period in which the payments are to be made; or,

2. Unless a particular purpose or emergency assessment sufficient to meet all of the principal payments to become due under the lease or contract is authorized; or,

3. The lease or contract is approved by the State Treasurer; provided, however, that this section shall not be applicable to any district exempted from such approval by Section 20560.1.

SEC. 4. Section 24628.5 of the Water Code is amended to read:

24628.5. Warrants payable at a future time or times may also be issued to obtain funds or property for any lawful purpose of the district; provided, that, unless approved by the State Treasurer, the total amount of warrants payable in any one year shall not exceed one-fourth of 1 percent of the total valuation of the land in the district according to the last equalized assessment roll; provided, however, that this section shall not be applicable to any district exempted from such approval by Section 20560.1.

SEC. 5. Section 24675 is added to the Water Code, to read:

24675. In the case of any district described in Section 20560.1, and for purposes of financing costs of maintenance and operation on a temporary basis, repair to or replacement of damage caused by, or costs incurred as a result of, fire, flood, drought, earthquake, sabotage or acts of God, or preliminary or developmental work except for preliminary or developmental work on the Tuolumne River or its tributaries above the New Don Pedro Reservoir, in connection with works or facilities described in Section 20560.1, the district may borrow money by the issuance of notes or other evidences of indebtedness payable either from the revenue of the district or from the proceeds of sale of any authorized but unissued revenue bonds of the district, as the board may determine. Authorized but unissued revenue bonds of the district which have been approved by a vote of the electorate may only be issued for those purposes authorized by the electorate. The notes or other evidences of indebtedness shall be authorized by resolution of the board and may be issued without the necessity of calling and holding an election in the district. The notes or other evidences of indebtedness authorized under this section shall mature in not to exceed seven years from their date, may be sold either at public or private sale, and shall bear interest at such rate or rates and shall be sold at such price or prices as shall result in interest costs not exceeding such limits as may be determined by the board. The interest rates may be fixed or variable and shall not exceed 17 percent per annum. All other terms and conditions of such notes or other evidences of indebtedness shall be determined in accordance with the authorizing resolution. The notes

or other evidences of indebtedness may be issued as part of a tax-exempt commercial paper program or other short-term note financing program. The district may arrange for the use of bank letters of credit or bank lines of credit for any purpose for which the notes or other evidences of indebtedness may be issued, as well as to provide additional sources of repayment for the notes or other evidences of indebtedness issued under this section. The maximum principal amount of notes or other evidences of indebtedness outstanding under this section, including the amounts drawn on available bank letters of credit or bank lines of credit, shall not at any one time exceed (1) twenty-five million dollars ($25,000,000) or 25 percent of the district's annual gross revenues from the generation, transmission, distribution, and sale of electric power during its preceding fiscal year, whichever is greater, when payable from the revenues of the district; or (2) the principal amount of any authorized but unissued revenue bonds of the district, not to exceed twenty-five million dollars ($25,000,000), when payable from the proceeds of sale of such authorized but unissued revenue bonds. The notes or other evidences of indebtedness shall be legal investments for all trust funds, for the funds of all insurance companies, commercial banks, savings banks, trust companies, the state school funds, and for any funds which may be invested in bonds of cities, cities and counties, counties, school districts, or municipalities in the state.

CHAPTER 1642

An act to amend Section 44 of, and to add Section 460.7 to, the Code of Civil Procedure, relating to actions for libel.

[Became law without Governor's signature. Filed with Secretary of State October 1, 1982.]

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

SECTION 1. Section 44 of the Code of Civil Procedure is amended to read:

44. Appeals in probate proceedings, in contested election cases, and in actions for libel or slander by a person who holds any elective public office or a candidate for any such office alleged to have occurred during the course of an election campaign shall be given preference in hearing in the courts of appeal, and in the Supreme Court when transferred thereto. All these cases shall be placed on the calendar in the order of their date of issue, next after cases in which the people of the state are parties.

SEC. 2. Section 460.7 is added to the Code of Civil Procedure, to read:

460.7. (a) In any action by a candidate or former candidate for

elective public office against a holder of elective public office or an opposing candidate for libel or slander which is alleged to have occurred during the course of an election campaign the court shall order that the time to respond to the complaint is 20 days after the service of summons on the defendant. The order shall direct the clerk to endorse the summons to show that the time to respond has been shortened pursuant to this section. A copy of the affidavit and order shall be served with the summons.

(b) In any action decribed in subdivision (a), unless otherwise ordered by the court for good cause shown, the time allowed the defendant to respond to the complaint or amend the answer under Section 586 shall not exceed 10 days.

(c) The court shall give any action described in subdivision (a) precedence over all other civil actions, except actions to which special precedence is given by law, in the matter of the setting of the case of hearing or trial, and in hearing the case, to the end that all actions described in subdivision (a) shall be quickly heard and determined. Except for good cause shown, the court shall not grant a continuance in excess of 10 days without the consent of the adverse party.

SEC. 3. This act shall become operative only if, and on the date that, ACA No. 74 is adopted by the voters.

CHAPTER 1643

An act to amend Section 41514 of the Health and Safety Code, relating to air pollution, and declaring the urgency thereof, to take effect immediately.

[Became law without Governor's signature. Filed with Secretary of State October 1, 1982.]

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

SECTION 1. Section 41514 of the Health and Safety Code is amended to read:

41514. (a) The state board shall prepare and submit to the Legislature its recommendations with regard to the regulation of marine vessels on or before March 31, 1983. The report shall be prepared in consultation with a maritime industry task force, the districts, and members of the public. The maritime industry task force shall have representation from oil refiners, marine tanker vessels, dry cargo vessels, and tug and barges, including, but not be limited to, the following groups:

(1) The California Association of Port Authorities.
(2) The Foreign Shipowners Association.
(3) The Independent Refiners Association of California.
(4) The Pacific Merchant Shipping Association.

(5) The Marine Tanker Companies.

(6) The United States Coast Guard.

(b) The report shall discuss issues and impacts that will result from recommended control measures, including, but not limited to, competitive impact on United States flag vessels and California ports, vessels and personal safety, and the state board's Resolution 78-59.

(c) The state board shall not adopt any regulation to implement the study recommendations or otherwise establish emission requirements for marine vessels prior to March 31, 1983.

(d) Nothing in this chapter shall be construed to prohibit enforcement of any rule or regulation governing marine vessels which had been adopted by any district prior to July 1, 1979, or is amended thereafter.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to extend the time as soon as possible when the State Air Resources Board would be required to submit a report to the Legislature on the regulation of marine vessels and would be authorized to adopt emission requirements on marine vessels, it is necessary that this act take effect immediately.

CHAPTER 1644

An act to amend Sections 170 and 170.6 of the Code of Civil Procedure, relating to actions and proceedings.

[Became law without Governor's signature. Filed with Secretary of State October 1, 1982.]

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

SECTION 1. Section 170 of the Code of Civil Procedure is amended to read:

170. (a) No justice or judge shall sit or act as such in any action or proceeding:

(1) To which he or she is a party, or in which he or she is interested other than as a holder or owner of any capital stock of a corporation, or of any bond, note or other security issued by a corporation.

(2) In which he or she is interested as a holder or owner of any capital stock of a corporation, or of any bond, note or other security issued by a corporation.

(3) When he or she is related to either party, or to an officer of a corporation, which is a party, or to an attorney, counsel, or agent of either party, by consanguinity or affinity within the third degree computed according to the rules of law, or when he or she is indebted, through money borrowed as a loan, to either party, or to

an attorney, counsel or partner of either party, or when he or she is so indebted to an officer of a corporation or unincorporated association which is a party. However, if the parties appearing in the action and not then in default, or the petitioner in any probate proceeding, or the executor, or administrator of the estate, or the guardian or conservator, or the commissioner, or the referee, or the attorney for any of the above named, or the party or his or her attorney in all other or special proceedings, shall sign and file in the action or matter, a stipulation in writing waiving the disqualification mentioned in this subdivision or in subdivision 2 or 4 hereof, the judge or court may proceed with the trial or hearing and the performance of all other duties connected therewith with the same legal effect as if no such disqualification existed.

(4) When, in the action or proceeding, or in any previous action or proceeding involving any of the same issues, he or she has been attorney or counsel for any party, or when he or she has given advice to any party upon any matter involved in the action or proceeding, or when he or she has been retained or employed as attorney or counsel for any party within two years prior to the commencement of the action or proceeding.

(5) When it is made to appear probable that, by reason of bias or prejudice of such justice or judge a fair and impartial trial cannot be had before that justice or judge.

(6) When, by reason of permanent or temporary physical impairment, he or she is unable properly to perceive the evidence or properly conduct the proceedings.

(b) Whenever a judge or justice shall have knowledge of any fact or facts, which, under the provisions of this section, disqualify him or her to sit or act as such in any action or proceeding pending before him or her, it shall be his or her duty to declare the same in open court and cause a memorandum thereof to be entered in the minutes or docket. It shall thereupon be the duty of the clerk, or the judge if there be no clerk, to transmit forthwith a copy of the memorandum to each party, or his attorney, who shall have appeared in the action or proceeding, except such party or parties as shall be present in person or by attorney when the declaration shall be made.

(c) Whenever a judge who shall be disqualified under the provisions of this section, to sit or act as such in any action or proceeding pending before him or her, neglects or fails to declare his or her disqualification in the manner hereinbefore provided, any party to the action or proceeding who has appeared therein may present to the court and file with the clerk a verified written statement objecting to the hearing of the matter or the trial of any issue of fact or law in the action or proceeding before that judge, and setting forth the fact or facts constituting the ground of the disqualification of the judge. Copies of the written statement shall forthwith be served by the presenting party on each party, or his or her attorney, who has appeared in the action or proceeding and on the judge alleged in the statement to be disqualified. The statement

of a party objecting to the judge on the ground of his or her disqualification, shall be presented at the earliest practicable opportunity, after his or her appearance and discovery of the facts constituting the ground of the judge's disqualification, and in any event before the commencement of the hearing of any issue of fact in the action or proceeding before that judge.

(d) When a statement of disqualification is filed pursuant to subdivision (c), proceedings shall be as follows:

(1) The judge may, within 10 days after service or filing of the statement, whichever is later, file a verified answer admitting or denying any or all of the allegations in the statement, and setting forth any additional information relevant to the question of disqualification. The question of disqualification shall be determined as provided by subdivision (e).

(2) The judge may file with the clerk a consent that the action or proceeding be tried before another judge as provided by subdivision (f).

(3) The clerk shall forthwith transmit a copy of any consent or answer to all parties who have appeared in the action or proceeding.

(4) If no consent has been filed, the judge may proceed with the case until the question of disqualification is determined, unless the statement of disqualification was filed by the prosecution on the first day of a criminal trial.

(5) Unless required for the convenience of the court or unless good cause is shown, a continuance of the trial or hearing shall not be granted by reason of the filing of a statement of disqualification. If a continuance is granted, the cause or matter shall be continued from day to day or for other limited periods upon the trial or other calendar and shall be reassigned or transferred for trial or hearing as promptly as possible.

(e) No judge against whom a statement of objection or disqualification has been filed pursuant to this section, shall hear or pass upon any question of fact or law concerning his or her disqualification or the statement of objection or disqualification filed against the judge, but in every such case, all the questions concerning the judge's disqualification shall be heard and determined by some other judge agreed upon by the parties who shall have appeared in the action or proceeding, or, in the event of their failing to agree, by a judge assigned to act by the Chairman of the Judicial Council, and, if the parties fail to agree upon a judge to determine the questions of fact and law pertaining to the disqualification, within five days after the expiration of the time allowed herein for the judge to answer, it shall be the duty of the clerk then to notify the Chairman of the Judicial Council of that fact, and it shall be the duty of the Chairman of the Judicial Council forthwith, upon receipt of notice from the clerk, to assign some other judge, not disqualified, to hear and determine these questions and each of them.

(f) If the judge admits his or her disqualification, or files his or her written consent that the action or proceeding be tried before

another judge, or fails to file his or her answer within the 10 days herein allowed, or if it shall be determined after hearing that he or she is disqualified, the action or proceeding shall be heard and determined by another judge or justice not disqualified, who shall be agreed upon by the parties, or, in the event of their failing to agree, assigned by the Chairman of the Judicial Council. However, when there are two or more judges of the same court, one of whom is disqualified, the action or proceeding may be transferred to a judge who is not disqualified.

(g) A judge who is disqualified may, notwithstanding his or her disqualification, request another judge, who has been agreed upon by the parties, to sit and act in his or her place.

(h) In an action or proceeding brought in any court by or against the Reclamation Board of the State of California, or any irrigation, reclamation, levee, swampland or drainage district, or trustee, officer or employee thereof, affecting or relating to any real property, or an easement or right-of-way, levee, embankment, canal, or any work provided for or approved by the Reclamation Board of the State of California, a judge of the superior court of the county, or a judge of the municipal court or justice court of the judicial district, in which the real property, or any part thereof, or the easement or right-of-way, levee, embankment, canal or work, or any part thereof is situated shall be disqualified to sit or act, and the action shall be heard and tried by some other judge assigned to sit therein by the Chairman of the Judicial Council, unless the parties to the action shall sign and file in the action or proceeding a stipulation in writing, waiving the disqualification in this subdivision of this section provided, in which case the judge may proceed with the trial or hearing with the same legal effect as if no legal disqualification existed. If, however, the parties to the action shall sign and file a stipulation, agreeing upon some other judge to sit or act in place of the judge disqualified under the provisions of this subdivision, the judge agreed upon shall be called by the judge so disqualified to hear and try the action or proceeding, provided, that nothing herein contained shall be construed as preventing the judge of the superior court of the county, or of the municipal or justice court of the judicial district, from issuing a temporary injunction or restraining order, which shall, if granted, remain in force until vacated or modified by the judge designated as herein provided.

(i) Notwithstanding anything contained in subdivision (h) of this section, a judge of the superior court or a judge of the municipal court or justice court of the judicial district, in which any real property is located, shall not be disqualified to hear or determine any matter in which the opposing party shall have failed to appear within the time allowed by law, or as to such of the opposing parties who shall have failed to appear within the time allowed by law, and as to which matter or parties the same shall constitute purely a default hearing, provided, that nothing in this section contained shall be construed as preventing the judge of the superior court of the county

from issuing an order for possession prior to judgment in proceedings in eminent domain.

(j) Nothing in this section contained shall affect a party's right to a change of the place of trial in the cases provided for in Title 4 (commencing with Section 392) of Part 2 of this code.

SEC. 2. Section 170.6 of the Code of Civil Procedure is amended to read:

170.6. (1) No judge, court commissioner, or referee of any superior, municipal or justice court of the State of California shall try any civil or criminal action or special proceeding of any kind or character nor hear any matter therein which involves a contested issue of law or fact when it shall be established as hereinafter provided that such judge or court commissioner is prejudiced against any party or attorney or the interest of any party or attorney appearing in such action or proceeding.

(2) Any party to or any attorney appearing in any such action or proceeding may establish such prejudice by an oral or written motion without notice supported by affidavit or declaration under penalty of perjury or an oral statement under oath that the judge, court commissioner, or referee before whom such action or proceeding is pending or to whom it is assigned is prejudiced against any such party or attorney or the interest of such party or attorney so that such party or attorney cannot or believes that he cannot have a fair and impartial trial or hearing before such judge, court commissioner, or referee. Where the judge, court commissioner, or referee assigned to or who is scheduled to try the cause or hear the matter is known at least 10 days before the date set for trial or hearing, the motion shall be made at least five days before that date If directed to the trial of a cause where there is a master calendar, the motion shall be made to the judge supervising the master calendar not later than the time the cause is assigned for trial. If the court in which the action is pending is authorized to have no more than one judge and the motion claims that the duly elected or appointed judge of that court is prejudiced, the motion shall be made before the expiration of 30 days from the date of the first appearance in the action of the party who is making the motion or whose attorney is making the motion. In no event shall any judge, court commissioner, or referee entertain such motion if it be made after the drawing of the name of the first juror, or if there be no jury, after the making of an opening statement by counsel for plaintiff, or if there be no such statement, then after swearing in the first witness or the giving of any evidence or after trial of the cause has otherwise commenced. If the motion is directed to a hearing (other than the trial of a cause), the motion must be made not later than the commencement of the hearing. In the case of trials or hearings not herein specifically provided for, the procedure herein specified shall be followed as nearly as may be. The fact that a judge, court commissioner, or referee has presided at or acted in connection with a pretrial conference or other hearing, proceeding or motion prior

to trial and not involving a determination of contested fact issues relating to the merits shall not preclude the later making of the motion provided for herein at the time and in the manner hereinbefore provided.

(3) If such motion is duly presented and such affidavit or declaration under penalty of perjury is duly filed or such oral statement under oath is duly made, thereupon and without any further act or proof, the judge supervising the master calendar, if any, shall assign some other judge, court commissioner, or referee to try the cause or hear the matter. In other cases, the trial of the cause or the hearing of the matter shall be assigned or transferred to another judge, court commissioner, or referee of the court in which the trial or matter is pending or, if there is no other judge, court commissioner, or referee of the court in which the trial or matter is pending, the Chairman of the Judicial Council shall assign some other judge, court commissioner, or referee to try such cause or hear such matter as promptly as possible. Under no circumstances shall a party or attorney be permitted to make more than one such motion in any one action or special proceeding pursuant to this section; and in actions or special proceedings where there may be more than one plaintiff or similar party or more than one defendant or similar party appearing in the action or special proceeding, only one motion for each side may be made in any one action or special proceeding.

(4) Unless required for the convenience of the court or unless good cause is shown, a continuance of the trial or hearing shall not be granted by reason of the making of a motion under this section. If a continuance is granted, the cause or matter shall be continued from day to day or for other limited periods upon the trial or other calendar and shall be reassigned or transferred for trial or hearing as promptly as possible.

(5) Any affidavit filed pursuant to this section shall be in substantially the following form:

(Here set forth court and cause)

State of California, County of	} ss.	PEREMPTORY CHALLENGE

_____, being duly sworn, deposes and says: That he is a party (or attorney for a party) to the within action (or special proceeding). That _____ the judge, court commissioner, or referee before whom the trial of the (or a hearing in the) aforesaid action (or special proceeding) is pending (or to whom it is assigned), is prejudiced against the party (or his attorney) or the interest of the party (or his attorney) so that affiant cannot or believes that he cannot have a fair and impartial trial or hearing before such judge, court commissioner, or referee.

Subscribed and sworn to before me this
_____ day of _____, 19____.
(Clerk or notary public or other
officer administering oath)

(6) Any oral statement under oath or declaration under penalty of perjury made pursuant to this section shall include substantially the same contents as the affidavit above.

(7) Nothing in this section shall affect or limit the provisions of Section 170 and Title 4, Part 2, of this code and this section shall be construed as cumulative thereto.

(8) If any provision of this section or the application to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the section which can be given effect without the invalid provision or application and to this end the provisions of this section are declared to be severable.

CONCURRENT AND JOINT RESOLUTIONS

AND CONSTITUTIONAL AMENDMENTS

1981-82

REGULAR SESSION

1982 RESOLUTION CHAPTERS

RESOLUTION CHAPTER 1

Assembly Joint Resolution No. 66—Relative to the Mediterranean fruit fly.

[Filed with Secretary of State January 19, 1982.]

WHEREAS, Agriculture is the number one industry in California, representing $15 billion in gross production, accounting for over 10 percent of the nation's agricultural exports, providing one out of three jobs in the state, and continuing to grow in importance to the state, the nation, and the world; and

WHEREAS, The California Department of Food and Agriculture and the United States Department of Agriculture have established adequate quarantine safeguards to protect state, national, and worldwide agricultural industry from the current infestation of the Mediterranean fruit fly; and

WHEREAS, The Mediterranean fruit fly infestation is basically confined to urban nonfarming areas, except for one isolated find in a major farming area; and

WHEREAS, As of January 1982, the Mediterranean fruit fly eradication project has completed aerial spraying of all but 200 of the 1,300 square mile treatment area, and those 200 square miles represent less than 0.35 percent of all California agricultural land under cultivation; and

WHEREAS, Not all agricultural commodities are primary hosts for the Mediterranean fruit fly; and

WHEREAS, Japan has applied its Mediterranean fruit fly quarantine restrictions to the entire State of California and to any and all produce from the State of California; and

WHEREAS, Japan recognizes the United States Department of Agriculture and state-established Mediterranean fruit fly quarantine boundaries in Florida and Mexican fruit fly quarantine boundaries in Texas and does not require either state to fumigate all produce from outside those quarantine areas before shipment to Japan, as it does California; and

WHEREAS, Unwarranted embargoes of California agricultural products and similar unjustified acts by foreign nations could and have resulted in losses of hundreds of millions of dollars to California's agricultural industry; and

WHEREAS, The United States government and the Japanese government will meet on January 18 and 19, 1982, to attempt a diplomatic resolution of the quarantine boundaries; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That it is the Legislature's intent to protect and enhance California agriculture and agricultural exports; and be it further

Resolved, That the Legislature shares the concern of the California agricultural industry that the Mediterranean fruit fly quarantine

restrictions imposed by Japan on California agriculture are excessive and not based on sound scientific data; and be it further

Resolved, That the Legislature respectfully memorializes the United States Special Trade Representative and the Secretary of Agriculture to pursue Japanese recognition of the existing Mediterranean fruit fly quarantine boundaries established by the United States Department of Agriculture and the California Department of Food and Agriculture, and to trade with California agricultural producers based on those established quarantine lines consistent with Japanese trade policy with other states in the United States; and be it further

Resolved, That the Legislature of the State of California encourages the amicable and diplomatic resolution of this issue as expediently as possible in order to avoid a possible boycott of Japanese products in the United States; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and 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 Special Trade Representative, and to the Secretary of Agriculture.

RESOLUTION CHAPTER 2

Assembly Concurrent Resolution No. 34—Relative to unlicensed mental health workers.

[Filed with Secretary of State January 25, 1982.]

WHEREAS, Increasing demands for mental health services and decreasing fiscal and manpower resources have resulted in a substantial percentage of direct mental health care being provided by new categories of unlicensed personnel; and

WHEREAS, The President's Commission on Mental Health found that paraprofessionals comprise almost half the patient care staff of mental health facilities; and

WHEREAS, The skills and knowledge of all mental health personnel, including unlicensed personnel in entry level jobs, must be adequate to serve and protect those mentally disabled persons in their care; and

WHEREAS, There is growing evidence that the lack of any minimum formal training requirement for direct care personnel jeopardizes the basic health and welfare of mentally ill persons; and

WHEREAS, Research has shown that in-service training given in the context of "on-the-job" experience is more effective than classroom experience; and

WHEREAS, The most effective direct mental health care is given

by individuals who demonstrate warmth, empathy, genuineness, communication skills, and an understanding of the relationship between mental illness and certain behaviors; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the State Department of Mental Health, through the Health Training Centers, is hereby requested to formulate a curriculum for the training of unlicensed mental health workers; and be it further

Resolved, That the training curriculum shall consist of, but not be limited to, the following subject areas: understanding of mental illness; enhancement of the worker's warmth, empathy, genuineness, and development of communication skills; basic concepts of human growth and development; an understanding of group dynamics; and basic nursing skills; and be it further

Resolved, That the training curriculum shall be developed so that credit or waivers can be given for prior training or education, or both, and shall be relevant in all types of mental health programs and facilities providing direct mental health services; and be it further

Resolved, That the training curriculum include a vehicle for the upward mobility of unlicensed mental health personnel into currently licensed occupations, to be developed in consultation with the Department of Industrial Relations; and be it further

Resolved, That the State Department of Mental Health is requested to apply to the National Institute of Mental Health for funds to assist in curriculum development and implementation of entry-level training activities; and be it further

Resolved, That the State Department of Mental Health shall submit the training curriculum to the Legislature on or before six months after the effective date of this resolution, together with recommendations for its implementation, including recommendations for methods of verifying completion of training, sanctions for noncompliance, and cost; and be it further

Resolved, That it is the intent of the Legislature that nothing contained in this resolution shall be construed as implying that such training is preliminary to licensure by the state of any class of mental health workers not currently licensed; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Mental Health.

RESOLUTION CHAPTER 3

Assembly Joint Resolution No. 52—Relative to American prisoners of war in Southeast Asia.

[Filed with Secretary of State January 25, 1982]

WHEREAS, There have been numerous confirmed reports of Americans still being held hostage by Communist forces as a result of the Korean and Southeast Asian conflicts; and

WHEREAS, More than 2,800 American troops are still unaccounted for from the Korean and Southeast Asian conflicts; and

WHEREAS, Since 1973, there have been more than 4,000 individual sighting reports made with respect to Americans still being held prisoner in Southeast Asia; 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 take every step necessary to secure the return of all Americans still held as prisoners of war in Southeast Asia; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 4

Assembly Concurrent Resolution No. 73—Relative to "Children's Dental Health Month."

[Filed with Secretary of State January 25, 1982.]

WHEREAS, The month of February 1982, has been designated as "Children's Dental Health Month"; and

WHEREAS, The future is, to a large measure, dependent on the good health of our children and youth, the citizens of tomorrow; and

WHEREAS, Good health, physical and mental, can be achieved through good health habits learned early; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the month of February 1982 be recognized as "Children's Dental Health Month" and that all citizens and all community organizations are hereby urged to join in the observance; and be it further

Resolved, That copies of this resolution be transmitted to the Governor, the California Dental Association, the Northern California State Dental Hygienist Association, and the Southern California State Dental Hygienist Association.

RESOLUTION CHAPTER 5

Assembly Constitutional Amendment No. 4—A resolution to propose to the people of the State of California an amendment to the Constitution of the state, by adding subdivision (d) to Section 2 of Article XIII A thereof, relating to taxation.

[Filed with Secretary of State January 26, 1982.]

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its 1981–82 Regular Session commencing on the first day of December, 1980, two-thirds of the members elected to each of the two houses of the Legislature voting therefor, hereby proposes to the people of the State of California that the Constitution of the state be amended by adding subdivision (d) to Section 2 of Article XIII A thereof, to read:

(d) For purposes of this section, the term "change in ownership" shall not include the acquisition of real property as a replacement for comparable property if the person acquiring the real property has been displaced from the property replaced by eminent domain proceedings, by acquisition by a public entity, or governmental action which has resulted in a judgment of inverse condemnation. The real property acquired shall be deemed comparable to the property replaced if it is similar in size, utility, and function, or if it conforms to state regulations defined by the Legislature governing the relocation of persons displaced by governmental actions. The provisions of this subdivision shall be applied to any property acquired after March 1, 1975, but shall affect only those assessments of that property which occur after the provisions of this subdivision take effect.

RESOLUTION CHAPTER 6

Assembly Constitutional Amendment No. 14—A resolution to propose to the people of the State of California an amendment to the Constitution of the state by amending Section 12 of Article I thereof, relating to criminal prosecutions.

[Filed with Secretary of State January 28, 1982.]

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its 1981–82 Regular Session, commencing on the first day of December, 1980, two-thirds of the members elected to each of the two houses of the Legislature voting therefor, hereby proposes to the people of the State of California that the Constitution of the state be amended as follows:

First—That Section 12 of Article I thereof be amended to read:

SEC. 12. A person shall be released on bail by sufficient sureties,

except for:

(a) Capital crimes when the facts are evident or the presumption great;

(b) Felony offenses involving acts of violence on another person when the facts are evident or the presumption great and the court finds based upon clear and convincing evidence that there is a substantial likelihood the person's release would result in great bodily harm to others; or

(c) Felony offenses when the facts are evident or the presumption great and the court finds based on clear and convincing evidence that the person has threatened another with great bodily harm and that there is a substantial likelihood that the person would carry out the threat if released.

Excessive bail may not be required. In fixing the amount of bail, the court shall take into consideration the seriousness of the offense charged, the previous criminal record of the defendant, and the probability of his or her appearing at the trial or hearing of the case.

A person may be released on his or her own recognizance in the court's discretion.

RESOLUTION CHAPTER 7

Assembly Concurrent Resolution No. 83—Relative to congratulating the San Francisco Forty-Niners.

[Filed with Secretary of State January 28, 1982.]

WHEREAS, The San Francisco 49ers are the newly crowned "World Champions" of Professional Football; and

WHEREAS, The 49ers earned this title with their stunning victory over the Cincinnati Bengals in Super Bowl XVI in Pontiac, Michigan, on January 24, 1982; and

WHEREAS, The 49ers have brought a world football championship to the City and County of San Francisco for the first time ever; and

WHEREAS, The Members of the California Legislature are proud that the 49ers have continued the tradition started last year by the Oakland Raiders of having the Super Bowl champions reside not only in the State of California, but in the bay area; and

WHEREAS, Under the leadership of owner Eddie De Bartolo and the brilliant direction of "Coach of the Year" Bill Walsh and his staff, the 49ers have won more games than any other National Football League team in over a decade; and

WHEREAS, With its superior offense and defense, the team converted its won-loss record from 2-14 to 16-3 in just three years; and

WHEREAS, A listing of the individual heroes of the season requires a listing of the entire roster, as each player was outstanding

in his performance; and

WHEREAS, The California Legislature will honor the Super Bowl Champions with a San Francisco 49er Day; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the members hereby congratulate the players, coaches, and owners of the 49er Football Team on their outstanding season and successful winning of the World Championship; and be it further

Resolved, That suitably prepared copies of this resolution be transmitted to Edward De Bartolo, Jr., President; Bill Walsh, Coach-General Manager; Coaches Chuck Studley, Norb Hecker, Bill McPherson, George Seifert, Bobb McKittrick, Billie Matthews, Al Vermeil, Milt Jackson, Sam Wyche, Cas Banaszek, and Ray Rhodes; and Players Dan Audick, John Ayers, Guy Benjamin, Dwaine Board, Dan Bunz, John Choma, Dwight Clark, Earl Cooper, Randy Cross, Johnny Davis, Fred Dean, Walt Downing, Walt Easley, Lenvil Elliot, Keith Fahnhorst, Rick Gervais, Willie Harper, John Harty, Dwight Hicks, Paul Hofer, Allan Kennedy, Amos Lawrence, Bobby Leopold, Ronnie Lott, Saladin Martin, Milt McColl, Jim Miller, Joe Montana, Ricky Patton, Lawrence Pillers, Craig Puki, Fred Quillan, Eason Ramson, Archie Reese, Jack Reynolds, Bill Ring, Mike Shumann, Freddie Solomon, Jim Stuckey, Lynn Thomas, Keena Turner, Ray Wershing, Carlton Williamson, Mike Wilson, Eric Wright, and Charle Young.

RESOLUTION CHAPTER 8

Senate Concurrent Resolution No. 55—Relative to commending the government of Italy for the rescue of General Dozier.

[Filed with Secretary of State February 10, 1982.]

WHEREAS, On January 29, 1982, U.S. Brigadier General James L. Dozier was rescued by Italian Special Agents for Security Operations and other Italian law enforcement officers from his 42-day captivity by terrorist kidnappers; and

WHEREAS, The daring and heroic rescue of General Dozier from his captors represented the successful end to the persistent and massive effort of Italian law enforcement to locate the clandestine terrorist gang and effect the safe return of General Dozier; and

WHEREAS, The rescue operation represents a stunning victory for the Italian government against terroristic forces who would by acts of murder and kidnapping undermine the democratic government of Italy; and

WHEREAS, Italy is a member of the North Atlantic Treaty Organization, and a friend and ally of the United States of America; 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 hereby commend the government of Italy for its determined efforts to rescue General Dozier, expresses joy and relief upon the end of his captivity, and extends a heartfelt thanks for all who were responsible for his bold rescue; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the government of Italy.

RESOLUTION CHAPTER 9

Assembly Joint Resolution No. 12—Relative to construction of a San Luis and Delta-Mendota joint drainage facility.

[Filed with Secretary of State February 11, 1982.]

WHEREAS, Agriculture is the number one industry in California, representing $15 billion in gross production, accounting for over 10 percent of the nation's agricultural exports, and continuing to grow in importance to the state, the nation and the world; and

WHEREAS, During the past 20 years world population has doubled and it is expected to double again in the next 20 years; and

WHEREAS, World food production has increased by only 40 percent in the past 20 years; and

WHEREAS, The San Joaquin Valley is one of the richest agricultural areas in the world, accounting for over 50 percent of the $15 billion that agriculture contributes to the economy of California and the United States; and

WHEREAS, It is estimated that a major portion of the valley's fertile agricultural land will go out of production by the year 2000 A.D., amounting to hundreds of millions of dollars in annual income lost due to the buildup of salts naturally deposited in the soil and salts occurring in irrigation water; and

WHEREAS, Other damaging effects directly attributable to uncorrected agricultural drainage problems will further degrade local groundwater supplies and will cause additional deterioration of the water quality in the San Joaquin River; and

WHEREAS, Migratory wildlife is an important resource which contributes many environmental and economic benefits to the citizens of this state; and

WHEREAS, California's natural wetlands provide a critically important habitat for a wide variety of wildlife and thereby provide an important benefit to the people of the state and the nation; and

WHEREAS, Over 90 percent of California's natural wetlands have been lost by conversion to other land uses and there is a need to restore some of those wetlands; and

WHEREAS, State and federal agencies have determined that the

loss of waterfowl habitat has had a severe adverse effect on the number of waterfowl on the Pacific Flyway; and

WHEREAS, Resolution Chapter 92, Statutes of 1979, directs the Department of Fish and Game to 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; and

WHEREAS, Former wetlands may be restored to wetland status and new wetlands created, and additional recreational benefits can be provided on existing, restored, or newly developed wetlands; and

WHEREAS, The San Joaquin Valley Interagency Drainage Program, sponsored jointly by the U.S. Bureau of Reclamation, State Water Resources Control Board and the Department of Water Resources, has recommended in its final report that a central salt disposal facility for the San Joaquin Valley be constructed to the western San Francisco Bay-Delta and, additionally, that a series of new or restored wetland wildlife habitat areas in the San Joaquin Valley and the Suisun Bay be constructed in conjunction with the salt disposal facility; and

WHEREAS, The federal service area water users appear to be willing to pay for drainage service now, but few state service area water users are at this time interested in agreeing to financially support a valley drainage facility; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That it is the Legislature's interest to protect California's valuable agricultural land, water, and wildlife resources located in the San Joaquin Valley, regardless of whether those resources are located in federal, state, or private water service areas; and be it further

Resolved, That the Legislature respectfully memorializes the President of the United States to recommend to the Congress and that the Congress authorize the construction of a drainage facility to serve all San Luis and Delta-Mendota water users with the provision to contract with both federal and nonfederal water users; and be it further

Resolved, That the Legislature of the State of California respectfully memorializes the Department of the Interior to provide drainage services for San Luis, Delta-Mendota, and all other water users who desire to use a federally constructed agricultural drainage facility to the western delta; and be it further

Resolved, That the drainage facilities should only be constructed and maintained if they are environmentally safe and in full compliance with the discharge requirements established and administered by the State Water Resources Control Board and the regional water quality control board; and be it further

Resolved, That the potential use of drainage water for aquaculture, municipal, industrial, and agricultural uses be fully explored by the U.S. Bureau of Reclamation and the Department of Water Resources because, if feasible, those uses could provide an effective water

conservation tool in minimizing drain discharge; and be it further

Resolved, That the drainage facility should include appropriate wetland habitat as needed within the service area of the drainage facility constructed; and be it further

Resolved, That the costs attributable to the wildlife habitat enhancement areas be nonreimbursable; and be it further

Resolved, That California's contribution to make this a federal and state joint use facility would be a share of the costs associated with the drainage facility and the wildlife habitat enhancement areas; 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 Secretary of Agriculture, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 10

Senate Concurrent Resolution No. 53—Relative to congratulating the San Francisco Forty-Niners upon winning Super Bowl XVI.

[Filed with Secretary of State February 11, 1982.]

WHEREAS, After winning the championship of the National Football Conference in a most exciting game, the San Francisco 49ers have triumphed in Super Bowl XVI, and for their superlative performance throughout the season and in the Super Bowl are deserving of the highest commendations: and

WHEREAS, The 1981 San Francisco 49ers have been a marvel to behold, and have provided an unforgettable experience to football fans everywhere, but especially to the 49er faithful who will savor this victory for a long, long time; and

WHEREAS, Under the superb leadership of President Edward J. DeBartolo, Jr., Coach-General Manager Bill Walsh, and assistant coaches, Cas Banaszek, Norb Hecker, Milt Jackson, Billie Matthews, Bobb McKittrick, Bill McPherson, Ray Rhodes, George Seifert, Chuck Studley, Al Vermeil, and Sam Wyche, the 1981 San Francisco 49ers proved themselves to be one of the best organized franchises in the National Football League, and the team was thoroughly prepared each time it played a game; and

WHEREAS, Each team member has distinguished himself throughout the regular season and the playoffs, and the players include: Dan Audick, John Ayers, Guy Benjamin, Dwaine Board, Ken Bungarda, Dan Bunz, John Choma, Ricky Churchman, Dwight Clark, Earl Cooper, Randy Cross, Johnny Davis, Fred Dean, Walt Downing, Walt Easley, Lenvil Elliott, Keith Fahnhorst, Phil Francis,

Rich Gervais, Willie Harper, John Harty, Eric Herring, Dwight Hicks, Paul Hofer, Ed Judie, Allan Kennedy, Pete Kugler, Amos Lawrence, Bobby Leopold, Ronnie Lott, Saladin Martin, Milt McColl, Jim Miller, Joe Montana, Ricky Patton, Gus Parham, Lawrence Pillers, Craig Puki, Fred Quillan, Eason Ramson, Archie Reese, Jack Reynolds, Bill Ring, Mike Shumann, Freddie Solomon, Jim Stuckey, Lynn Thomas, Keena Turner, George Visger, Ray Wersching, Carlton Williamson, Mike Wilson, Eric Wright, and Charle Young; and

WHEREAS, Joe Montana has been properly rated the No. 1 Quarterback in the NFC by the National Football League, and Bill Walsh has been most aptly acclaimed the Coach of the Year in the NFL by United Press International, Associated Press, and the Sporting News; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature takes immense pleasure in congratulating the San Francisco 49ers on their superlative football achievements culminating in their Super Bowl XVI victory, commends the members and leadership of the team for the excellence which they have displayed during this season, and conveys sincere best wishes for success in all their future endeavors; and be it further

Resolved, That suitably prepared copies of this resolution be transmitted to the San Francisco 49ers.

RESOLUTION CHAPTER 11

Assembly Joint Resolution No. 41—Relative to deduction of state sales tax from adjusted gross income.

[Filed with Secretary of State February 16, 1982.]

WHEREAS, Surveys on sales tax tables published by the Internal Revenue Service are conducted only once every 10 years; and

WHEREAS, These sales tax tables do not reflect the sales taxes paid by Californians; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes Congress to require the Internal Revenue Service to revise the optional sales tax tables for California on an annual basis; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Commissioner of the Internal Revenue Service, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 12

Assembly Joint Resolution No. 43—Relative to hazardous waste treatment and disposal sites.

[Filed with Secretary of State February 16, 1982]

WHEREAS, The amount of hazardous waste which must be disposed of in this country each year is increasing dramatically; and

WHEREAS, The public has become increasingly concerned with regard to the potentially harmful effect of such waste on the public health and safety and the environment; and

WHEREAS, The number of hazardous waste disposal facilities is decreasing in the face of increasing demand, and under present circumstances and law, the imbalance between supply and demand is likely to further increase in the foreseeable future; and

WHEREAS, Any decrease in the number of existing hazardous waste facilities increases the distance necessary to transport hazardous waste in order to properly dispose of it; and

WHEREAS, There have been an increasing number of spills and accidents on the nation's highways involving the transportation of hazardous materials, which threaten the health, safety, and welfare of the citizens of this country; and

WHEREAS, An increase in the distance which it is necessary to travel in order to properly dispose of hazardous waste encourages illegal disposal; and

WHEREAS, While a completely risk-free environment cannot be provided, we as a nation must do all in our power in order to minimize the risk of significant harm to the public from the adverse effects of exposure to such substances; now, therefore, be it

Resolved, by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully requests the Congress of the United States to encourage the development of hazardous waste treatment and disposal facilities in each state in the union by, among other things, developing a system of financial incentives which will encourage the development of hazardous waste treatment and disposal sites within the boundaries of each state; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Secretary of State and presiding officer of each house of the Legislature of each of the other states in the United States, 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 Clerk of the United States House of Representatives, and to the Secretary of the United States Senate.

RESOLUTION CHAPTER 13

Senate Joint Resolution No. 24—Relative to the construction of the Auburn Dam.

[Filed with Secretary of State February 16, 1982.]

WHEREAS, The Auburn Dam, authorized by Congress in 1965 and under construction on the American River since 1966, is vital to the economy of the State of California; and

WHEREAS, The Auburn Dam is a federal project designed to provide (1) high quality water for municipal, agricultural, and industrial uses, (2) flood protection in the American River drainage area, (3) pollution-free hydroelectric power, up to 800 megawatts, which annually would save millions of dollars in fuel oil consumption, and (4) significant recreation facilities; and

WHEREAS, The Auburn Dam would supply the Central Valley region with surface water which will reduce reliance on groundwater and its related pumping costs; and

WHEREAS, The one-half million residents of the Sacramento area are dependent upon adequate flows in the Lower American River for recreation activities and for fisheries; and

WHEREAS, The Sacramento County Parks and Recreation Department registered at least four million visitor-days of use in 1980 along the Lower American River; and

WHEREAS, The longer the Auburn Dam is delayed, the more apparent is the need for its myriad benefits; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to expedite funding for the Auburn Dam and conclude its construction as soon as possible, provided that the new design is shown to be safe, and provided that it is shown that the dam's power and water users pay their fair share of the cost of the power and water; and be it further

Resolved, That the Legislature of the State of California encourages the Congress to provide adequate and unimpaired recreation and fishery flows for the Lower American River in legislation reauthorizing the Auburn Dam; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of the Interior, to the Speaker of the House of Representatives, to the Chairman of the Senate Appropriations Committee, to the Chairman of the House Appropriations Committee, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 14

Assembly Concurrent Resolution No. 22—Relative to Women's History Week.

[Filed with Secretary of State March 3, 1982.]

WHEREAS, The celebration of National Women's History Week each year provides an opportunity for schools and communities to focus attention on the lost heritage of women's contributions in the United States; and

WHEREAS, National Women's History Week coincides with International Women's Day, March 8, originally proclaimed at the turn of the century to recognize the valuable work of women in the labor movement and the international concerns of all women; and

WHEREAS, The observance of Women's History Week began in Sonoma County, California in 1978, and has since been proclaimed by the United States Senate and 24 Governors and state legislatures; and

WHEREAS, Throughout history, the significant roles of women have largely been discounted, stereotyped, or ignored; and

WHEREAS, In addition, the lives of women from diverse cultures are seldom mentioned in history books, and in educational curricula there is very little focus on the many contributions of women in the areas of literature, drama, art, poetry, and music; and

WHEREAS, Because of the significance and scope of women's role in the making of history and in the development of American culture and society, it is important that the State of California recognize the many contributions of women; and

WHEREAS, March 8, 1982, is the 74th Anniversary of International Women's Day and, as part of the commemoration of this day, the Commission on the Status of Women has developed Women's History Week, to be commemorated annually during the second week of each March, and is coordinating its observance through schools and community groups across the state; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That they take pleasure in joining with the Commission on the Status of Women in honoring the contributions of women, and urge all Californians to join in the celebration of International Women's Day on March 8, 1982; and be it further

Resolved, That the week of March 7–13, 1982, be designated as Women's History Week; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Chair of the Commission on the Status of Women for distribution to appropriate organizations.

RESOLUTION CHAPTER 15

Senate Joint Resolution No. 23—Relative to Vietnam veterans.

[Filed with Secretary of State March 10, 1982.]

WHEREAS, Many studies have recently shown that more than one-third of Vietnam veterans who saw heavy combat suffer from what is now recognized as post-traumatic stress disorder, which has been described as a slow-fuse emotional reaction often referred to as the "Vietnam syndrome;" and

WHEREAS, The symptoms of post-traumatic stress disorder may appear 10 or even 15 years after return from combat and include rage, guilt, flashbacks, nightmares, panic, depression, and emotional numbing and can afflict all personality types, including those from stable family backgrounds who were previously thought unlikely to develop chronic stress; and

WHEREAS, The reality of a lasting stress reaction is now accepted by leading psychiatrists and recognized as much more prevalent than believed previously, and has been found to be related much more to the veteran's exposure to combat than to the emotional stability of his childhood; and

WHEREAS, Although related to the World War I condition known as "shell shock" and to the "combat fatigue" of World War II, the Vietnam stress reaction has a tendency to come on much later and is much more widespread among the combat veterans and, for those veterans still suffering from the trauma of Vietnam combat, the problems are acute; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to direct the United States Veterans Administration to investigate and provide counseling and therapy for post-traumatic stress disorders of Vietnam veterans; 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 Veterans Administration.

RESOLUTION CHAPTER 16

Assembly Joint Resolution No. 83—Relative to the Veterans' Administration outpatient clinic at Sacramento.

[Filed with Secretary of State March 10, 1982.]

WHEREAS, It is of vital interest to the people of California that California veterans receive adequate health care from the Veterans' Administration as provided for under existing law; and

WHEREAS, The Veterans' Administration outpatient clinic at Sacramento was established to meet the outpatient medical needs of over 200,000 northern California veterans at a cost which is much lower than that of inpatient treatment; and

WHEREAS, The Sacramento clinic consistently has 10,000 requests for medical treatment over and above the authorized 39,000 patient visits; and

WHEREAS, Without proper levels of medical support at this facility, there will be increasing hardships experienced by the veterans of northern 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 require the Administrator of Veterans' Affairs to review the health care needs of the veterans of northern California and to authorize at least one additional physician and at least two additional medical support personnel to adequately service the needs of those veterans who utilize the facilities of the Sacramento Veterans' Administration outpatient clinic at Sacramento; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Administrator of Veterans' Affairs.

RESOLUTION CHAPTER 17

Assembly Joint Resolution No. 84—Relative to veterans' medical services.

[Filed with Secretary of State March 10, 1982.]

WHEREAS, One of the primary obligations of the United States Veterans' Administration (VA) is to provide adequate medical services to honorably discharged sick and disabled veterans of the United States Armed Services; and

WHEREAS, Four of the five VA medical centers serving northern California are located in the San Francisco Bay area; and

WHEREAS, It is extremely difficult for veterans to obtain proper medical care in areas more than 100 miles from a VA medical facility, even when issued a fee-basis treatment card because of the reluctance of health care providers to accept that form of payment; and

WHEREAS, There are in excess of 48,000 veterans residing in Kern

County and 13,000 veterans residing in Shasta County; and

WHEREAS, Veterans residing in these two counties must travel in excess of 100 miles to receive medical treatment from the VA; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California hereby respectfully memorializes the President and Congress of the United States, and the Administrator of the United States Veterans' Administration, to establish full-time VA outpatient clinics in the Cities of Redding and Bakersfield, California, in order that veterans in those areas may receive the same level of medical treatment as veterans in other areas of the state; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Administrator of the United States Veterans' Administration.

RESOLUTION CHAPTER 18

Assembly Concurrent Resolution No. 76—Relative to the California Law Revision Commission.

[Filed with Secretary of State March 15, 1982.]

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 1981, 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 California Probate Code should be revised, including but not limited to whether California should adopt, in whole or in part, the Uniform Probate Code;

(3) 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;

(4) Whether the law relating to possibilities of reverter and powers of termination should be revised;

(5) Whether Section 1464 of the Civil Code should be revised or repealed;

(6) Whether the law relating to community property should be revised;

(7) Whether the law relating to involuntary dismissal for lack of prosecution 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 a summary procedure should be provided by which property owners can remove doubtful or invalid liens from their property, including a provision for payment of attorney fees to the prevailing party;

(6) Whether the acts governing special assessments for public improvements should be simplified and unified;

(7) Whether the law relating to statutes of limitations applicable to felonies should be revised;

Topics Continued on Calendar for Further Study

(1) Whether the law relating to custody of children, adoption, guardianship, freedom from parental custody and control, and related matters should be revised;

(2) Whether the law relating to the rights and disabilities of minors and incompetent persons should be revised;

(3) Whether the law relating to eminent domain should be revised;

(4) Whether the law relating to quiet title actions should be revised;

(5) Whether the law relating to the abandonment or vacation of public streets and highways by cities, counties, and the state should be revised;

(6) Whether the Evidence Code should be revised;

(7) Whether the law relating to arbitration should be revised;

(8) Whether the law relating to the escheat of property and the disposition of unclaimed or abandoned property should be revised;

(9) Whether the law relating to partition should be revised;

(10) Whether the law relating to modification of contracts should be revised;

(11) Whether the law relating to sovereign or governmental immunity in California should be revised;

(12) Whether the decisional, statutory, and constitutional rules governing the liability of public entities for inverse condemnation should be revised (including, but not limited to, liability for damages resulting from flood control projects) and whether the law relating to the liability of private persons under similar circumstances should be revised;

(13) Whether the law relating to the rights and duties attendant upon termination or abandonment of a lease should be revised;

(14) Whether the law relating to liquidated damages in contracts generally, and particularly in leases, should be revised;

(15) Whether the parol evidence rule should be revised;

(16) Whether the law relating to powers of appointment should be revised;

(17) Whether the law relating to pleadings in civil actions and proceedings should be revised; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature approves the topics listed above as studies in progress for continued study by the California Law Revision Commission; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the California Law Revision Commission.

RESOLUTION CHAPTER 19

Assembly Joint Resolution No. 85—Relative to Polish People and Solidarity.

[Filed with Secretary of State March 15, 1982.]

WHEREAS, The Polish People and Solidarity have the support of free people throughout the world in their struggle to achieve freedom, equality, dignity and justice; and

WHEREAS, The Polish Government has declared war on its own people by imposing martial law, eliminating free speech, imprisoning leaders of Solidarity, using the army to suppress the people by seizing by force the mines, mills, factories, offices and schools in an attempt to crush the spirits of the Polish People and stamp out every vestige of Solidarity and its goals; and

WHEREAS, This ruthless suppression of the Polish People by their government was clearly instigated by the leaders of the Russian Government, who were desperately afraid Solidarity would be successful in Poland and that the people in other Iron Curtain Countries would follow the example of Solidarity in its quest for freedom, equality, dignity and justice; and

WHEREAS, This ruthless suppression has outraged the Free World and has the outspoken opposition of Pope John Paul, President Ronald Reagan, Governor Edmund G. Brown Jr., Lane Kirkland, President of the AFL/CIO, and many other world and national leaders and organizations; and

WHEREAS, March 13, 1982, marks the end of the third month of the odious martial law imposed upon the Polish People by the military government and its reprehensible conduct in eliminating free speech, imprisoning leaders of Solidarity and the murdering of its citizens; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature authorizes the raising and displaying of the Solidarity banner over the State Capitol at 12 noon on Sunday, March 14, 1982, and by this action pays tribute both to the gallantry of the Polish People and to Solidarity; and be it further

Resolved, That the State Senate and Assembly of California strongly urge the President of the United States to take immediate action to pressure the present Polish Government to discontinue the imposition of martial law, release all political prisoners detained because of their support of Solidarity, restore free speech, open all lines of communication with the outside world, and permit the free labor movement of Solidarity to seek peaceful gains at the bargaining table; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 20

Senate Joint Resolution No. 17—Relative to federal beef grading standards.

[Filed with Secretary of State March 15, 1982.]

WHEREAS, The California beef cattle industry is a vital part of the economy of the state by generating approximately two billion dollars of income annually; and

WHEREAS, California consumers lead the nation in per capita consumption of beef; and

WHEREAS, The number of feedlots in this state has declined from 425 to 101 and over 50 slaughter houses have closed in the last decade; and

WHEREAS, The labor requirements of the California beef cattle industry have declined from 17,033 to 13,920 workers in the last five years; and

WHEREAS, There is increasing concentration in the meat processing industry which could have a long-term adverse impact; and

WHEREAS, There is a national trend toward a decline in beef consumption; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to modify the federal beef grading standards contained in the Agricultural Marketing Act of 1946 to reflect the consumers' desire for a leaner product and to reflect the economic realities of the costs associated with feeding to heavy weights and high fat contents; 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 21

Senate Concurrent Resolution No. 45—Relative to the Joint Committee on the State's Economy.

[Filed with Secretary of State March 19, 1982.]

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Joint Committee on the State's Economy and the advisory committees created pursuant to Resolution Chapter 4 of the Statutes of 1980, are continued in existence through December 1, 1982, notwithstanding the provisions of any prior concurrent resolution affecting these committees. The committee shall continue to have the powers and duties granted and imposed by the resolutions creating and continuing it. The committee may expend any funds heretofore or hereafter made available, and further allocations may be made by the Joint Rules Committee. In accordance with Joint Rule 36.8, any expenditure of funds by the committee shall be made in compliance with policies set forth by, and subject to the approval of, the Joint Rules Committee.

RESOLUTION CHAPTER 22

Senate Concurrent Resolution No. 58—Relative to Joint Rule 62.6.

[Filed with Secretary of State March 19, 1982.]

Resolved by the Senate of the State of California, the Assembly thereof concurring, That Rule 62.6 is added to the Temporary Joint Rules of the Senate and Assembly for the 1981–82 Regular Session, to read as follows:

Hearing of Fiscal Bills

62.6. (a) No bill rereferred to a fiscal committee pursuant to Rule 10.5, may be set for hearing if the bill does any of the following:

(1) Contains an appropriation and that appropriation would not be offset by additional revenue, generated by the bill, in an amount equal to or greater than the amount of the appropriation.

(2) Would result in costs to the state or local governments and contains no appropriation or provision for a new source of revenue to pay for those costs.

(3) Would result in a revenue loss to the state or local governments and contains no provision for a new source of revenue to replace the revenue loss.

(b) The provisions of subdivision (a) shall not apply to a bill which would take effect immediately and is supported by the Speaker's recommendation to the Ways and Means Committee, or the President pro Tempore's recommendation to the Finance Committee, or by a two-thirds vote of the membership of the house.

(c) The provisions of subdivision (a) shall not apply to a bill which does any of the following:

(1) Redirects expenditure of existing appropriations in an amount sufficient to offset costs.

(2) Contains an appropriation or appropriations, or imposes costs or revenue losses, for the current year or any future year or years, which in the aggregate are estimated to be twenty-five thousand dollars ($25,000) or less.

(3) Contains an appropriation or imposes a cost for the usual current expenses of the state, for salaries of state officers or employees, or for contingencies and emergencies.

(4) Contains an appropriation to pay claims against the state.

(5) Contains an appropriation of moneys from a special fund which, by operation of the United States Constitution or the California Constitution, may be used only for prescribed purposes.

(d) This rule may be suspended as to any particular bill by approval of the Committee on Rules or two-thirds vote of the members of the house.

(e) This rule shall be effective only until September 1, 1982, and on that date is repealed.

RESOLUTION CHAPTER 23

Assembly Concurrent Resolution No. 81—Relative to student charges.

[Filed with Secretary of State March 23, 1982.]

WHEREAS, The State of California has a long-standing history of tuition-free, low-cost public postsecondary education; and

WHEREAS, Severe state budget constraints necessitate an examination of public postsecondary school finance, including student fees and tuition; and

WHEREAS, There exists no comprehensive state policy concerning the appropriate use of student fees and tuition; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the California Postsecondary Education Commission conduct a study of the impact of student charges on access to public postsecondary education; and be it further

Resolved, That the study include recommendations for state policy on these topics and others relevant to the discussion of student charges, including:

(1) The appropriate relationship between individual and public levels of financial support for postsecondary education.

(2) Which costs of university operations are appropriately borne by students, and the proportion of the expenditures for these operations that should be financed by student charges.

(3) The impact of student charges upon each public postsecondary segment's ability to realize its role and mission in the California Master Plan for Higher Education.

(4) The appropriate distribution of student financial aid among all needy California postsecondary students; and be it further

Resolved, That the California Postsecondary Education Commission conduct this study with the advice and participation of: a student from each public postsecondary segment, appointed by the appropriate student organization; a representative from the administration of each of the segments, appointed by the chief executive of each of the segments; a faculty representative from each of the public postsecondary segments, appointed by the faculty governing body of each of the segments; and a representative each from the Legislative Analyst, the Department of Finance, and the California Student Aid Commission; and be it further

Resolved, That the study be presented to the Governor and the Legislature by May 1, 1982.

RESOLUTION CHAPTER 24

Assembly Concurrent Resolution No. 77—Relative to the creation of the Joint Committee on Public Pension Fund Investments.

[Filed with Secretary of State March 23, 1982.]

Resolved by the Assembly of the State of California, the Senate thereof concurring, as follows:

1. The Joint Committee on Public Pension Fund Investments is hereby created and authorized and directed to ascertain, study and analyze all facts relating to the following: (a) increasing the yield on portfolio investments of all California public pension funds; (b) improving corporations' financial responsibilities to their public pension fund shareholders, including improved financial information, better communication, and responsive practices concerning shareholder voting rights; and (c) evaluating portfolio potential; including, but not limited to, the operation, effect, administration, enforcement and needed revision of any and all laws in any way bearing upon or relating to the subject of this resolution.

2. The committee shall consist of four Members of the Senate, appointed by the Committee on Rules thereof, and four Members of the Assembly, appointed by the Speaker thereof. The chairperson of the committee shall be appointed by the Speaker of the Assembly. Vacancies occurring in the membership of the committee shall be filled by the appointing power.

3. The committee is authorized to act during this session of the Legislature, including any recess, until November 30, 1982, on which date the committee shall terminate.

4. The committee and its members shall have and exercise all of the rights, duties and powers conferred upon investigating committees and their members by the provisions of the Joint Rules of the Senate and Assembly as they are adopted and amended from time to time, which provisions are incorporated herein and made applicable to this committee and its members.

5. The committee has the following additional powers and duties:

(a) To contract with a consultant, if a consultant is not otherwise retained by the Legislature or either house thereof.

(b) To appoint an advisory committee consisting of persons knowledgeable in the subject of investment of pension funds, to assist the committee, the Investment Practices Subcommittee of the Assembly Committee on Finance, Insurance, and Commerce, and staff.

(c) To make recommendations regarding ways to improve the rate of return on California public pension funds.

(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 do any and all other things necessary or convenient to enable it fully and adequately to exercise its powers, perform its duties, and accomplish the objects and purposes of this resolution.

6. The committee, through its staff and its consultant, in achieving the objective specified in subdivision (a) of Section 1, shall: (a) analyze all California public pension funds to determine how well they maximize income and minimize costs; (b) determine, for each California public pension fund, but without considering any statutory or constitutional limit, and assuming an acceptable risk and taking into account the portfolio size, a real investment return potential; (c) determine the extent to which each fund falls short of the real investment return potential determined pursuant to subdivision (b); (d) as to any fund not reaching the real investment return potential, identify the reasons therefor; and (e) determine what changes should be made by amending the Constitution, statutes, or administrative regulations and what organizational changes should be made, including budget, hiring of advisors as independent contractors, and hiring of traders as independent contractors.

7. The committee, through its staff and its consultant, in achieving the goal specified in subdivision (b) of Section 6, shall: (a) determine the potential for providing additional income without sacrificing risk or return; (b) determine the extent to which the funds now fall short of achieving additional income; (c) determine the identifiable reasons for failures to meet the potential; and (d) determine what changes should be made by amending the constitution, statutes, or administrative regulations and what organizational changes should be made, including budget, hiring of advisors as independent contractors and hiring of traders as independent contractors.

8. The committee, through its staff and its consultant, in achieving the objectives specified in subdivision (c) of Section 1, shall: (a) test a variety of investment hypotheses; and (b) determine the effects on yield by share voting and alternative investments, through analyses using costs and time and the utilization of computers.

9. The consultant retained by the Legislature shall work with the committee, the advisory committee, and the members and staff of the Assembly Committee on Finance, Insurance, and Commerce, and shall provide assistance to the author of any resulting bill.

10. The consultant retained by the Legislature shall meet with the administrators and the administering bodies of the public and private pension funds to attempt to implement recommended organizational changes and any legislative changes in order to

accomplish the recommendations of the consultant which have been approved by both the committee and the Investment Practices Subcommittee of the Assembly Committee on Finance, Insurance, and Commerce.

11. The Joint Rules Committee may make such money available from the Contingent Funds of the Assembly and Senate as it deems necessary for the expenses of the committee and its members. In accordance with Joint Rule 36.8, any such expenditure of funds shall be made in compliance with policies set forth by the Joint Rules Committee and shall be subject to the approval of the Joint Rules Committee.

RESOLUTION CHAPTER 25

Assembly Concurrent Resolution No. 92—Relative to the Wiley W. Manuel Commemorative Hearing Room.

[Filed with Secretary of State March 30, 1982.]

WHEREAS, California Supreme Court Associate Justice Wiley W. Manuel, following nearly four years of distinguished service on the Supreme Court, passed away on January 5, 1981, following a brief illness, which caused a tremendous loss to his family, his many friends, and to California's judiciary system; and

WHEREAS, Justice Manuel, a 1953 graduate of Hastings Law School, was Editor-in-Chief of the Hastings Law Journal, a member of the Order of the Coif, and a member of the Thurston Society, and, only because of law review responsibilities, graduated second in his class, following two years of being the number one student; and

WHEREAS, Following graduation Justice Manuel became an Assistant Attorney General where, as statewide head of the Administrative Law Section of the Attorney General's Office, he gained recognition for his expert handling of civil law matters for the state and its agencies; and

WHEREAS, Deeply involved with church and civic organizations, Justice Manuel served his community with great dedication, recalling that his father had worked as a dining car porter and his mother as a domestic servant and, with great energy, he himself served as a lector and lay minister of communion at St. Paschal's Catholic Church in Oakland, as Chairman of the Board of Review and Assistant Scoutmaster for the Boy Scouts of America in Oakland and, among other things, was past president of the Charles Houston Bar Association of Alameda County; and

WHEREAS, As a distinguished jurist, a community leader, and as a man who personified the aspirations of many Californians, it is appropriate that Justice Manuel should be remembered by the people of our state and the legal profession through the dedication

of the Administrative Hearing Room of the California State Building in San Francisco to the memory of Justice Manuel; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Administrative Hearing Room of the California State Building in San Francisco shall be known and referred to as the Wiley W. Manuel Commemorative Hearing Room.

RESOLUTION CHAPTER 26

Assembly Concurrent Resolution No. 62—Relative to the Carleton E. Forbes Freeway.

[Filed with Secretary of State April 2, 1982.]

WHEREAS, Carleton E. Forbes, the last in a line of Chief Engineers of the Department of Transportation who directed the creation of one of the world's greatest highway systems, died of cancer in May of 1980, shortly after retiring and accepting a high position with Bechtel Corporation in Saudi Arabia; and

WHEREAS, He was a native of Stockton, California, and graduated with a degree in Civil Engineering from the University of Nevada in 1952 where his abilities were recognized by his selection as the Engineering Senior of the Year; and

WHEREAS, Mr. Forbes served in the Navy during World War II, and later received an Army commission and served in the Korean War as an engineering officer. Upon his return from Korea, he took part in a number of above ground nuclear tests and, in several instances, was positioned with troops in close proximity to the detonation; and

WHEREAS, He began an engineering career with the California Division of Highways at Bishop, California in construction, and ultimately served as resident engineer on projects on Routes 14 and 395; and

WHEREAS, In 1959, Mr. Forbes took an educational leave of absence for graduate studies in Transportation Engineering at the University of California where he was awarded a masters degree in June, 1960; and

WHEREAS, Upon returning to Bishop, he assumed leadership positions in the district's design and planning functions in the development of the Conway Summit, Monitor Pass, and Route 58 projects; and

WHEREAS, Upon his transfer to headquarters in Sacramento, he continued his rapid rise, serving as Chief of Highway Maintenance, Programming and Budgets, and Project Development, and as maintenance engineer, he was instrumental in the development and implementation of the maintenance management program which is

widely credited with saving the state millions of dollars annually; and

WHEREAS, Mr. Forbes became Chief Engineer in 1974 at the beginning of a period of austerity resulting from inflation and declining revenue growth for the department, and under his direction, a new programming methodology was implemented which shifted from a project by project to a total system design approach and maximized the impact on the highway system as a whole the effect of limited funding available for highway rehabilitation and construction; and

WHEREAS, In January of 1980, he retired from the department to accept a position with the Bechtel Corporation as project manager for construction of the transportation system of the industrial City of Jubail, Saudi Arabia; and

WHEREAS, On his retirement, Adriana Gianturco, Director of Transportation, stated that his leadership and expertise will have a lasting effect on the state's transportation system and the department's organization; and

WHEREAS, Mr. Forbes' record as an outstanding public servant and engineer was recognized posthumously by presentation of the 1980 S.I.R. award of the Associated General Contractors of California. This highly prized award is adopted from the initials of the AGC motto—Skill, Integrity, and Responsibility, and is presented to an individual who has made an outstanding contribution to California's construction industry; and

WHEREAS, Mr. Forbes will be long remembered by the Department of Transportation and the state's construction industry, not only for his many tangible accomplishments as an engineer and administrator but also for his inspired leadership, integrity, patience, and fortitude during an extremely unstable and troubled period in highway construction; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the portion of Interstate Route 5 between the City of Sacramento and the City of Stockton be designated the Carleton E. Forbes Freeway; and be it further

Resolved, That the Department of Transportation be directed to determine the cost of appropriate plaques and markers, consistent with signing requirements for the state highway system, showing this official designation and, upon receiving donations from private sources covering that cost, erect those plaques and markers; 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 27

Assembly Concurrent Resolution No. 63—Relative to education in state prisons.

[Filed with Secretary of State April 2, 1982.]

WHEREAS, The Legislature in the 1980 session added Section 32500 to the Education Code to encourage greater involvement of educational institutions at all levels in the planning and development of prison-based education; and

WHEREAS, Education Code Section 32500 provides for the creation of an advisory committee to make recommendations on prison-based educational policy and programs; and

WHEREAS, It is essential that the advisory committee include teachers and instructors who currently provide educational services to Department of Corrections inmates to insure that the committee is aware of the unique conditions that exist within these institutions; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Director of the Department of Corrections, the Chancellor of the California State University and Colleges, the Chancellor of the California Community Colleges, and the Superintendent of Public Instruction, in appointing an advisory committee on prison-based educational programs pursuant to Section 32500 of the Education Code, are requested to include teachers and instructors who provide prison-based educational services for the Department of Corrections; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Director of the Department of Corrections, the Chancellor of the California State University and Colleges, the Chancellor of the California Community Colleges, and the Superintendent of Public Instruction.

RESOLUTION CHAPTER 28

Assembly Concurrent Resolution No. 75—Relative to California Small Business Week.

[Filed with Secretary of State April 2, 1982.]

WHEREAS, The President of the United States of America, by proclamation, has designated the week of May 9, 1982, as Small Business Week, in special tribute to the outstanding contributions of the small businesswomen and businessmen of this nation, with the official theme "Small Business: We're Helping to Build America"; and

WHEREAS, Of approximately 14 million businesses in the United

States today, over 98% are small businesses as defined by the Small Business Administration of the United States government; and

WHEREAS, Small businesses account for approximately 80% of the earnings of construction firms in the United States, demonstrating that it is true indeed to state that small businesses help to build America; and

WHEREAS, The entrepreneurship, industry, and productivity of small businessmen and businesswomen constitute the vital core of the American free enterprise system; and

WHEREAS, In California, there are over 2 million small businesses, comprising 95% of the state's businesses, employing over 10 million people; and

WHEREAS, California contains over 20% of all the nation's firms with fewer than 50 employees in the high technology field; and

WHEREAS, The economic health of California depends, in large measure, on the prospects of the state's small businesses; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That Governor Edmund G. Brown Jr. is hereby requested, in conjunction with the national designation thereof, to proclaim the week of May 9, 1982, as California Small Business Week, in special recognition of the contributions which small businesswomen and businessmen have made, and will continue to make, to our state; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Governor.

RESOLUTION CHAPTER 29

Assembly Concurrent Resolution No. 118—Relative to Cling Peach Week.

[Filed with Secretary of State April 2, 1982.]

WHEREAS, The cling peach industry is important to the economy and well-being of the State of California, providing many jobs, both on farms and in canneries; and

WHEREAS, Cling peaches are California's tenth most valuable agricultural export, contributing over $75 million to our nation's balance of payments; and

WHEREAS, Cling peach canners have a plentiful supply of canned cling peaches on hand which growers and canners wish to share with the public at bargain rates through a coupon program the week of April 5, 1982; and

WHEREAS, The cling peach growers of California have sponsored and paid for this coupon program themselves with no taxpayer funds involved; and

WHEREAS, California consumers will benefit by taking advantage of this great peach bargain when canned peaches will be selling at their lowest price in years; and

WHEREAS, The success of this program is extremely critical to the continued economic viability of this important industry; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby proclaims the week of April 5–9, 1982, as "Cling Peach Week", and declares it to be in the best interests of the state for all Californians to be aware of the promotion program by growers and to buy canned cling peaches during that period at bargain prices, and encourages California retailers and consumers to participate; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Governor and to each member of the State Board of Food and Agriculture.

RESOLUTION CHAPTER 30

Assembly Concurrent Resolution No. 19—Relative to Sutter bypass pumping facilities.

[Filed with Secretary of State April 14, 1982.]

WHEREAS, Under existing law, the Department of Water Resources is required to maintain and operate on behalf of the state certain works of the Sacramento River Flood Control Project, including three state-owned pumping facilities along the east levee of the Sutter bypass, and the state is required to defray the cost of such maintenance and operation; and

WHEREAS, In furtherance of the state's responsibility for rehabilitation of such pumping plants, funds have been appropriated in recent budget acts for capital outlay by the Department of Water Resources for the Sutter bypass rehabilitation; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Department of Water Resources is requested to keep the old existing pumping plants along the east levee of the Sutter bypass in place, for at least three years, at state expense, and to operate the old pumps until the three new pumping plants are operational; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Water Resources.

RESOLUTION CHAPTER 31

Assembly Concurrent Resolution No. 69—Relative to the Public Employees' Retirement System.

[Filed with Secretary of State April 14, 1982.]

WHEREAS, In 1959 the Legislature enacted a program under the Public Employees' Retirement System which provides for certain monthly benefits to the dependents of members who die before retirement; and

WHEREAS, This program, which has come to be known as the "1959 Survivor Benefit Program," now covers approximately 41,564 state employees, primarily safety and patrol members, and 65,448 local government employees, who each contribute $2 a month for this coverage; and

WHEREAS, This program was intended to provide benefits comparable to those provided under Social Security for members who do not have Social Security coverage; and

WHEREAS, The level of benefits provided under the 1959 Survivor Benefit program has fallen considerably behind the Social Security benefit levels standard; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Board of Administration of the Public Employees' Retirement System is hereby requested to review the status of the 1959 Survivor Benefit Program and to report to the Legislature by March 1, 1982, with respect to the appropriate level of benefits and employee contributions under this program and the additional cost, if any, to increase the survivor benefits to those levels; and be it further

Resolved, That the Chief Clerk of the Assembly shall transmit a copy of this resolution to the Board of Administration of the Public Employees' Retirement System.

RESOLUTION CHAPTER 32

Assembly Concurrent Resolution No. 93—Relative to solid waste.

[Filed with Secretary of State April 16, 1982.]

WHEREAS, More than 46 million tons of nonhazardous solid wastes are generated each year in California and many of the state's 600 sanitary landfills are closing for want of space or failure to meet health and safety standards; and

WHEREAS, Californians spend more than $1.5 billion each year to collect, transfer, haul, and bury solid wastes that contain hundreds of millions of dollars of valuable energy and materials that could easily be reused, recycled, or otherwise recovered; and

WHEREAS, The problem of handling and disposing of litter continues to plague California's cities and counties, costing the taxpayers an additional $100 million; and

WHEREAS, The State Solid Waste Management Board is the state agency responsible for initiating and encouraging statewide and community programs in solid waste management planning and enforcement, recycling, resource reuse, energy recovery, litter control, and public education and participation; and

WHEREAS, The State Solid Waste Management Board, with the support of dozens of California public interest groups, businesses, and local governments, is sponsoring the Great California Resource Rally to be held April 19–25, 1982, to raise Californians' awareness of the state's impending garbage crisis and to encourage citizen participation in litter control, recycling, and waste reduction activities; and

WHEREAS, The Legislature of the State of California has a critical leadership role to play in helping to find solutions to California's solid waste management challenges; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Members hereby endorse and support the objectives and goals of the Great California Resource Rally, and urge all Californians to participate in and support recycling, litter control, and waste reduction activities throughout the year but especially during the rally week of April 19–25, 1982; and be it further

Resolved, That this resolution be publicized throughout the state and serve as a formal petition to Californians to endorse and support the Great California Resource Rally; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the State Solid Waste Management Board and to the clerk of the board of supervisors of each county.

RESOLUTION CHAPTER 33

Senate Joint Resolution No. 40—Relative to the National Weather Service Fire Weather Program budget.

[Filed with Secretary of State April 16, 1982.]

WHEREAS, The National Weather Service Fire Weather Program is a core element necessary to protect life and property in California and the United States, and any reduction in current levels of service would endanger the public and reduce the safety of fire line personnel; and

WHEREAS, The proposed 1983 fiscal year budget for the National Weather Service contains drastic reductions from the current level of service, including the closure of 53 weather offices, staff reductions at 34 other offices, and the elimination of the agricultural weather

program (including the fruit frost warning program); and

WHEREAS, Proposed closures in California include the Fire Weather Offices at Redding, Eureka, and Fresno, and with staff reductions at offices in Los Angeles and Riverside; and

WHEREAS, The impact on the California Department of Forestry will mean:

(a) The department's ability to protect life and property in high hazard wildland fire areas would be greatly reduced, especially during periods of high fire danger weather.

(b) Travel time for mobile units for special forecasts on large fires would be greatly increased and backup personnel unavailable, thereby greatly reducing effectiveness in controlling fires and increasing the destruction and loss from wildfire.

(c) The department would have to rely on fire weather forecasts which cover large geographical areas, and fire managers would not have site-specific weather data to plan fire control activities, thereby reducing planning and fire control effectiveness.

(d) The department would not have meteorological support for smoke, fuel, and chaparral management programs which can prevent major wildland fire losses; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of California respectfully memorializes the President and Congress of the United States to fully fund the National Weather Service Fire Weather Program at existing budgetary levels; 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 each Senator on the Senate Appropriations Subcommittee on State, Justice, Commerce, and Judiciary, and to each Representative on the House Appropriations Subcommittee on Commerce, Justice, State, and Judiciary.

RESOLUTION CHAPTER 34

Assembly Concurrent Resolution No. 121—Relative to Exceptional Children's Week.

[Filed with Secretary of State April 20, 1982.]

WHEREAS, The Council for Exceptional Children has proposed to set aside the week of April 26 to May 2 to be designated as Exceptional Children's Week in the State of California, a week devoted to activities such as the Stockton R.A.C.E. (Running According to your Capabilities for Exceptional and handicapped children); and

WHEREAS, Exceptional children and youth having superior intellectual abilities, creative talents, mental retardation, hearing impairments, including deafness, orthopedic handicaps, speech and severe language handicaps, visual handicaps, including blindness and partial sightedness, serious emotional disturbances, specific learning disabilities, or a combination of the above conditions require special education and related services; and

WHEREAS, There is a need to more fully inform the public of the many and varied services and programs both presently provided for and needed by those persons with exceptional needs, and of the numerous dedicated persons involved in providing those necessary services; and

WHEREAS, The setting aside of the week of April 26 to May 2 of 1982, as Exceptional Children's Week in the State of California is proposed by the Council for Exceptional Children, an organization dedicated to the advancement, education, and the fulfillment of the needs of exceptional children and youth; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the week of April 26 to May 2 of 1982, is proclaimed Exceptional Children's Week in the State of California; and be it further

Resolved, That each citizen of the State of California is urged to take responsibility for continued awareness of, and support for, exceptional individuals.

RESOLUTION CHAPTER 35

Assembly Joint Resolution No. 81—Relative to federal detention facilities.

[Filed with Secretary of State April 20, 1982.]

WHEREAS, The counties of California are experiencing severe difficulties regarding the inadequacy of local detention facilities and jails due to overcrowding, dilapidation, and insufficient security; and

WHEREAS, These difficulties have in too many instances reached crisis proportions and caused judicial intervention resulting in court ordered release of pretrial detainees and misdemeanor criminals due to inadequate bed space, as well as health and safety violations affecting staff and inmates; and

WHEREAS, The Legislature, through the Assembly Subcommittee on County Jails, is seeking every possible resource to provide adequate local detention facilities; and

WHEREAS, It has come to the attention of the Assembly Subcommittee on County Jails that certain deactivated federal facilities and sites exist within California which may be appropriate for use by local government as detention facilities; and

WHEREAS, The President of the United States and the Attorney General of the United States have indicated that such deactivated facilities should be made available to state and local governments for such purposes; and

WHEREAS, Because such transfer or acquisition by state and local governments requires a request be made to the federal government; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, That the Legislature of the State of California respectfully requests federal review relative to the transfer to, or acquisition by the several counties of the State of California of all federal facilities that might appropriately be used as local detention facilities in the State of California, and memorializes the Congress and the President of the United States to act expeditiously to implement the transfer to or acquisition by California counties of all such federal facilities for use as local detention facilities and for jails as appropriate; 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 36

Senate Concurrent Resolution No. 38—Relative to safety in schools.

[Filed with Secretary of State April 23, 1982.]

WHEREAS, School districts must periodically carry out construction, grounds repair, and maintenance projects at their schools and other facilities; and

WHEREAS, Materials used in these projects, as well as supplies in everyday use, are stored in and around schools and may contain chemicals which may be harmful to children and adults; and

WHEREAS, The chemical components of these materials and their possible hazards may be unknown to school districts and county superintendents of schools; and

WHEREAS, Several state agencies have compiled information concerning such materials and supplies which should be disseminated to school districts and county superintendents of schools; and

WHEREAS, The Superintendent of Public Instruction is charged with the duty of superintending the schools of the state; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly

thereof concurring, That the State Department of Education is requested to provide such educational and informational material to school districts and county superintendents of schools as may be helpful to them in:

(1) The selection of the safest materials for use in construction and maintenance projects in school facilities.

(2) The selection of the safest supplies for everyday use in school facilities.

(3) Contracting so that all work performed under contract will be completed in a manner that best protects the safety of the children and school personnel; and be it further

Resolved, That the Secretary of the Senate send a copy of this resolution to the Superintendent of Public Instruction, the Director of General Services, the State Architect, and the Director of Industrial Relations.

RESOLUTION CHAPTER 37

Senate Concurrent Resolution No. 39—Relative to toxic substances.

[Filed with Secretary of State April 23, 1982.]

WHEREAS, There is medical and scientific evidence to suggest that children are highly susceptible to acute and chronic ill health effects from exposure to toxic substances; and

WHEREAS, Numerous toxic substances which can be inhaled, ingested, or absorbed through the skin are currently used and stored in and around school buildings where children study and play; and

WHEREAS, There have been many instances of improper storage and handling of toxic substances in and around schools of all grade levels; and

WHEREAS, There is a clear and present danger of exposure of school children to toxic substances; and

WHEREAS, The State Department of Health Services has information regarding such toxic substances which should be distributed to all school districts and county superintendents of schools; and

WHEREAS, The Superintendent of Public Instruction is charged with the duty of superintending the schools of the state; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the State Department of Education is requested to distribute information regarding the safe handling, storage, containerization, clean-up, and disposal of any and all toxic substances used in or around any school building; and be it further

Resolved, That the Secretary of the Senate send a copy of this

resolution to the Director of Health Services and the Superintendent of Public Instruction.

RESOLUTION CHAPTER 38

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 17 of Article XVI, relating to public pension and retirement systems.

[Filed with Secretary of State April 26, 1982.]

Resolved by the Senate, the Assembly concurring, That the Legislature of the State of California at its 1981–82 Regular Session commencing on the first day of December, 1980, 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 17 of Article XVI thereof, to read:

SEC. 17. The State shall not in any manner loan its credit, nor shall it subscribe to, or be interested in the stock of any company, association, or corporation, except that the state and each political subdivision, district, municipality, and public agency thereof is hereby authorized to acquire and hold shares of the capital stock of any mutual water company or corporation when such stock is so acquired or held for the purpose of furnishing a supply of water for public, municipal or governmental purposes; and such holding of such stock shall entitle such holder thereof to all of the rights, powers and privileges, and shall subject such holder to the obligations and liabilities conferred or imposed by law upon other holders of stock in the mutual water company or corporation in which such stock is so held.

Notwithstanding provisions to the contrary in this section and Section 6 of Article XVI, the Legislature may authorize the investment of moneys of any public pension or retirement fund, not to exceed 60 percent of the assets of such fund determined on the basis of cost, in the common stock or shares and not to exceed 5 percent of assets in preferred stock or shares of any corporation; provided:

a. Such stock is registered on a national securities exchange, as provided in the "Securities Exchange Act of 1934" as amended, but such registration shall not be required with respect to the following stocks:

1) The common stock of a bank which is a member of the Federal Deposit Insurance Corporation and has capital funds, represented by capital, surplus, and undivided profits, of at least fifty million dollars ($50,000,000);

2) The common stock of an insurance company which has capital funds, represented by capital, special surplus funds, and unassigned surplus, of at least fifty million dollars ($50,000,000);

3) Any preferred stock;

b. Such corporation has total assets of at least one hundred million dollars ($100,000,000);

c. Bonds of such corporation, if any are outstanding, qualify for investment under the law governing the investment of the retirement fund, and there are no arrears of dividend payments on its preferred stock;

d. Such corporation has paid a cash dividend on its common stock in at least 8 of the 10 years next preceding the date of investment, and the aggregate net earnings available for dividends on the common stock of such corporation for the whole of such period have been equal to the amount of such dividends paid, and such corporation has paid an earned cash dividend in each of the last 3 years;

e. Such investment in any one company may not exceed 5 percent of the common stock shares outstanding; and

f. No single common stock investment may exceed 2 percent of the assets of the fund, based on cost.

Notwithstanding provisions to the contrary in this section and Section 6 of Article XVI, the Legislature may authorize the investment of moneys of any public pension or retirement fund, not to exceed 5 percent of the assets of such fund determined on the basis of cost, in the common stock or shares of any publicly traded corporations which do not meet some or all of the provisions of subdivisions (a) through (d) of the second paragraph of this section provided, however, that the total investment in the common stocks and shares, together with the total investment made pursuant to the second paragraph of this section in common stocks and shares of all other corporations, may not exceed 60 percent of the assets of the fund determined on the basis of the cost of the stocks or shares.

Notwithstanding provisions to the contrary in this section and Section 6 of Article XVI, the Legislature may authorize the investment of moneys of any public pension or retirement fund in corporations or limited partnerships, the majority of the assets of which are nonpublicly traded equity instruments, provided, however, that the total investment of the moneys may not exceed .5 percent of the assets of the fund determined on the basis of cost, that the total investment of the moneys, together with the total investment made pursuant to the third paragraph of this section in common stocks or shares of certain corporations, may not exceed 5 percent of the assets of the fund determined on the basis of cost, and that the total investment of the moneys, together with the total investment made pursuant to the third paragraph of this section in common stocks and shares of certain corporations and the total investment made pursuant to the second paragraph of this section in common stocks and shares of all other corporations, may not exceed

60 percent of the assets of the fund determined on the basis of the cost of the stocks or shares and partnership interests.

Notwithstanding provisions to the contrary in this section and Section 6 of Article XVI, the Legislature may authorize the investment of moneys of any public pension or retirement fund, in stock or shares of a diversified management investment company registered under the "Investment Company Act of 1940" which has total assets of at least fifty million dollars ($50,000,000); provided, however, that the total investment in such stocks and shares, together with the total investment made pursuant to the second paragraph of this section in common stocks and shares of all other corporations, may not exceed 60 percent of the assets of such fund determined on the basis of the cost of the stocks or shares.

The assets of public pension or retirement funds are trust funds and shall be held for the exclusive purpose of providing benefits to participants in the pension or retirement plan and their beneficiaries and defraying reasonable expenses of administering the plan, and shall be invested, whether pursuant to this section or pursuant to other authority:

(a) With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.

(b) By diversifying the investments of the plan so as to minimize the risk of large losses and by maximizing the rate of return, unless under the circumstances it is clearly prudent not to do so.

RESOLUTION CHAPTER 39

Assembly Concurrent Resolution No. 124—Relative to memorializing John G. Veneman.

[Filed with Secretary of State April 27, 1982.]

WHEREAS, It was with the most profound sorrow and a deep sense of loss that the Members of the Legislature have learned of the passing of John G. Veneman, at the age of 56, whose political career spanned almost 30 years in Modesto, Sacramento, and Washington, D.C.; and

WHEREAS, Born in Corcoran in Kings County, Mr. Veneman majored in business administration at Arizona State and the University of Texas, served in the U.S. Navy in World War II, was elected to a rural school board in Stanislaus County in the early 1950s, served a four-year term as a Stanislaus County Supervisor, and was elected to the State Assembly in 1962; and

WHEREAS, In 1966, he was campaign manager for Robert H. Finch, who won the office of Lieutenant Governor, and when

Lieutenant Governor Finch resigned his state post to become Secretary of the Department of Health, Education and Welfare under President Nixon, Mr. Veneman went to Washington as H.E.W. undersecretary; and

WHEREAS, In addition, Mr. Veneman served as a counselor to Vice President Nelson Rockefeller from 1975 to 1977, and was an advocate of a nationally guaranteed income system, and in the area of state legislation, he was one of the authors of California's original Medi-Cal laws and the author of legislation protecting children from abuse and neglect; and

WHEREAS, A liberal Republican, Mr. Veneman thought of himself as an "optimistic Republican," who was fiscally conservative but sensitive when it came to "people matters," and he argued passionately over the issue of health services and medical care for the poor; and

WHEREAS, A recognized expert in the health and welfare field, he served with distinction at H.E.W., and he was well known for his honesty, integrity, compassion, and deep concern for his fellow human beings; and

WHEREAS, He will be sorely missed by all who have had the pleasure of associating with him, and the members wish to express their deepest condolences to his widow, Nita; son, John; and two daughters, Ann and Janie; and two grandchildren, Robert and Garret; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the members express their deepest sympathy at the passing of John G. Veneman, and by this resolution, memorialize his illustrious record of personal and professional achievements and responsible and dedicated service to the State of California and the nation, as well as the love and devotion he displayed on behalf of his family and friends; and be it further

Resolved, That the Chief Clerk of the Assembly transmit suitably prepared copies of this resolution to his widow, Nita Veneman, his son, John, and two daughters, Ann and Janie.

RESOLUTION CHAPTER 40

Assembly Concurrent Resolution No. 128—Relative to Older Americans Month.

[Filed with Secretary of State April 30, 1982.]

WHEREAS, There are 3.5 million persons 60 years of age or older in California; and

WHEREAS, In our youth-conscious society, there is often a negative attitude towards aging which results in the general stereotyping of older persons as a lonely, inert, and hopeless group

of citizens; and

WHEREAS, This unwholesome myth is continuously destroyed by the challenging and successful activities of older persons in all aspects of life; and

WHEREAS, Older persons are vibrant, alive and want, above all else, to continue making their contribution to our society for a long time to come; and

WHEREAS, Older persons are capable of and want to maintain a role in the political, economic and community process, not because they are special, but because they share the universal desire to be active and respected members of our human race; and

WHEREAS, It is to the benefit of all members of our society, individually and as a group, to recognize these basic facts and to adopt a positive attitude towards aging; and

WHEREAS, The President of the United States has designated the month of May 1982 as Older Americans Month; and

WHEREAS, The President has further proclaimed: "As a nation, we are aging together. Opportunities and support we can provide to older Americans today will benefit all of us tomorrow."; and

WHEREAS, The President has urged all Americans to join in this call for intergenerational action that will make more meaningful the lives and potential of older Americans and our society as a whole; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby designates May 1982 as Older Americans Month in honor of older Americans; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President of the United States, the Governor, the California Commission on Aging, the California Senior Legislature, the Director of the Department of Aging, the Triple-A Council of California, the California Association of Area Agencies on Aging, the Congress of California Seniors, the National Retired Teachers Association, the American Association of Retired Persons, the Gray Panthers, the National Association of Retired Federal Employees, the Older Americans Legislative Council, the Older Women's League, the Association of National pro Personas Majores, the California Institute of Senior Centers, the County Supervisors Association of California, and the League of California Cities.

RESOLUTION CHAPTER 41

Senate Joint Resolution No. 51—Relative to refugee resettlement costs.

[Filed with Secretary of State April 30, 1982.]

WHEREAS, The Refugee Act of 1980 clearly places the responsibility for refugee resettlement at the federal level, and this is logical and appropriate since it is at the federal level that admission levels of refugees are determined; and

WHEREAS, In addition, refugee resettlement is a national responsibility, not just the responsibility of the few states that house refugees, therefore, the cost of this program should come out of the purses of all 50 states, not just those states directly involved; and

WHEREAS, The State of California receives refugees at a rate of 4,000 to 5,000 a month and as long as the United States continues to receive refugees from other countries, a substantial number will continue to come to California, and many of those who initially go to other states will continue to relocate in California to join their friends and families; and

WHEREAS, California is undergoing an extremely serious fiscal crisis which threatens basic health, welfare, and educational services to California residents and refugees alike. Yet, the state has struggled to maintain a healthy and hopeful environment for our refugees, in spite of underfunding by the federal government, because of the strong commitment that we feel to those who come here seeking a haven from oppression; and

WHEREAS, Because of an apparent mistake on the part of the federal Office of Refugee Resettlement in the Health and Human Services Department, the amount of money appropriated for refugee programs during the federal fiscal year 1982 budget process is totally inadequate, in spite of assurances to Congress during budget discussions that the amount requested would be enough to fully fund assistance for all needy refugees for 36 months; and

WHEREAS, There is $477 million available to fund the refugee resettlement program cash and medical assistance nationwide for federal fiscal year 1982, and California's share is projected to be $204.6 million, an amount inadequate to cover the costs of the program in California for federal fiscal year 1982, which is projected to be at least $307.5 million; and

WHEREAS, This will result in a shortfall of $102.9 million, and as a result California will run out of federal refugee funds by the first of June 1982; and

WHEREAS, Unless the State Legislature establishes a state-funded program, the refugee resettlement program must be discontinued in California when federal refugee money is no longer available in June 1982, which will mean termination of cash assistance grants for approximately 60,000 refugees; and

WHEREAS, An estimated 25 percent of these refugees may go on county general relief programs, which have not budgeted for such a caseload increase, and the remaining 75 percent will be ineligible for any aid, other than medical assistance, in California; and

WHEREAS, Of the $102.9 million federal funds shortfall, $71.5

million must be absorbed beginning in June 1982, by the state General Fund ($65.8 million) and county funds ($5.7 million) to pay for categorical aid programs (AFDC, SSI/SSP, and medical assistance), which by law the state is required to provide regardless of the availability of federal funds, and this $71.5 million will be in addition to the estimated $33 million which the state and counties will incur this federal fiscal year to cover the costs of providing categorical aid to time-expired refugees (i.e., refugees who have been in the United States more than 36 months and no longer qualify for special federal refugee funding); and

WHEREAS, The impact of the federal funding shortfall for refugee resettlement affects not only California, but all the other states of the nation that have generously opened their doors to welcome the hundreds of thousands of persons fleeing from oppression who have been invited to the United States by the federal government and while these states have made every effort to assist with refugee resettlement, the federal government clearly has a legal, as well as a moral, responsibility to provide adequate financial assistance to those states that have provided a home for refugees; now, therefore, be it

Resolved by the Senate and the Assembly of the State of California, jointly, That the Legislature of the State of California respectfully urges the Congress and the President of the United States to appropriate sufficient federal funds to maintain the operation of the Refugee Resettlement Programs in California and in other states for the federal fiscal year 1982; and, be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of the Health and Human Services Department, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 42

Senate Joint Resolution No. 39—Relative to the United States Coast Guard.

[Filed with Secretary of State May 10, 1982.]

WHEREAS, It was recently learned that the Secretary of Transporation is considering a proposal to combine the 11th and 12th United States Coast Guard Districts, with a headquarters in San Francisco; and

WHEREAS, The Coast Guard has helped to deter illegal drug trafficking and has helped in enforcing laws regarding undocumented aliens; and

WHEREAS, The Port of Los Angeles is home to over 3,000 pleasure

craft, and the combined total of all marinas in Southern California constitute the majority of pleasure craft in California; and

WHEREAS, The combined total of vessel movements in the Ports of Los Angeles and Long Beach is more than any other single port in the United States, representing 80 million tons of cargo moved annually; and

WHEREAS, The 11th District Coast Guard has contributed to the greatly increased safety of hazardous cargo movement and to minimizing pollution; and

WHEREAS, The regional offices of several agencies which work with the Coast Guard, namely the United States Customs Service, the United States Immigration and Naturalization Service, and the United States Drug Enforcement Agency, are located in Southern California; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California opposes the combining of the 11th and 12th United States Coast Guard Districts; and be it further

Resolved, That the Legislature opposes cuts in 11th District Coast Guard service which would eliminate the air-sea rescue base at Los Angeles International Airport; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of Transportation, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 43

Assembly Joint Resolution No. 70—Relative to emergency vehicles.

[Filed with Secretary of State May 10, 1982.]

WHEREAS, Section 35002 of the Vehicle Code exempts any authorized emergency vehicle owned or operated by a governmental agency from size, weight, and load requirements while being used in responding to and returning from emergency fire calls in combating and suppressing fire, and while being moved from place to place in anticipation of that emergency use; and

WHEREAS, This exemption does not apply to those highways which are a part of the National System of Interstate and Defense Highways if the exemption would prevent the state from receiving any federal funds for highway purposes; and

WHEREAS, Some specialized, authorized emergency vehicles, such as airport crash trucks responding to off-airport emergencies and semi-truck and trailers transporting bulldozers for watershed

fire fighting, are in excess of the limitations imposed by the Federal-Aid Highway Act of 1956 and therefore cannot be legally operated upon interstate highways; and

WHEREAS, To respond to emergency incidents without using interstate highways causes undue delay in getting necessary emergency equipment to the scene, leading to the possibility of loss of life and property; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature respectfully memorializes the President and Congress of the United States to enact appropriate legislation to exempt authorized emergency vehicles from size, weight, and load requirements while being used in responding to and returning from emergency fire calls on highways in the National System of Interstate and Defense Highways; 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 Transportation, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 44

Assembly Joint Resolution No. 63—Relative to marital property.

[Filed with Secretary of State May 25, 1982.]

WHEREAS, The United States Supreme Court has recently held that federal law governing military retired pay preempts state law relating to division of community property and that federal law governing military insurance policies preempts state domestic relations decrees; and

WHEREAS, The effect of these decisions is to seriously impair the ability of the several states to provide fair and equitable rules governing the property rights of spouses during marriage and on dissolution of marriage in accordance with the marital property laws of the states; and

WHEREAS, For example, in a typical case if a husband, a member of one of the armed services, and his wife, a homemaker, acquired during their marriage as their major assets a family home worth $60,000 and a military pension worth $120,000, under current law, if the marriage is dissolved, the husband would receive half the value of the family home plus all of the military pension, for a total of $150,000, while the wife would receive only half the value of the family home, for a total of $30,000; and

WHEREAS, As a further example, if a husband, a member of one of the armed services, has minor children and upon dissolution of marriage is required by order of a state domestic relations court to

maintain his $20,000 military life insurance policy for the benefit of the children as part of his child support obligation, under current law if the husband thereafter changes the life insurance beneficiary to a third person, on the husband's death the third person would receive all $20,000 and the minor children would receive nothing from the military life insurance policy; and

WHEREAS, It is necessary that federal legislation be enacted authorizing the several states to characterize, divide, and otherwise treat military and other forms of retirement, pension, insurance, medical, commissary and like benefits provided by federal law the same as any other marital property in accordance with the marital property laws of the states in order to achieve justice in domestic relations; and

WHEREAS, It is necessary that federal legislation be enacted to ensure that certain benefits provided by federal law are not entirely lost by one of the spouses upon dissolution of marriage; and

WHEREAS, Legislation has been introduced in both the United States Senate and House of Representatives to address these matters; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California respectfully requests the President and the Congress of the United States to enact legislation recognizing and not preempting the right of the several states to characterize, divide, and otherwise treat the military retirement of a member or former member of the Armed Forces of the United States or any other retirement, pension, insurance, medical, commissary or like benefits provided by federal law the same as any other marital property in accordance with the marital property laws of the states; and be it further

Resolved, That the Legislature of the State of California supports enactment of the legislation that has been introduced in the Congress of the United States to the extent it addresses these matters in whole or in part; 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 Senate Armed Services Committee, to the House Armed Services Committee, and to the chairman of each committee of the Senate and House of Representatives that the Chief Clerk finds has under consideration legislation that addresses this issue.

RESOLUTION CHAPTER 45

Assembly Concurrent Resolution No. 94—Relative to the General Motors Corporation.

[Filed with Secretary of State May 25, 1982.]

WHEREAS, The California State Legislature adds its support to the efforts of local elected officials and concerned citizens in calling upon the General Motors Corporation to reconsider the closure of its plants in Fremont and South Gate, California; and

WHEREAS, The closure of these plants has resulted in the layoff of some 5,300 workers, in addition to the over 6,100 General Motors employees who were previously laid off from these plants; and

WHEREAS, The Fremont plant has been a vital part of the east bay area's economic well-being for more than 46 years, and its payroll and expenditures to bay area suppliers contributed more than $177 million to the local economy when it was last fully operating in 1977; and

WHEREAS, Since 1936, the South Gate Plant has been an integral part of the southern California economy, particularly in the communities of South Gate, Downey, Lynwood, Compton, Bell Gardens, Bell, Huntington Park, and Torrance, as an employer, a purchaser of services and supplies, and a user of community services; and

WHEREAS, At a time when unemployment and inflation in California are at an alarming high, communities such as Fremont and South Gate, and their neighboring communities, can ill afford yet more layoffs and the closing of these plants; and

WHEREAS, The harmful effect of the closure of these plants on ancillary businesses and employees in these communities, and the direct impact upon the employees of General Motors plants in Fremont and South Gate, are catastrophic problems which deserve serious and expeditious consideration before any further action is taken; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That General Motors Corporation is requested to proceed expeditiously to consider and take action on a solution which will reverse the closure of its plants in Fremont and South Gate, California; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Chairman of the Board of General Motors Corporation, the plant managers of the Fremont and South Gate branches of General Motors Corporation, the President of United Auto Workers, and the Presidents of United Auto Workers Locals 1364 and 216.

RESOLUTION CHAPTER 46

Senate Joint Resolution No. 35—Relative to coastal salmon seasons.

[Filed with Secretary of State June 1, 1982.]

WHEREAS, The commercial and recreational salmon fisheries are important to California for food, jobs, and recreation; and

WHEREAS, The salmon fishery constitutes a significant portion of the economic activity of the northern and central California coast; and

WHEREAS, The salmon resource of California has declined as much as 50 percent from the historical levels, due primarily to the damage done to the in-river spawning and nursery habitat of salmon and other in-stream activities; and

WHEREAS, The State of California and commercial and recreational fishermen have made a commitment to the restoration of California's salmon resources through stream restoration projects, increased in-stream water flows, expanded hatchery production, and rearing pond and hatch box programs funded by money from nonrenewable resources, landing taxes, salmon stamps, and private contributions; and

WHEREAS, The California commercial salmon season of April 15 to September 30 is set by statute and the recreational fishing season is set by the Fish and Game Commission of this state; and

WHEREAS, The Pacific Fishery Management Council, with only 3 of 13 votes from California, has since 1979 recommended reductions in the fishing season off the California coast, implemented by the United States Department of Commerce; and

WHEREAS, The Pacific Fishery Management Council in 1981 recommended, and the United States Department of Commerce implemented, a quota on California's salmon catch and closed federal waters (3 to 200 miles) to salmon fishing during the months of April and June; and

WHEREAS, The reductions in the salmon fishing season off the California coast have been unsupported by the best available scientific data, have caused severe economic hardships to the seafood industry and the local economies it supports, have forced fishermen to operate their vessels in dangerously bad weather, and have denied Californians much of the benefit of their efforts to restore and enhance the salmon resource; and

WHEREAS, A lack of timely decisions by the Pacific Fishery Management Council and the Secretary of Commerce has created uncertainty in the California seafood industry and the local economies it supports, and has made it difficult or impossible for the State of California to make timely decisions whether or how to conform salmon fishing seasons and regulations in state waters (within three miles of shore) to federal seasons and regulations; and

WHEREAS, The Chairman of the Pacific Fishery Management

Council has said that there may not be any commercial salmon fishing season in federal waters off California in 1983; and

WHEREAS, The Pacific Fishery Management Council's Salmon Plan Development Team, which advises the Council, lacks the confidence of the California public, seafood industry and Legislature; and

WHEREAS, Congress is considering HR 5002 by Representative John Breaux of Louisiana to amend the Magnuson Fishery Conservation and Development Act; and

WHEREAS, Representative Leon Panetta of California has proposed an amendment to HR 5002 to give California three obligatory seats on the Pacific Fishery Management Council; and

WHEREAS, Salmon are among the most valuable of the commercial species harvested off the coast of California and among the most valuable of the fishery exports of the United States; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature respectfully memorializes the President, Congress, and Secretary of Commerce of the United States to allow California commercial salmon fishermen to fish enough to avoid bankruptcy in 1982 and to impose no quotas or further closures on the California commercial salmon fishery in 1982; and be it further

Resolved, That the Legislature respectfully memorializes the appropriate committees of Congress to conduct hearings in California in 1982 to determine the effects of federal actions on the California commercial salmon fishery, and to determine what legislative or other action may be needed to avoid further economic disasters for the California seafood industry and the local economies it supports and to provide greater certainty concerning federal actions in 1983 and thereafter; and be it further

Resolved, That the Legislature respectfully memorializes the President and Congress of the United States, the Secretary of Commerce and the Pacific Fishery Management Council to change the membership of the Salmon Plan Development Team to include members representing the balance of disciplines needed for optimum-yield management of the California salmon resource, and to include representatives of California commercial salmon fishermen; and be it further

Resolved, That the Legislature supports the Panetta amendment to the Magnuson Fishery Conservation and Development Act to give California three obligatory seats on the Pacific Fishery Management Council; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of Commerce, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Pacific Fishery Management Council, and to the Director of Fish and Game of this state.

RESOLUTION CHAPTER 47

Senate Concurrent Resolution No. 50—Relative to bridge construction.

[Filed with Secretary of State June 2, 1982.]

WHEREAS, The California Department of Transportation has approved federal aid urban funding for a bridge over the Tujunga Wash at Roscoe Boulevard in the Sun Valley area of North San Fernando Valley; and

WHEREAS, The current bridge is inadequate for both vehicle and pedestrian traffic; and

WHEREAS, The current bridge has been the source of numerous traffic accidents as a result of the vehicular backup caused by the absence of a left-turn lane at the intersection of Nagle and Roscoe Boulevard; and

WHEREAS, Over 5,000 pedestrians cross the bridge every Sunday on two narrow sidewalks directly adjacent to traffic, thus creating an extremely dangerous condition; and

WHEREAS, Any delay in undertaking this work for which funding is available and for which plans are complete will cause an unnecessary threat to the lives of those affected; and

WHEREAS, This construction project has the endorsement of its local council representative, Councilman Ernani Bernardi, 7th District of the City of Los Angeles; and

WHEREAS, The actual construction work on this bridge will be done by the City of Los Angeles; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature urges the City of Los Angeles to proceed immediately with the construction of a new bridge over the Tujunga Wash at Roscoe Boulevard and, if necessary, to advance funds from the new revenues the city receives under Chapter 541 (SB 215) of the Statutes of 1981 for this purpose; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Mayor and each member of the City Council of the City of Los Angeles.

RESOLUTION CHAPTER 48

Senate Concurrent Resolution No. 66—Relative to San Diego-Los Angeles rail passenger service.

[Filed with Secretary of State June 2, 1982.]

WHEREAS, The American High Speed Rail Corporation is conducting a study to assess the feasibility of establishing high speed rail passenger service between San Diego and Los Angeles; and

WHEREAS, The Japan Railway Technical Service and the Japanese National Railways are conducting the engineering feasibility study of the rail route between Los Angeles and San Diego at the request of the National Railroad Passenger Corporation;

WHEREAS, The feasibility studies indicate that a high speed rail passenger service between Los Angeles and San Diego could be designed, constructed, and operated without reliance on governmental financial assistance; and

WHEREAS, The implementation of a high speed rail project between Los Angeles and San Diego would result in the creation of thousands of new jobs and a new industrial sector; and

WHEREAS, The establishment of high speed rail service would insulate the State of California from future mobility reductions resulting from increased highway and airport congestion or shortages in gasoline or aviation fuel;

WHEREAS, The institution of high speed rail passenger service in short and medium distance corridors would relieve pressure at major regional airports and on the regional freeway network for travel within that corridor, possibly delaying the need to expand regional air facilities and reducing the need for new highway construction; and

WHEREAS, Japanese industry has expressed an interest in joining with private financial interests in the United States to underwrite the costs of developing a high speed rail passenger service between Los Angeles and San Diego; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature commends the Japan Railway Technical Service and Japanese National Railway for participation in high speed rail passenger studies in this state; and be it further

Resolved, That the Legislature supports this bold private initiative to further enhance this state's mobility through the construction of a high speed rail passenger line between San Diego and Los Angeles; and be it further

Resolved, That the Legislature welcomes the participation of Japanese industry in the development of the San Diego-Los Angeles corridor; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Japan Railway Technical Service and to the Japanese National Railway.

RESOLUTION CHAPTER 49

Assembly Constitutional Amendment No. 53—A resolution to propose to the people of the State of California an amendment to the Constitution of the state, by adding subdivision (e) to Section 2 of Article XIII A, relating to taxation.

[Filed with Secretary of State June 2, 1982.]

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its 1981–82 Regular Session commencing on the first day of December, 1980, two-thirds of the members elected to each of the two houses of the Legislature voting therefor, hereby proposes to the people of the State of California that the Constitution of the state be amended by adding subdivision (e) to Section 2 of Article XIII A, to read:

(e) For purposes of subdivision (a), the Legislature may provide that the term "newly constructed" shall not include the construction or addition of any fire sprinkler system or fire alarm system, as defined by the Legislature, provided, that the construction or addition is not required by state law or local ordinance.

RESOLUTION CHAPTER 50

Assembly Concurrent Resolution No. 106—Relative to the Joint Legislative Audit Committee.

[Filed with Secretary of State June 9, 1982.]

Resolved by the Assembly of the State of California, the Senate thereof concurring, That, in addition to any money heretofore made available to it, the sum of seven million two hundred one thousand dollars ($7,201,000), 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 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 the fund and disbursed, after certification by the chairman of the committee, upon warrants drawn by the Controller upon the State Treasury.

RESOLUTION CHAPTER 51

Assembly Joint Resolution No. 50—Relative to federal funding for the "Firescope" project.

[Filed with Secretary of State June 9, 1982.]

WHEREAS, "Firescope" is an acronym meaning Firefighting Resources of Southern California Organized for Potential Emergencies, a pilot project begun in 1973 as the result of the aerospace industry and the California congressional delegation petitioning the Congress of the United States to develop a program to prevent disastrous wildland fires; and

WHEREAS, Actual program implementation of the Firescope project began in 1978 with the formation and development of the Firescope Incident Command System following a five-year study by the United States Forest Service which concluded that the coordination and deployment of all firefighting personnel, equipment, and resources would prevent or alleviate the disastrous ecomonic effects of large structural and wildland fires; and

WHEREAS, It is the purpose of the Firescope project to coordinate the firefighting activities of federal, state, and local agencies before, during, and after a major fire and to deploy all firefighting resources through a computerized Fire Information Management System to ensure effective coordination of the firefighting effort; and

WHEREAS, Firescope was initially funded in 1978 by the federal, state, and local governments and, although the project is not as yet completely established or 100 percent operational, its effectiveness in firefighting capability and in property saved from destruction by fire has been amply proven to date, and it is clear that without Firescope or a comparable program fire suppression costs may quadruple; and

WHEREAS, Firescope is in danger of losing its federal funding of $2.4 million annually as a result of budget cuts, thus preventing the project from becoming fully in place and 100 percent functional over the next two years; and

WHEREAS, If Firescope does not receive the necessary funding the project will stagnate and the State of California cannot carry the cost and develop the necessary technology by itself at this time; and

WHEREAS, Failure to fully implement this project will result in increased fire losses and resulting flood damage far exceeding the costs of completely implementing the Firescope project over the next two years; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of California respectfully memorializes the President and Congress to appropriate the funds necessary to complete development and full implementation of the Firescope project; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of

this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 52

Assembly Joint Resolution No. 57—Relative to municipal revenue bonds.

[Filed with Secretary of State June 9, 1982.]

WHEREAS, Legislation is currently under consideration by the Committee on Banking, Finance, and Urban Affairs of the United States House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the United States Senate which would assist cities and states with respect to the authority of commercial banks to underwrite and deal in municipal revenue bonds issued by state and local governments; and

WHEREAS, Municipal revenue bond financing has become a standard and popular means of financing self-liquidating public improvements, particularly in the fields of water, sanitation, airports, parking, streets, highways, health, energy, bridges, and tunnels; and

WHEREAS, Numerous individuals and organizations familiar with the vagaries of municipal finance in the coming decade, including the National Governors Association, the National Association of Counties, the National League of Cities, the United States Conference of Mayors, the Municipal Finance Officers Association, and the Association of State Treasurers, have endorsed the underwriting of municipal revenue bonds by commercial banks; and

WHEREAS, California will require an expanding volume of revenue bond financing to meet the important capital improvement needs of the state, its counties, cities, special districts, and authorities in the aftermath of Proposition 13; and

WHEREAS, It is essential that strong financial agencies such as commercial banks be in a position to make their capital available for underwriting municipal revenue bonds in which they can invest; and

WHEREAS, Added competition provided by commercial bank underwriting of municipal revenue bonds will lower borrowing costs through the reduction of interest rates, and broaden the secondary market for these bonds; and

WHEREAS, The resulting substantial public benefits to be derived through enactment of this proposed legislation will be especially advantageous to 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 Congress of the United States to enact legislation

which will authorize commercial banks to underwrite and deal in municipal revenue bonds in which they can invest, in order that every assistance be given to hardpressed state and local governments in their tremendous efforts to keep abreast of the needs of rural, urban and suburban areas; and be it

Resolved, That the Chief Clerk of the Assembly is directed to 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 member of the House and Senate Banking Committees and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 53

Assembly Joint Resolution No. 100—Relative to cleanup of Three Mile Island.

[Filed with Secretary of State June 9, 1982.]

WHEREAS, The nuclear accident that occurred at the Three Mile Island powerplant on March 28, 1979, has been found to have been caused by a combination of mechanical failure and human error; and

WHEREAS, Legislation is presently being considered by Congress, S. 1606 and H.R. 5963, which would require all licensed nuclear electric utility systems across the country to share in the cleanup costs at Three Mile Island by contributing a total of 192 million dollars over a six-year period; and

WHEREAS, California ratepayers who are presently faced with increasingly higher electric bills should not be expected to pay even higher charges in order to subsidize the costs of cleanup activities resulting from the Three Mile Island accident; and

WHEREAS, This proposed legislation would constitute a dangerous precedent by requiring the electric utility ratepayers of the entire country to participate in a financial bailout of a private industry serving only one area; and

WHEREAS, In California, as elsewhere, the inequities of this situation would be compounded by requiring only those ratepayers served by electric utilities operating nuclear plants to contribute to the cleanup of Three Mile Island; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the President and Congress of the United States are respectfully memorialized to oppose the Three Mile Island bailout legislation, S. 1606 and H.R. 5963, which will be considered by Congress in the very near future; 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 54

Senate Joint Resolution No. 30—Relative to veterans' farm and home loan bonds.

[Filed with Secretary of State June 10, 1982.]

WHEREAS, The Veterans' Farm and Home Purchase ("Cal-Vet") program of California has, for many years, successfully assisted California veterans in the acquisition of farms and homes in recognition and gratitude for their sacrifices on behalf of this state and the nation during periods of armed conflict; and

WHEREAS, The administration of this program requires the sale of state general obligation bonds to permit the acquisition of farms and homes for purchase by veterans, who then repay the bonds through their amortization contracts; and

WHEREAS, In carrying out this program, there is often a lengthy delay between the selection and approval of a farm or home and the availability of permanent Cal-Vet financing due to such things as the demands upon the program and the difficulty of marketing Cal-Vet bonds in an unstable and inflationary market; and

WHEREAS, This situation makes it necessary for a Cal-Vet purchaser to arrange for interim financing for an indefinite duration pending the availability of Cal-Vet funds, frequently, in recent experience, for periods in excess of two years; and

WHEREAS, The federal Mortgage Subsidy Bond Tax Act of 1980 (P.L. 96-499) provides that the proceeds of qualified veterans' mortgage bonds cannot be used to acquire or replace, that is, refinance, existing loans, except for construction period loans, bridge loans, or similar temporary interim financing, and recent Internal Revenue Service regulations interpreting this act (46 F.R. 34311, July 1, 1981) restrict qualifying temporary interim financing to only that financing having a term of two years or less; and

WHEREAS, The intent of Congress, as expressed in its reports on the act, was that programs using tax exempt bonds for mortgage funds for veterans should be permitted to continue; and

WHEREAS, This arbitrary and unduly restrictive interpretation by the Internal Revenue Service will be to frustrate that intent and render impossible the funding of most Cal-Vet applications due to the impossibility of meeting this two-year requirement in many cases, and, in addition, these regulations are retroactive to Cal-Vet applications presently pending; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the President and Congress of the United States are

respectfully memorialized to enact legislation to amend the Mortgage Subsidy Bond Tax Act of 1980 (P.L. 96-499) as necessary to permit interim financing of any duration obtained by a veteran purchaser under the Veterans' Farm and Home Purchase ("Cal-Vet") program of California to qualify under that act for refinancing under Cal-Vet, and to undertake these necessary changes on an urgency basis due to the fact that thousands of Cal-Vet purchasers are directly affected by these restrictive and unreasonable regulations; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 55

Senate Joint Resolution No. 34—Relative to bullets.

[Filed with Secretary of State June 10, 1982]

WHEREAS, A type of ammunition has been developed and made available, known as the KTW bullet, which will penetrate the combined thickness of four bulletproof vests of the kind used by the President and other officials and policemen; and

WHEREAS, These bullets have no legitimate value and threaten the lives of all law enforcement agents and are referred to as "killer bullets"; and

WHEREAS, Law enforcement agencies themselves do not use such bullets because they endanger the lives of innocent people who might accidentally be hit by stray or ricocheting bullets; and

WHEREAS, These bullets are potentially available to any citizen in any state; now, therefore, be it

Resolved by the Senate and Assembly of the State of California jointly, That the Legislature of the State of California respectfully memorializes the Congress of the United States to enact legislation banning the manufacturing, sale, importation and possession of all bullets which are designed or manufactured primarily for the purpose of penetrating metal or armor; 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 56

Assembly Joint Resolution No. 64—Relative to controlling water hyacinth in the Sacramento-San Joaquin Delta and Suisun Marsh.

[Filed with Secretary of State June 11, 1982.]

WHEREAS, The growth of water hyacinth in the Sacramento-San Joaquin Delta and the Suisun Marsh has recently occurred at an unprecedented level; and

WHEREAS, The resulting accumulations of water hyacinth obstruct navigation, impair other recreational uses of waterways, and have the potential for damaging manmade facilities in the delta and the marsh; and

WHEREAS, Their accumulation threatens the health and stability of fisheries and other ecosystems within the delta and the marsh; and

WHEREAS, The public interest requires that both state and federal agencies cooperate in undertaking an aggressive program for the effective control of water hyacinth; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully requests the United States Army Corps of Engineers to cooperate with the state and local agencies in California in undertaking an aggressive program for the effective control of water hyacinth in the Sacramento-San Joaquin Delta and the Suisun Marsh; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the United States Army Corps of Engineers, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 57

Senate Concurrent Resolution No. 68—Relative to the Joint Legislative Budget Committee.

[Filed with Secretary of State June 11, 1982.]

Resolved by the Senate of the State of California, the Assembly thereof concurring, That in addition to any money heretofore made available to it, the sum of four million three hundred thousand dollars ($4,300,000), 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 58

Senate Concurrent Resolution No. 78—Relative to commending Francis A. Sooy, M.D.

[Filed with Secretary of State June 11, 1982.]

WHEREAS, The Members have learned that Francis A. Sooy, M.D., Chancellor of the University of California, San Francisco, will retire from the Chancellorship of UCSF effective July 1, 1982, following ten years of dedicated and responsible service, and wish to extend to him their special honor and highest commendations; and

WHEREAS, A native Californian and veteran of the United States Navy, Dr. Sooy earned his undergraduate degree from the University of California, Berkeley, Phi Beta Kappa, his medical degree from the University of California School of Medicine, San Francisco, Alpha Omega Alpha; and

WHEREAS, He is a specialist in the field of otology, and is the fifth physician to serve as Chancellor of the University of California system and the only one to combine administrative duties with an active clinical practice; and

WHEREAS, Under Dr. Sooy's stewardship the University saw construction of the new School of Dentistry building, the modernization of the Moffitt Hospital, the completion of the new Long Hospital project, the improvement of the relationship of the campus with the surrounding community, the establishment of a Board of Overseers, and the provision of unique opportunities for upward mobility of people of all backgrounds; and

WHEREAS, He has distinguished himself at the UCSF School of Medicine as Chairman of the Department of Otolaryngology, Chairman of the Division of Otolaryngology, Director of the Audiology and Speech Clinic, Professor, Associate Clinical Professor, and Clinical Instructor; and

WHEREAS, He has been a leader in the American Academy of Ophthalmology and Otolaryngology, the American Board of Otolaryngology, the American Laryngological, Rhinological and Otological Society, the Pacific Coast Society, and the NIH National Advisory Neurological Diseases and Blindness Council; and

WHEREAS, He has been President of the Collegium Oto-Rhino-Laryngologicum-Amiticitae Quorum, which is composed of a select and very distinguished group of international professors; and

WHEREAS, The achievements and advancements which he has made through his professional and civic efforts have been extensive, and reflect his strength, determination, and personal integrity; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Members take great pleasure in honoring and commending Francis A. Sooy, M.D., Chancellor of the

University of California, San Francisco, upon his retirement from that position following ten years of dedicated and responsible service, applaud his exemplary record of professional and civic leadership, and extend best wishes for continued success in his future endeavors; and be it further

Resolved, That a suitably prepared copy of this resolution be transmitted to Francis A. Sooy, M.D.

RESOLUTION CHAPTER 59

Senate Concurrent Resolution No. 81—Relative to Joint Rule 29.6.

[Filed with Secretary of State June 11, 1982.]

Resolved by the Senate of the State of California, the Assembly thereof concurring, That Rule 29.6 is added to the Temporary Joint Rules of the Senate and Assembly for the 1981–82 Regular Session, to read as follows:

Conference Committee on 1982–83 Budget Bill

29.6. Notwithstanding any other rule, a committee on conference of the Budget Bill during the second half of the 1981–82 Regular Session shall only consider differences between the Assembly version of the Budget Bill as amended in Assembly June 7, 1982, 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.

This rule shall be effective only until September 1, 1982, and on that date is repealed.

RESOLUTION CHAPTER 60

Assembly Constitutional Amendment No. 56—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, relating to temporary transfer of funds.

[Filed with Secretary of State June 15, 1982.]

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its 1981–82 Regular Session commencing on the first day of December, 1980, 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 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 anticipated revenues 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 revenues accruing to such political subdivision before any other obligation of such political subdivision is met from such revenue.

RESOLUTION CHAPTER 61

Senate Joint Resolution No. 36—Relative to the Clean Air Act.

[Filed with Secretary of State June 17, 1982.]

WHEREAS, The State of California is deeply committed to the continuing battle to attain and maintain clean air; and

WHEREAS, The federal government has historically participated in that battle pursuant to the national plan as embodied in the Clean Air Act; and

WHEREAS, The Clean Air Act is now before the Congress of the United States for reauthorization; and

WHEREAS, The Environmental Protection Agency has transmitted proposed amendments to the Clean Air Act which, according to United States Senator Gary Hart, included 35 changes to weaken the act, three to affirm existing provisions, and not a single one to strengthen it; now therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Congress of the United States is respectfully memorialized to reauthorize the Clean Air Act and make only changes which would clarify the intent and simplify the regulatory requirements of the act; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Speaker of the House of Representatives and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 62

Senate Concurrent Resolution No. 83—Relative to air carrier fares for state officers and employees.

[Filed with Secretary of State June 21, 1982]

WHEREAS, Officers and employees of the State of California, in conducting the business of the people, must frequently resort to air travel to reach their destination quickly and efficiently; and

WHEREAS, In fiscal year 1979–80, a total of 247,200 air carrier trips, 222,300 of which were flown in-state, were paid for by the state at a total cost of $13,912,000, the estimated current cost of which is projected at $20,186,000 due to increased air carrier fares; and

WHEREAS, Between July 1980, and May 1981, the fares of domestic air carriers flying within the state increased an average 45.1 percent, resulting in an increased cost to the state of more than $6,000,000 for the same number of total trips, and thereby severely affecting the ability of state agencies, at a time of worsening economic conditions for the state, to undertake air travel for required state business; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Director of the Department of General Services is requested to negotiate with domestic air carrier companies operating within California and serving the major metropolitan areas of the state, and to contract with those air carrier companies, for a reduction in air travel fares for officers and employees of the state; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Director of General Services.

RESOLUTION CHAPTER 63

Assembly Concurrent Resolution No. 133—Relative to Raoul Wallenberg.

[Filed with Secretary of State June 22, 1982.]

WHEREAS, Raoul Wallenberg, who saved the lives of thousands of Hungarian Jews during the Holocaust, is unquestionably one of the greatest heroes in the history of the 20th century; and

WHEREAS, Born in 1912, Wallenberg was a member of a wealthy and prominent Swedish family; in 1944, he volunteered to leave neutral Sweden to travel to Nazi-occupied Hungary with the rescue of the Jews there as his mission; and

WHEREAS, For six months in Budapest, Wallenberg issued Swedish passports, thus granting immunity to the Jews who possessed them; he met with the local authorities in an effort to save as many lives as possible and to delay the course of the "Final Solution" in Hungary for as long as he could; and

WHEREAS, A dashing and audacious man, Wallenberg was able to save many lives; furthermore, he provided housing for many of the people he rescued; and

WHEREAS, After a meeting with Soviet officials, Wallenberg disappeared, apparently arrested by the Soviets, who ostensibly suspected him of being a German spy; and

WHEREAS, The fate of Wallenberg remains unclear, although recent research indicates that he may have died in the mid-sixties, after approximately 20 years of imprisonment in the Soviet Union; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Members express their profound admiration of the brave and humane deeds of Raoul Wallenberg, and affirm their conviction that, whatever Raoul Wallenberg's fate, the memory of his heroism will always live.

RESOLUTION CHAPTER 64

Assembly Concurrent Resolution No. 138—Relative to congratulating the Los Angeles Lakers.

[Filed with Secretary of State June 22, 1982.]

WHEREAS, The Los Angeles Lakers have won the 1982 National Basketball Association Championship Playoff and are, therefore, the World Champions of professional basketball; and

WHEREAS, The Lakers' victory was sparked by a dazzling fast-break offense, and the rapid pace of the Laker attack epitomizes the lifestyle of the metropolitan area in which they play; and

WHEREAS, This year's triumph marks the third World Championship for the Lakers, who also brought championships to The Forum in 1972 and 1980; and

WHEREAS, The Lakers' success is, in large part, attributable to the administration of Owner Dr. Jerry Buss, General Manager Bill Sharman, Special Consultant Jerry West, and the dedicated employees of the Laker organization; the leadership of Head Coach Pat Riley, and Assistant Coaches Bill Bertka and Mike Thibault; the care of Trainer Jack Curran; and the "word's-eye view" of legendary Announcer and Assistant General Manager Chick Hearn, and Color Announcer Keith Erickson; and

WHEREAS, Basketball is a team sport where success flows from the effective coordination of the talents of individuals; and

WHEREAS, The Lakers and their coaches worked hard to harmonize the skills of their players, and all 12 of the players on the active roster, the 2 injured players, and the coaching staff therefore share the credit for the championship to which their efforts led; and

WHEREAS, Kareem Abdul-Jabbar, Jim Brewer, Michael Cooper, Clay Johnson, Earvin (Magic) Johnson, Eddie Jordan, Mitch Kupchak, Mark Landsberger, Bob McAdoo, Mike McGee, Kevin McKenna, Norman Nixon, Kurt Rambis, and Jamaal Wilkes, through the excellence of their play, have earned the respect and gratitude of basketball fans everywhere; and

WHEREAS, The Laker victory raises the spirits of an entire community and, furthermore, serves as an inspiring example of what cooperation, determination, and hard work can accomplish in each of our lives; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Members hereby congratulate the players, coaches, owner, administrators, and employees of the Los Angeles Lakers on the World Championship they earned; and be it further

Resolved, That suitably prepared copies of this resolution be transmitted to Dr. Jerry Buss, Bill Sharman, Jerry West, Pat Riley, Bill Bertka, Mike Thibault, Jack Curran, Chick Hearn, Keith Erickson, Kareem Abdul-Jabbar, Jim Brewer, Michael Cooper, Clay Johnson, Earvin (Magic) Johnson, Eddie Jordan, Mitch Kupchak, Mark Landsberger, Bob McAdoo, Mike McGee, Kevin McKenna, Norman Nixon, Kurt Rambis, and Jamaal Wilkes.

RESOLUTION CHAPTER 65

Assembly Joint Resolution No. 55—Relative to enterprise zones.

[Filed with Secretary of State June 22, 1982.]

WHEREAS, The United States Congress has currently under its consideration a number of legislative proposals which provide for the creation of enterprise zones; and

WHEREAS, The California Legislature is also considering legislation which may result in the creation of some form of enterprise zones; and

WHEREAS, It is deemed to be desirable that any legislation approved by the California Legislature with respect to enterprise zones should, to the extent feasible, be consistent with and complementary to the federal program; and

WHEREAS, The proposed enterprise zone legislation currently before the Congress sets forth certain criteria and conditions required for the designation of enterprise zones such as population decline, chronic abandonment of housing or commercial buildings, and substantial tax arrearage in an area; and

WHEREAS, There exists in certain regions of the country, areas of severe economic distress which are often characterized by conditions other than those described above; and

WHEREAS, Certain of these characteristics which are prevalent in California and other western and southern states should be considered by the Congress as appropriate criteria or conditions for the designation of enterprise zones, such as a high refugee or immigrant population, economic dislocation as a result of boomtown phenomena associated with resource development projects, and areas substantially impacted by closure of major employers; 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 memorialize the President and the Congress of the United States to consider conditions of economic distress which exist in the western region of the United States when determining the criteria which will be used in designating an area a federal enterprise zone; 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 66

Senate Constitutional Amendment No. 40—A resolution to propose to the people of the State of California an amendment to the Constitution of the state, by amending Sections 7.5 and 8 of Article IX thereof, relating to education.

[Filed with Secretary of State June 22, 1982.]

Resolved by the Senate, the Assembly concurring, That the Legislature of the State of California at its 1981–82 Regular Session commencing on the first day of December, 1980, two-thirds of the members elected to each of the two houses of the Legislature voting therefor, hereby proposes to the people of the State of California that the Constitution of the state be amended, as follows:

First—That Section 7.5 of Article IX thereof is amended to read:

SEC. 7.5. (a) The State Board of Education shall adopt textbooks for use in grades one through eight throughout the State, to be furnished without cost as provided by statute.

(b) Notwithstanding Section 8 of this article or Section 5 of Article XVI, the Legislature may provide that textbooks which are available to pupils attending the public schools may be loaned on a library-type basis to pupils entitled to attend the public schools but who attend schools other than the public schools, except that textbooks may not be loaned to those pupils who attend schools which exclude pupils from enrollment because of their race or color.

The authorization to establish a textbook loan program shall extend only to the provision of textbooks and shall not be construed as authorizing the provision of any instructional materials other than textbooks.

In no event shall any appropriation be made for the textbook loan program from funds budgeted for the support of the public schools.

Second—That Section 8 of Article IX thereof is amended to read:

SEC. 8. (a) No public money shall ever be appropriated for the support of any sectarian or denominational school, or any school not under the exclusive control of the officers of the public schools; nor shall any sectarian or denominational doctrine be taught, or instruction thereon be permitted, directly or indirectly, in any of the common schools of this State.

(b) Notwithstanding subdivision (a) and Section 5 of Article XVI, the provision of textbooks to pupils attending schools other than the public schools, pursuant to subdivision (b) of Section 7.5, may not be construed as an appropriation for the support of any school.

RESOLUTION CHAPTER 67

Assembly Constitutional Amendment No. 36—A resolution to propose to the people of the State of California an amendment to the Constitution of the state, by amending Section 5 of Article VI thereof, relating to courts.

[Filed with Secretary of State June 23, 1982.]

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its 1981–82 Regular Session commencing on the first day of December, 1980, 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 5 of Article VI thereof, to read:

SEC. 5. (a) Each county shall be divided into municipal court and justice court districts as provided by statute, but a city may not be divided into more than one district. Each municipal and justice court shall have one or more judges.

There shall be a municipal court in each district of more than 40,000 residents and a justice court in each district of 40,000 residents or less. The number of residents shall be ascertained as provided by statute.

The Legislature shall provide for the organization and prescribe the jurisdiction of municipal and justice courts. It shall prescribe for each municipal court and provide for each justice court the number, qualifications, and compensation of judges, officers, and employees.

(b) Notwithstanding the provisions of subdivision (a), any city in San Diego County may be divided into more than one municipal court or justice court district if the Legislature determines that unusual geographic conditions warrant such division.

(c) (1) Notwithstanding the provisions of subdivisions (a) and (b), the Legislature may authorize a county to unify the municipal courts and justice courts within the superior court. This unification shall be made after approval by a majority vote of the electors of the county voting on the issue at an election called for that purpose by the county's board of supervisors.

(2) On the first of July in the year next following approval by the electors of such a provision, all superior court and municipal court judges then in office shall become superior court judges, and all justice court judges shall become superior court judges unless the Legislature has provided otherwise. The former municipal court and justice court judges shall retain the same balance to their terms as though they had been originally appointed or elected to the superior court. However, the Legislature may provide for the powers and duties of the former municipal and justice court judges during the balance of their term and until their election to the superior court.

(3) The superior court in a unified county shall have original jurisdiction in all causes.

(4) The superior court in a unified county shall have appellate jurisdiction in the same causes as are appealable to the superior court in nonunified counties.

(5) The board of supervisors of a unified county may provide for branches of the superior court throughout the county.

(6) The Legislature shall prescribe the number and compensation of judges and court enforcement officers, and provide for the clerk and other officers and employees of the superior court in a unified

county.

(7) All other provisions of this article not inconsistent with this subdivision shall apply to the superior court of such a county.

RESOLUTION CHAPTER 68

Assembly Concurrent Resolution No. 140—Relative to Cal-Vet Loan Recognition Day.

[Filed with Secretary of State June 23, 1982.]

WHEREAS, The first Cal-Vet loan was made on July 1, 1922, to a California veteran by the Veterans Welfare Board—the predecessor of the present Department of Veterans Affairs; and

WHEREAS, That first loan and others made in the early 1920s served as the models used by the United States Government in structuring the federal FHA and VA home loans programs and by national lending firms in instituting long-term home mortgage loans; and

WHEREAS, The 60th anniversary of the Cal-Vet farm and home loan program will be recognized at special observances held at various locations through the state, beginning July 1, 1982; and

WHEREAS, Through the sound management of the Cal-Vet program, the loan interest rate available to eligible California veterans has increased only three percentage points in the 60 years since its inception—from 5 percent in 1922 to 8 percent today; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That July 1, 1982, is proclaimed Cal-Vet Loan Recognition Day in the State of California; and be it further

Resolved, That the Department of Veterans Affairs is commended for making more than 369,000 loans totaling almost six billion dollars to worthy California veterans since 1922 for the purchase of farms and homes, and for contributing to the growth of the building and housing industries and of the real estate market in the State of California for the past 60 years; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Veterans Affairs and to the California Veterans Board.

RESOLUTION CHAPTER 69

Assembly Joint Resolution No. 106—Relative to grapes.

[Filed with Secretary of State June 25, 1982.]

WHEREAS, It is important that consumers be assured of buying only sweet, ripe table grapes, and this assurance is provided with respect to domestic grapes by the application of state and federal quality standards; and

WHEREAS, The federal quality standards do not apply to imported table grapes, and there is no assurance that these grapes meet the same sweetness and quality requirements that domestic grapes must meet; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to enact appropriate legislation to require that imported table grapes comply with the same federal requirements applicable to domestic table grapes regarding grade, size, quality, and maturity; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 70

Assembly Concurrent Resolution No. 114—Relative to housing problems.

[Filed with Secretary of State June 25, 1982.]

WHEREAS, The health of the home construction industry is essential to the economic well-being of this state; and

WHEREAS, The slowdown in housing production is threatening the jobs of hundreds of thousands of workers in the construction industry and related sectors of the economy and is posing real barriers to the location of needed new industries in this state; and

WHEREAS, As a result of insufficient housing production during this past decade this state finds itself in the midst of a housing crisis characterized by high rental rates, low vacancy rates, and home purchase prices beyond the reach of most Californians; and

WHEREAS, The critical state of the housing market is inflicting severe economic hardship on many sectors of the population, particularly persons and families of low and moderate income and persons living on fixed incomes, and is eroding the hope of home ownership for young families; and

WHEREAS, The federal government has announced its intention to curtail existing housing assistance programs which have helped produce new, affordable housing units; and

WHEREAS, A number of factors, including governmental and private industry market restraints, have made it more difficult to produce the affordable housing which is badly needed to serve our citizens' shelter needs and to stimulate the housing industry; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the State of California must take an aggressive role in ensuring the health of the state's housing industry and in alleviating the housing crisis as it affects consumers; that the state must adopt public policies and pursue programs designed to remove the roadblocks to and encourage the production of affordable housing; and that the state, in a partnership with private enterprise, should be willing to experiment with new solutions and try innovative new approaches to solving our housing problems; and be it further

Resolved, That the Assembly Committee on Housing and Community Development and the Senate Committee on Local Government are hereby authorized and directed to research and present ideas which will result in new, affordable housing units, including, but not limited to, the operation, effect, administration, enforcement, and needed revision of any and all laws in any way bearing upon or relating to the subject of this resolution, and to report thereon to the Legislature, including in the report their joint recommendations for appropriate legislation; and be it further

Resolved, That the committees and their members shall have and exercise all of the rights, duties, and powers conferred upon standing committees of the respective houses of the Legislature, which they may exercise jointly in the conduct of their research. The efforts of these two policy committees shall be assisted by those joint committees and select committees of either house whose interests and capabilities may enable them to cooperate in the subject research; and be it further

Resolved, That the final report of the two committees to the Legislature shall be filed no later than November 30, 1982, after which date their authority to act under this resolution shall cease to exist; and be it further

Resolved, That the rules committees of each house may make such money available from their respective contingent funds as either may deem necessary for the shared expenses of the two committees and their members; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Assembly Committee on Housing and Community Development and the Senate Committee on Local Government.

RESOLUTION CHAPTER 71

Senate Joint Resolution No. 42—Relative to Anatoly Shcharansky.

[Filed with Secretary of State June 28, 1982.]

WHEREAS, March 15, 1982, marks the fifth anniversary of the arrest and imprisonment of Anatoly Shcharansky within the Soviet Union; and

WHEREAS, Anatoly Shcharansky was a founding member of the Moscow Helsinki Monitoring Group which sought to monitor Soviet compliance with the Helsinki agreements; and

WHEREAS, Anatoly Shcharansky was a leading figure in the Jewish emigration movement in Moscow; and

WHEREAS, His wife, Avital, left for Israel the day after their marriage in 1974 with the promise from Soviet authorities that he would soon be allowed to follow her to Israel; and

WHEREAS, Soviet officials have not yet fulfilled this promise; and

WHEREAS, Anatoly Shcharansky's only crime was his unflinching defense of human rights for Jews and other people of the Soviet Union; and

WHEREAS, Because of these firm convictions, on March 15, 1977, Anatoly Shcharansky was arrested, charged with "treason" for being a spy for the United States Central Intelligence Agency, tried, and sentenced to three years in prison and 10 years at hard labor; and

WHEREAS, In a highly irregular move, President Jimmy Carter publicly denied any connection between Anatoly Shcharansky and the C.I.A.; and

WHEREAS, After spending three years in Chistopol prison, Anatoly Shcharansky was sent to Perm labor camp in Gulag where, in 1981, he spent 185 days in solitary confinement, with 75 days in one stretch; and

WHEREAS, While in solitary confinement at the Perm labor camp, Anatoly Shcharansky was kept on meager food rations and finally collapsed from hunger and had to be hospitalized for 33 days; and

WHEREAS, During the summer of 1981, Anatoly Shcharansky was diagnosed as dying of malnutrition at the Perm labor camp clinic; and

WHEREAS, This harsh treatment was prompted by Anatoly Shcharansky's refusal to stop talking to and supporting other prisoners as well as his attempt to light candles in celebration of Hanukkah; and

WHEREAS, Anatoly Shcharansky has been sent back to Chistopol prison for refusing to admit his guilt; and

WHEREAS, Anatoly Shcharansky complains of loss of sight and memory; and

WHEREAS, Anatoly Shcharansky's health has been devastated by his ordeal and his very life is now in danger; and

WHEREAS, Despite this starvation diet and constant physical and psychological abuse, Anatoly Shcharansky's convictions remain unshaken; and

WHEREAS, The Helsinki Accord, of which the Soviet Union is a signator, commits the Soviet Union to give special attention to the granting of exit visas to persons who are ill; and

WHEREAS, Anatoly Shcharansky is a symbol of hope, courage, and determination to millions of people around the world; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California reaffirms its commitment to human rights and calls upon the Soviet Union to release Anatoly Shcharansky from prison and allow him to join his wife in Israel; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of State, 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 General of the United Nations, to the Soviet President, to the Soviet Ambassador to the United States, to the Soviet Consul General, to the Commission on Security and Cooperation in Europe, to Anatoly Shcharansky, and to Avital Shcharansky.

RESOLUTION CHAPTER 72

Assembly Joint Resolution No. 94—Relative to home health services.

[Filed with Secretary of State June 30, 1982.]

WHEREAS, The number of elderly Americans has been growing rapidly as evidenced by a daily net increase of 1,600 persons over the age of 65 in the United States; and

WHEREAS, By the year 2030, older Americans are expected to comprise nearly 20 percent of this nation's total population, up dramatically from the current figure of 11.3 percent; and

WHEREAS, Currently 1.5 million Americans, including 5 percent of persons over age 65, are confined to nursing homes or similar institutions, and this number is expected to grow to approximately 2 million people by the year 2000 unless present policies toward long-term care are reversed; and

WHEREAS, In 1979 alone, nursing home care expenditures amounted to $17.8 billion in the United States, with 56.7 percent paid by the federal government; and

WHEREAS, The need for long-term care is rapidly escalating and federal and state governments' ability to raise the revenues

necessary to provide such care is limited, requiring a thorough reevaluation of programs that finance long-term care to avoid the prospect of a costly buildup of nursing home facilities; and

WHEREAS, One alternative to institutionalization is increased use of home health care services; and

WHEREAS, Movement in this direction has been retarded by federal Medicaid and Medicare policies that create financial incentives which favor care for the chronically ill elderly in nursing homes; and

WHEREAS, Medicare's home health care coverage is aimed primarily at serving the elderly with acute care needs and, as a result, it largely excludes those who require extended care, with particularly restrictive requirements that recipients be homebound and services be performed by skilled professionals; and

WHEREAS, Legislation in the form of S. 234 (Hatch, R-Utah) has been introduced in Congress to encourage establishment of home health programs, to provide expanded coverage of home health services under Medicare and Medicaid, and to encourage individuals to provide for the care of elderly dependents in the home, thereby deemphasizing premature and unnecessary institutionalization; and

WHEREAS, S. 234 would amend the Public Health Service Act to provide grants to public and nonprofit private entities and loans to proprietary home health entities for the specific purpose of meeting the initial costs of establishing and operating home health programs, and for the training of professional and paraprofessional home health personnel; and

WHEREAS, S. 234 would broaden eligibility standards for those needing home health care under Medicare to include skilled nursing care, the services of a homemaker home health aide on a part-time or intermittent basis, or physical, speech, occupational, or respiratory therapy; and

WHEREAS, S. 234 requests the United States Department of Health and Human Services to assemble and study all available information on alternative reimbursement mechanisms for home health agencies in order to determine the most cost-effective and efficient ways of providing home health services; and

WHEREAS, S. 234 provides a major incentive for development of home health care in the form of a five hundred dollar ($500) income tax credit available to individuals who support a dependent person in their home who would otherwise require institutionalization if adequate care at the home were unavailable; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, Respectfully memorializes the President and the Congress of the United States to enact the Community Home Health Services Act of 1981 in order to encourage the establishment of home health programs, to expand the coverage of home health services for the elderly and disabled under Medicare and Medicaid programs, and to encourage individuals to provide care for qualified disabled dependents in the home; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Chairman of the Senate Labor and Human Resources Committee, to the Chairman of the House Energy and Labor Committee—Subcommittee on Health, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 73

Assembly Joint Resolution No. 68—Relative to parolees.

[Filed with Secretary of State June 30, 1982.]

WHEREAS, The current regulations of the United States Parole Commission and the Bureau of Federal Prisons prohibit the notification of local law enforcement agencies of the presence of prisoners and parolees in the community except under prescribed circumstances; and

WHEREAS, Adequate identification and information relating to federal prerelease prisoners and parolees residing in or temporarily domiciled in the state is not being released to the local law enforcement agencies and this effectively impedes the efforts of such agencies to protect the public; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress of the United States to enact legislation giving the United States Parole Commission and the Bureau of Federal Prisons the authority to release all relevant information concerning persons under their respective jurisdictions who are or may be residing or temporarily domiciled while on parole, or who are or may be housed in a halfway house, residential community treatment center, or other prerelease facility, or who are or may be released from an institution on a furlough or other form of release prior to parole or discharge, in the State of California, and who have been convicted of a federal crime which could have been prosecuted as a felony under the penal provisions of this state, to local law enforcement agencies; and be it further

Resolved, That the Legislature of the State of California respectfully requests the United States Parole Commission and the Bureau of Federal Prisons to promulgate the necessary regulations as soon as possible to facilitate the speedy ongoing exchange of relevant information between the commission and the bureau and affected local law enforcement agencies regarding federal prerelease prisoners and parolees who are or will be housed or paroled in their local communities and who have been convicted of a federal crime which could have been prosecuted as a felony under

the penal provisions of this state.

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 Parole Commission, the Bureau of Federal Prisons, and to the United States Department of Justice.

RESOLUTION CHAPTER 74

Assembly Joint Resolution No. 82—Relative to acid rain.

[Filed with Secretary of State June 30, 1982.]

WHEREAS, The deposition of acid chemical compounds in rain, snow, fog, and dry particles has been recorded in many parts of California, including environmentally sensitive regions such as the Sierra Nevada Mountains; and

WHEREAS, The acid deposition problem in California is substantially different in nature from the acid deposition problem experienced in the Eastern United States; and

WHEREAS, California continues to experience levels of air pollution which are adverse to public health and agriculture, and as a result there is a continuing need for improved scientific knowledge of the causes and effects of air pollution, and of advanced technologies to reduce harmful emissions; and

WHEREAS, The Congress has recognized the significance of the problem of acid deposition by enacting the Acid Precipitation Act of 1980, which established the Federal Interagency Task Force on Acid Precipitation and mandated the preparation of a National Acid Precipitation Assessment Plan to identify the causes, sources, and effects of acid precipitation; and

WHEREAS, Since 1981, the level of federal support for independent scientific research related to the causes, effects, and control of air pollution and acid deposition has been significantly reduced, and drastic cuts in research spending are proposed, by the federal administration for the 1983 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 hereby memorializes the President of the United States and the Congress of the United States to provide for a detailed study and evaluation of the problem of acid deposition in the Western United States in the development and implementation of the National Acid Precipitation Assessment Plan; and be it further

Resolved, That the Legislature memorializes the President of the United States, the Congress, and the Environmental Protection Agency to reverse the policy of reduced federal support for

independent scientific research into the causes, effects, and control of air pollution and acid deposition; 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 Administrator of the Environmental Protection Agency and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 75

Assembly Joint Resolution No. 88—Relative to the Environmental Protection Agency.

[Filed with Secretary of State June 30, 1982.]

WHEREAS, The United States District Court for the District of Columbia has held that the Environmental Protection Agency (EPA) must issue regulations covering dams as a point source category under Section 402 of the Clean Water Act (Public Law 92-500); and

WHEREAS, In the case of National Wildlife Federation vs. Gorsuch issued on January 29, 1982, United States District Court Judge Joyce Hens Green ruled that certain water quality conditions associated with dams and reservoirs should be dealt with as a "discharge" of pollutants prohibited by Section 301 of Public Law 92-500; and

WHEREAS, Judge Green has rejected EPA's long-held position that the National Pollutant Discharge Elimination System (NPDES) does not apply to releases from reservoirs and the Court has held that the EPA has violated a nondiscretionary duty in failing to regulate dams with NPDES permits; now, therefore, be it

Resolved, by the Assembly and Senate of the State of California, jointly, That Public Law 92-500 be amended to eliminate the application of National Pollutant Discharge Elimination System permits to releases from reservoirs; and, be it further

Resolved, That the Chief Clerk of the Assembly is directed to forward copies of this resolution to the President and Vice President of the United States, to the Administrator of the Environmental Protection Agency, to the Speaker of the United States House of Representatives, to the Chairman of the Senate Committee on Energy and Natural Resources, to the Chairman of the House Committee on Transportation and Public Works, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 76

Senate Joint Resolution No. 48—Relative to the Adoption Assistance and Child Welfare Act of 1980.

[Filed with Secretary of State June 30, 1982.]

WHEREAS, Prior to the enactment of the Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272), most states' foster care systems had been shown to be destructive of the lives of children and wasteful of tax dollars; and

WHEREAS, Public Law 96-272 restructured federal child welfare services and foster care payment programs and added a new adoption payments program to address the criticisms raised in numerous studies, reports and books; and

WHEREAS, Public Law 96-272 encourages the provision of services to maintain children in their own homes, reunification of children placed in foster care with their families when possible, and establishment of alternative permanent homes for children who cannot be so reunified; and

WHEREAS, Cost control provisions such as a limitation on expenditures for foster care maintenance are built into P.L. 96-272; and

WHEREAS, Net foster care expenditures will also decline under P.L. 96-272 because fewer children will be placed in foster care or remain in placements outside their homes; and

WHEREAS, Public Law 96-272 has received strong bipartisan support; and

WHEREAS, The President has nevertheless proposed severe cuts in the programs funded under P.L. 96-272; and

WHEREAS, The President has also proposed further cuts in the general federal allocation for social services, funded by the Social Services Block Grant, and the specific federal allocation for child abuse prevention, funded through the National Center on Child Abuse and Neglect, which would have a detrimental impact on states' ability to successfully implement P.L. 96-272; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to preserve the foster care reforms provided for under the Adoption Assistance and Child Welfare Act of 1980, to provide the full amount of funding for services and foster care payments authorized under that act, to refrain from reducing funding under the Social Services Block Grant, and to refrain from reducing funding for the National Center on Child Abuse and Neglect; 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 in the California congressional delegation.

RESOLUTION CHAPTER 77

Senate Joint Resolution No. 56—Relative to the Railroad Retirement System.

[Filed with Secretary of State June 30, 1982.]

WHEREAS, The Railroad Retirement System was established by an act of Congress in 1935 to provide retirement-survivor and unemployment-sickness benefit programs for the nation's railroad workers and their families; and

WHEREAS, The Railroad Retirement System has been financed jointly with contributions from rail carriers and rail labor for more than 45 years; and

WHEREAS, The budget proposed by the President of the United States for fiscal year 1983 contains a proposal to abolish the Railroad Retirement Board; and

WHEREAS, The budget proposed by the President of the United States for fiscal year 1983 contains a proposal to shift tier one benefit payments to railroad retirees to the Social Security Administration, and to convert tier two benefit payments to railroad retirees to a privately negotiated system; and

WHEREAS, The budget proposed by the President of the United States for fiscal year 1983 contains a proposal for reducing dual benefit payments to railroad retirees already earned; and

WHEREAS, The budget proposed by the President of the United States for fiscal year 1983 contains a proposal to disband the railroad retirement field service system; and

WHEREAS, The present organization, financial strength, and longevity of the Railroad Retirement System allows for the efficient distribution of both railroad programs, and since 1974, social security benefits to eligible recipients; and

WHEREAS, The abolition of the Railroad Retirement System or its absorption into the Social Security program could conceivably jeopardize the continued distribution of benefits; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California urges the Congress to reject any proposal which would abolish or reorganize the Railroad Retirement 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 78

Senate Concurrent Resolution No. 73—Relative to county commissions on the California National Guard.

[Filed with Secretary of State June 30, 1982.]

WHEREAS, The California National Guard is a valuable resource of trained and organized manpower and equipment for the state and the many communities which it serves during emergencies and in furtherance of community activities during nonemergency periods; and

WHEREAS, The California National Guard needs the understanding, interest, and support of counties throughout the state, particularly in the area of recruiting and retention to fill its ranks; and

WHEREAS, A strong, capable, fully manned National Guard is better able to serve the counties; and

WHEREAS, It is in the best interests of both the California National Guard units and the counties in which they are located to have a mutual understanding of needs and capabilities; and

WHEREAS, An appropriate method for establishing liaison between National Guard units and county governments would be for each board of supervisors to establish, by ordinance, a county commission on the National Guard composed of distinguished citizens willing to serve without compensation; and

WHEREAS, Five counties have already established county commissions on the National Guard within their county government structure as a bridge between themselves and the National Guard in the interest of improving and enhancing day-to-day relationships and coordination on community activities and emergencies involving the National Guard; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature, by this resolution, hereby endorses and encourages county governments within the State of California to establish and utilize county commissions on the National Guard to develop relationship, coordination, and mutual understanding between county governments and the National Guard; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Commanding General of the California National Guard and to the board of supervisors of each county in California.

RESOLUTION CHAPTER 79

Assembly Concurrent Resolution No. 144—Relative to a California Motorcycle Awareness and Safety Month.

[Filed with Secretary of State July 2, 1982.]

WHEREAS, The California Motorcycle Safety Program, the Motorcycle Safety Foundation, the American Motorcyclist Association, the California Department of Transportation, the United Sidecar Association, and the California Motorcycle Dealers Association are cosponsoring a California Motorcycle Awareness and Safety Month in August 1982; and

WHEREAS, The State of California, through the Department of Transportation, is actively involved in recognizing and supporting the use of energy efficient transportation; and

WHEREAS, Motorcycles, which for the purpose of this resolution shall include, in addition, motor-driven cycles and motorized bicycles as defined in Sections 400, 405 and 406 of the Vehicle Code, constitute the most energy efficient class of available motorized personal transportation and serve to ease urban parking congestion; and

WHEREAS, The State of California motorcycle registrations have increased 1,500 percent in the past 25 years to nearly 700,000, yielding more registered motorcycles than any two other states combined; and

WHEREAS, Motorcycle use and acceptance is expected to continue increasing as transportation costs increase; and

WHEREAS, The State of California has an excellent system of motorcycle rider training courses available in most areas of the state and motorcycle related fatalities have declined annually by approximately 6 percent in each of the past three calendar years in spite of increases in motorcycle registration; and

WHEREAS, The relevant data indicates approximately half of all motorcycle accidents involve automobile drivers interfering with the motorcyclist's right-of-way; and

WHEREAS, The month of August, over the past several years, has been one of the months which has the greatest number of motorcycle involved accidents; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby declares the month of August 1982 as "California Motorcycle Awareness and Safety Month" to recognize the important role of motorcycles in meeting the needs of California citizens for energy efficient transportation and recreation, to remind all motorists of the responsibilities they have for ensuring the safety of motorcyclists, to encourage motorcyclists to participate in a motorcycle rider training class and to help secure the continued downward trend in motorcycle related fatalities and injuries; and be it further

Resolved, That the Legislature commends the California Motorcycle Safety Program, the Motorcycle Safety Foundation, the American Motorcyclist Association, the California Department of Transportation, the United Sidecar Association, and the California Motorcycle Dealers Association, for sponsoring a "California Motorcycle Awareness and Safety Month;" and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the California Motorcycle Safety Program, the Motorcycle Safety Foundation, the American Motorcyclist Association, the California Department of Transportation, the United Sidecar Association, and the California Motorcycle Dealers Association.

RESOLUTION CHAPTER 80

Assembly Joint Resolution No. 109—Relative to savings and loan associations.

[Filed with Secretary of State August 4, 1982.]

WHEREAS, California has a greater number of savings and loan associations than any other state, including savings and loan associations which are owned or controlled by ethnic minorities; and

WHEREAS, Such minority owned or controlled savings and loan associations were formed to meet the financial needs of their communities and have made significant contributions to the economic health and development of the communities they serve by promoting thrift and homeownership by minority persons; and

WHEREAS, Minority owned or controlled savings and loan associations historically have often been the sole financial resource for minority communities and have served as important role models which boost the morale of members of the minority business community; and

WHEREAS, Persistently high interest rates and inflation have eroded the net worth of the savings and loan industry and have resulted in an increasing number of mergers and acquisitions of savings and loan associations; and

WHEREAS, The current state of the economy and the effect on the savings and loan industry have resulted in the merger of minority owned or controlled savings and loan associations with larger nonminority institutions at a loss to the ethnic identity of these associations; and

WHEREAS, The preservation of the ethnic identity of minority owned or controlled savings and loan associations serves a significant social and economic purpose, and is essential in order to inspire the confidence of the members of the communities they serve; and

WHEREAS, The federal National Housing Act provides for special

assistance where a financial institution is deemed to be necessary to its community; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature memorializes the President and Congress of the United States to enact legislation which would require the Federal Home Loan Bank Board to devise and adopt measures to assure the survival and viability of minority owned or controlled savings and loan associations through merger or special financial assistance under the National Housing Act; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Federal Home Loan Bank Board, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 81

Assembly Joint Resolution No. 78—Relative to child health care.

[Filed with Secretary of State August 9, 1982.]

WHEREAS, Doctors and hospitals in California have in the past treated children from Mexico not covered by Medi-Cal or other health insurance; and

WHEREAS, Hospitals have lost hundreds of thousands of dollars in uncollected fees to indigent Mexican patients; and

WHEREAS, Rising medical costs, diminishing funds, and lack of space are putting greater limits on the amount of health care for children that can be given to nonpaying Mexican citizens in California hospitals and clinics, which could result in Mexican children being unable to obtain necessary care which cannot be obtained in Mexico; and

WHEREAS, Some of the services being provided to children in California facilities could be done effectively in Mexican facilities; and

WHEREAS, This is an international problem which reaches to all levels of government, and involves the health, and the lives of children; and

WHEREAS, The health care of children is an area which is of concern to both Mexico and the United States; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California hereby respectfully memorializes the President and Congress of the United States to initiate discussions on the issue of border health care for children with the government of Mexico for the purpose of establishing a child health care coordination policy agreement between the United States and Mexico; 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 82

Assembly Concurrent Resolution No. 74—Relative to the Nimitz Freeway.

[Filed with Secretary of State August 13, 1982.]

WHEREAS, Many older freeways in this state are suffering from deterioration and have also become inadequate to handle traffic demands which have increased since their construction; and

WHEREAS, The Nimitz Freeway (State Highway Route 17), which is a key highway route in the east San Francisco Bay area, is one of those inadequate older freeways; and

WHEREAS, The Nimitz Freeway has increased in importance through the years even though it has deteriorated, since it is a key civil defense route serving Alameda Naval Air Station, Oakland Army Base, and other facilities important to national defense; 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 study the feasibility of including the Nimitz Freeway (State Highway Route 17) in the National System of Interstate and Defense Highways for purposes of eligibility for federal funds for its rehabilitation; and be it further

Resolved, That the department report its findings and recommendations to the Legislature on or before January 1, 1983; 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 83

Assembly Concurrent Resolution No. 85—Relative to aquatic and boating safety education.

[Filed with Secretary of State August 13, 1982]

WHEREAS, Given the high incidence of fatalities, injuries, and property damage which occur in and around the water, there is a need for education and training in aquatic and boating safety; and

WHEREAS, Persons would be less vulnerable to water-related accidents which result in fatalities, injuries, and property damage if they were educated in principles of aquatic and boating safety; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the governing board of each school district is requested to determine whether classes in aquatic and boating safety are needed in the district, and each governing board that finds an existing need for instruction in aquatic and boating safety is requested to provide this instruction pursuant to Section 51202 of the Education Code; and be it further

Resolved, That the Department of Education is requested to work with and assist school districts in developing programs in aquatic and boating safety education; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Superintendent of Public Instruction and the governing board of each school district in California.

RESOLUTION CHAPTER 84

Assembly Concurrent Resolution No. 148—Relative to breast cancer.

[Filed with Secretary of State August 13, 1982.]

WHEREAS, In 1976, Minnie Riperton, who gave so much love and joy to the world through her music, discovered she had breast cancer and underwent a mastectomy; and

WHEREAS, After her surgery Ms. Riperton served as the National Spokesperson for the American Cancer Society and until her death in 1979 devoted much of her time to making public appearances to alert the public to the growing incidence of breast cancer, and to the need to fight breast cancer by learning and practicing breast self-examination; and

WHEREAS, One out of 11 women will be stricken with breast cancer during their lives, and breast cancer is the leading cause of all deaths in women from age 40 to 44; and

WHEREAS, Breast cancer kills almost 37,000 women annually; and

WHEREAS, In California alone there will be an estimated 11,000 new cases of breast cancer and 3,700 deaths in 1982; and

WHEREAS, Ninety-five percent of breast cancers are discovered by the patients themselves and cancer specialists all over the world are improving diagnostic techniques, and developing a more effective combination of treatments; and

WHEREAS, Deaths from breast cancer could be reduced substantially if women would practice monthly breast self-examination and seek medical help if they discover a lump; and

WHEREAS, Women over age 50 should have a breast examination annually; and

WHEREAS, The death of Ms. Riperton from breast cancer in July 1979 was a great loss and should not be forgotten; and

WHEREAS, Because of the significant risk of the disease and the great benefits of its early detection and treatment, it is important that the public and medical profession be reminded of the vital necessity for early detection and treatment; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the month of August 1982 be proclaimed as "Early Detection of Breast Cancer Month", and that the week of August 15 through August 21, 1982, be declared as "Minnie Riperton Week", and that all people join together in recognizing the need for early detection and treatment of breast cancer; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a suitably prepared copy of this resolution to the family of Ms. Minnie Riperton and to the author for appropriate distribution.

RESOLUTION CHAPTER 85

Assembly Concurrent Resolution No. 134—Relative to P.O.W.-M.I.A. Recognition Day.

[Filed with Secretary of State August 13, 1982.]

WHEREAS, During its history, the government of the United States has, from time to time, fought to defend its interests; and

WHEREAS, In the course of armed conflict, thousands of Americans have fallen into enemy hands and become prisoners of war; and there have been other Americans whose wartime fate is yet unknown; and

WHEREAS, The courage and patriotism of Americans held captive during wartime have been sources of inspiration to all who love this country; and

WHEREAS, The bravery of those who are missing in action, and the persevering love of those they left behind, must never be forgotten by the American public; and

WHEREAS, In particular, the American public should recognize the plight of the families of Americans who fought for their country in Vietnam, and who are yet missing in action; and

WHEREAS, 1983 will mark the 10th anniversary of the negotiated end to American fighting in Vietnam and of Operation Homecoming, the return of American P.O.W.s from North Vietnam, and, as this anniversary approaches, hundreds of American families still suffer the dread anxiety of not knowing what has happened to a person very dear to them; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate

thereof concurring, That July 9, 1982, is proclaimed P.O.W.-M.I.A. Recognition Day in the State of California; and be it further

Resolved, That each citizen of the State of California is urged to remember the sacrifices of P.O.W.s throughout American history, and to take an active interest in the concerns of the families of Americans still missing in action; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to Forgotten Americans Need Support (FANS, Inc.).

RESOLUTION CHAPTER 86

Assembly Concurrent Resolution No. 95—Relative to merit awards.

[Filed with Secretary of State August 13, 1982]

WHEREAS, Section 19823 of the Government Code provides that awards may be made to state employees in excess of one thousand dollars ($1,000) when the awards are approved by concurrent resolution of the Legislature; and

WHEREAS, An award of one thousand dollars ($1,000), divided equally, has already been made to Carla A. Carnahan and Kellee S. Blair, Department of Employment Development, for a suggestion which results in annual savings of thirteen thousand five hundred sixty-nine dollars ($13,569) by suggesting that the Weekly Request for Benefit form used for the Redwood Employee Protection Program be printed in multipart sets on NCR paper; and

WHEREAS, An award of one thousand dollars ($1,000), divided equally, has already been made to Charlotte E. Abel, Doris Luckie, Beverly Crabtree, Sandra Shaver, Ollie Ross, Frances Yarbrough and Gerard Kelleher, Jr., Board of Equalization, for a suggestion which resulted in an increased revenue interest of one hundred fifty-two thousand one hundred sixty-four dollars ($152,164) by recommending the establishment of a special procedure to enable same day deposit credit for large remittances drawn on out-of-state banks; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Harold G. Miller, Board of Equalization, for a suggestion which resulted in an increased revenue of forty-seven thousand six hundred eighty-seven dollars ($47,687) by recommending that the Alcohol Beverage Control Board make the names of the recipients of refunds for on-sale and off-sale general liquor licenses available to the Board of Equalization and to the Franchise Tax Board for offset purposes; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Peggy A. Lee, Franchise Tax Board, for a suggestion which resulted in annual savings of two hundred twenty-two

thousand five hundred eighty-three dollars ($222,583) by recommending that key data entry procedures be revised to limit mandatory verification of designated monetary lines which can be verified by the computer; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Mira Vojnovic, Franchise Tax Board, for a suggestion which resulted in annual savings of forty-six thousand eight hundred forty-two dollars ($46,842) by recommending the elimination of verifying data keyed from preprinted labels on 540 tax returns; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Evelyn P. Rose, Department of General Services, for a suggestion which resulted in annual savings of fifteen thousand eighty-seven dollars ($15,087) by recommending that a limited number of plan and specifications sets will be provided a contractor at no extra cost; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Jim Ray, Department of General Services, for a suggestion which resulted in annual savings of ninety-three thousand two hundred dollars ($93,200) by recommending that the Department of Corrections, Correctional Industries, obtain free nonfat dry milk from the commodities program administered through the Department of Education, in lieu of purchasing from a commercial supplier; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to William J. Alexander, California Department of Highway Patrol, for a suggestion which resulted in annual savings of eleven thousand six hundred eighty-seven dollars ($11,687) by recommending that the CHP Dispatch Office in Arcata be relocated at the Caltrans facility in Eureka; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to George W. Bonsack, California Department of Highway Patrol, for a suggestion which resulted in a one-time cost avoidance savings of twenty-five thousand sixty-two dollars ($25,062) by proposing a modification to the lighting system in classrooms at the academy as an option to a costly redesign proposal by the Office of State Architect; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Shirley D. Golladay, Department of Insurance, for a suggestion which resulted in annual savings of twenty-six thousand four hundred six dollars ($26,406) by recommending an amendment to Insurance Code Section 1707 which would permit the mailing of both the licensees' and agent brokers' validated copy of appointment in the same envelope; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Katherine Davis, Department of Motor Vehicles, for a suggestion which resulted in annual savings of seventy-six thousand three hundred eighty-four dollars ($76,384) by recommending that only the last three digits of the vehicle identification number be entered on suspense receipts when a license number is shown and

WHEREAS, An award of three thousand two hundred sixty dollars ($3,260) has already been made to Num K. Fong, Department of Motor Vehicles, for a suggestion which resulted in annual savings of thirty-six thousand seven hundred forty-eight dollars ($36,748) by recommending that the number of pages printed with multicolored ink in the Department of Motor Vehicles' handbooks be reduced; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Don L. Maynard, Department of Motor Vehicles, for a suggestion which resulted in annual savings of sixty-nine thousand six hundred ninety-two dollars ($69,692) by recommending the use of an Itek Camera Processor to replace the expensive Polaroid process used to shoot mug shots for law enforcement agencies; and

WHEREAS, An award of one thousand dollars ($1,000), divided equally, has already been made to Gloria Link and Lillie Santos, Department of Motor Vehicles, for a suggestion which resulted in annual savings of thirty-nine thousand one hundred seventy-six dollars ($39,176) by recommending that the coding and keying procedures to determine printing of ownership certificates be changed from two digit unit codes to one digit owner codes; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Bonnie L. Weiser, Department of Real Estate, for a suggestion which resulted in annual savings of seventeen thousand one hundred eight dollars ($17,108) by recommending that the Electronic Data Processing mailing list for quarterly Real Estate Bulletins be flagged to eliminate the unnecessary subsequent mailing of material to undeliverable addresses; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Betty Jean Lopker, Department of Transportation, for a suggestion which resulted in an increased revenue of fifty thousand two hundred forty-two dollars ($50,242) by recommending that the Department of Parks and Recreation install automatic dispensing ticket machines with envelopes at state parks to collect overnight fees from campers arriving during late evening hours; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Ann M. Glover, Department of Transportation, for a suggestion which resulted in annual savings of one hundred three thousand one hundred forty-three dollars ($103,143) by suggesting that the department allow permissive use of Std. 634, Absence Request, form for absences of two consecutive days or less. The departmental time sheet provides supervisor approval as required by State Personnel Board; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Ernesto M. Moreno, Department of Transportation, for a suggestion which resulted in annual savings of twelve thousand five hundred thirty dollars ($12,530) by recommending that 11" x 17" instead of 12" x 18" paper be used to reduce printed plans for construction of freeways; and

WHEREAS, An award of one thousand dollars ($1,000) has already

been made to David R. Fenner, Department of Transportation, for a suggestion which resulted in annual savings of nineteen thousand one hundred eight dollars ($19,108) by recommending that the practice of making 10 photocopies of each major construction contract be discontinued; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Dennis L. Shelley, Department of Transportation, for a suggestion which resulted in annual savings of twenty thousand one hundred nine dollars ($20,109) by recommending that the Electronic Data Processing Basic Engineering Estimate System (BEES) be modified to allow word processing storage and capabilities for engineering estimates; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Sveinn E. Olafsson, Department of Transportation, for a suggestion which resulted in annual savings of eighteen thousand four hundred fifty dollars ($18,450) by recommending that all water heaters in Caltrans facilities be insulated with commercially available blankets; and

WHEREAS, An award of one thousand dollars ($1,000), divided equally, has already been made to Lewis O. Reeder and Richard F. Barlow, Department of Transportation, for a suggestion which resulted in annual savings of fourteen thousand five hundred fifty-six dollars ($14,556) by recommending that records storage cost be reduced by holding design, maintenance and construction contract files in the office for five years, instead of storing at the Records Center; and

WHEREAS, An award of one thousand dollars ($1,000), divided equally, has already been made to Joyce Alfonso, Harold Latter, and John Dutton, Department of Transportation, for a suggestion which resulted in one-time savings of one hundred two thousand dollars ($102,000) by recommending that lease negotiations for 13,000 additional square feet of office space in District 04 be canceled; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to David Rodriquez, Department of Youth Authority, for a suggestion which resulted in one-time and an annual savings of sixty-four thousand two hundred forty-nine dollars ($64,249) by recommending that incandescent "Hub" fixtures at Youth Training School be replaced with 22 watt circle-line tubes; and

WHEREAS, The suggestion of these employees have resulted in an annually recurring and a one-time savings and increased revenue amounting to one million two hundred ninety-seven thousand seven hundred eighty-two dollars ($1,297,782); and

WHEREAS, As a result of these savings, it is unnecessary to appropriate additional funds for payment of these awards; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the following additional awards, which have been approved by the Department of Personnel Administration, are hereby authorized to the employees named:

Carla A. Carnahan, one hundred seventy-eight dollars ($178)
Kellee S. Blair, one hundred seventy-eight dollars ($178)
Charlotte E. Abel, two thousand thirty-one dollars ($2,031)
Doris Luckie, two thousand thirty-one dollars ($2,031)
Beverly Crabtree, two thousand thirty-one dollars ($2,031)
Sandra Shaver, two thousand thirty-one dollars ($2,031)
Ollie Ross, two thousand thirty-one dollars ($2,031)
Frances Yarbrough, two thousand thirty-one dollars ($2,031)
Gerard Kelleher, Jr., two thousand thirty-one dollars ($2,031)
Harold G. Miller, three thousand seven hundred sixty-nine dollars ($3,769)
Peggy A. Lee, nine thousand dollars ($9,000)
Mira Vojnovic, three thousand six hundred eighty-four dollars ($3,684)
Evelyn P. Rose, five hundred ten dollars ($510)
Jim Ray, eight thousand three hundred twenty dollars ($8,320)
William J. Alexander, six hundred eighteen dollars ($618)
George W. Bonsack, two hundred fifty-five dollars ($255)
Shirley D. Golladay, one thousand six hundred forty dollars ($1,640)
Katherine Davis, six thousand six hundred forty dollars ($6,640)
Num K. Fong, four hundred fifteen dollars ($415)
Don L. Maynard, five thousand nine hundred seventy dollars ($5,970)
Gloria Link, one thousand four hundred sixty dollars ($1,460)
Lillie Santos, one thousand four hundred sixty dollars ($1,460)
Bonnie L. Weiser, seven hundred ten dollars ($710)
Betty J. Lopker, four thousand twenty-five dollars ($4,025)
Ann M. Glover, nine thousand three hundred fifteen dollars ($9,315)
Ernesto M. Moreno, two hundred fifty-three dollars ($253)
David R. Fenner, one thousand fifty dollars ($1,050)
Dennis L. Shelley, one thousand ten dollars ($1,010)
Sveinn E. Olafsson, eight hundred forty-five dollars ($845)
Lewis O. Reeder, two hundred twenty-eight dollars ($228)
Richard F. Barlow, two hundred twenty-eight dollars ($228)
Joyce Alfonso, one thousand three hundred sixty-seven dollars ($1,367)
Harold Latter, one thousand three hundred sixty-seven dollars ($1,367)
John Dutton, one thousand three hundred sixty-seven dollars ($1,367)
David Rodriguez, two thousand seven hundred ninety-five dollars ($2,795); and be it further

Resolved, That the Chief Clerk of the Assembly is directed to transmit a copy of this resolution to the Department of Personnel Administration and to the Controller.

RESOLUTION CHAPTER 87

Senate Concurrent Resolution No. 44—Relative to the Senior Legislature.

[Filed with Secretary of State August 13, 1982.]

WHEREAS, The California Commission on Aging, with support from numerous private persons and organizations representing older Californians, convened the first session of the California Senior Legislature in July 1981; and

WHEREAS, The commission's action was taken in response to the wishes of the Legislature as expressed in Assembly Concurrent Resolution No. 129 (Res. Ch. 91, Stats. 1980); and

WHEREAS, The 120 members of the California Senior Legislature ably represented the interests of the state's 3.5 million older citizens; and

WHEREAS, The 120 members of the California Senior Legislature have demonstrated the value of and the need for the model legislative session known as the California Senior Legislature; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the California Commission on Aging, the 120 members of the first California Senior Legislature, the Office of the Legislative Counsel, the members and staff of the California Legislature, the staff of the various departments of state government who assisted the members and committees of the Senior Legislature, and the numerous private persons and organizations representing older Californians who assisted in convening and holding this first session, be commended for their efforts in making the first session of the Senior Legislature a success; and be it further

Resolved, That the Legislature commends the Levi Strauss Foundation for its generous support of the Senior Legislature, and that the Legislature similarly commends the hundreds of individuals and organizations who contributed financially to the support of the Senior Legislature; and be it further

Resolved, That the Legislature requests the California Commission on Aging, with the support of all interested persons, to sponsor annual sessions of the California Senior Legislature; and be it further

Resolved, That copies of this resolution be made available to the California Commission on Aging, the members of the first session of the California Senior Legislature, the Department of Aging, and to all parties and agencies that are directly affected by this resolution.

RESOLUTION CHAPTER 88

Senate Concurrent Resolution No. 47—Relative to the Public Utilities Commission.

[Filed with Secretary of State August 13, 1982.]

WHEREAS, Both the Legislature and the Public Utilities Commission have recognized that the people of California are entitled to adequate and reliable service by public utilities at rates which are fair and reasonable to both the customer and the public utility and have determined that the ability of public utilities to provide adequate and reliable service was, at one time, jeopardized by delays in processing rate increase applications; and

WHEREAS, The commission adopted Resolution No. A 4693 on July 6, 1977, which identified regulatory lag as a major obstacle in processing rate cases and which included a plan to facilitate the prompt processing of rate cases; and

WHEREAS, The Legislature in September 1977 adopted Resolution Chapter 111 (SCR 51) of the Statutes of 1977 requesting that the commission continue steps taken to insure action on public utility rate increase applications within one year, and that the commission provide quarterly status reports on rate applications and annual progress reports to the Legislature concurrent with the commission's budget requests; and

WHEREAS, The commission's reports indicate that rate increase applications filed since 1978 have been processed within one year, and procedures have been established to insure future applications will be processed within one year so that it is determined to be no longer necessary to require the commission to prepare the reports requested by that resolution; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Public Utilities Commission may discontinue reporting the status of rate applications each quarter, and the submitting of the annual progress reports with its budget request, pursuant to Resolution Chapter 111 (SCR 51) of the Statutes of 1977; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Public Utilities Commission.

RESOLUTION CHAPTER 89

Senate Joint Resolution No. 50—Relative to veterans' health benefits.

[Filed with Secretary of State August 16, 1982.]

WHEREAS, There are approximately 250,000 veterans in the United States, of whom approximately 25,000 reside in California, who were exposed to atomic radiation during the occupation of Japan and in conjunction with at least 235 atmospheric nuclear weapons tests conducted in the 1940's and 1950's and up to as recently as 1962; and

WHEREAS, These veterans are now suffering myriad health problems, including cancer, degenerative bone and nerve diseases, intestinal disorders, blood and respiratory diseases, emotional problems, and birth defects in children and grandchildren; and

WHEREAS, Recent medical evidence indicates that all these ailments are associated with exposure to atomic radiation; and

WHEREAS, These veterans have typically been hesitant to come forward for fear of prosecution under secrecy statutes and possible loss of employee medical benefits and diminished employment potential; and

WHEREAS, Regulations published by the United States Veterans' Administration on December 2, 1981, pertaining to the provision of health care to veterans exposed to atomic radiation do not address health symptoms other than cancer; and

WHEREAS, Current Veterans' Administration regulations have been used to deny 98 percent of the claims by veterans for health care and compensation; and

WHEREAS, Under these regulations, it is incumbent upon the veteran to prove his or her exposure to atomic radiation through his or her own initiative in securing records that often are incomplete or missing entirely; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to direct the Administrator of Veterans' Affairs to revise the current regulations of the Veterans' ~~Admin~~istration regarding the provision of health care to veterans exposed to atomic radiation to fully recognize the body of medical evidence associating exposure to atomic radiation with a wide range of health effects; and be it further

Resolved, That the Legislature of the State of California further respectfully requests that other appropriate agencies and resources of the United States be brought to bear in an investigation of the health and genetic complaints of veterans exposed to atomic radiation and of the apparent loss of records and documentation pertaining to exposure of individuals and military units; 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 Administrator of Veterans' Affairs.

RESOLUTION CHAPTER 90

Senate Joint Resolution No. 52—Relative to agricultural exports.

[Filed with Secretary of State August 16, 1982.]

WHEREAS, Agriculture is the number one industry in California, which is the leading agricultural state in the country; and

WHEREAS, Although California's 33.4 million acres of cultivated land account for only 3 percent of the country's entire supply of farmland, the state produced nearly 10 percent of the 1980 farm cash receipts in the United States; and

WHEREAS, Agriculture accounted for approximately 18 percent of the state's gross product during 1980, which amounted to $54.8 billion, using the multiplier factor; and

WHEREAS, California leads the nation in the production of 49 different crops and livestock products; and

WHEREAS, The diversity of the state's agriculture is truly impressive, for over 250 different commodities are grown here; and

WHEREAS, Twelve percent of the nation's agricultural exports were shipped from California last year, which provided numerous jobs and revenue for our three customs districts of Los Angeles, San Francisco, and San Diego; and

WHEREAS, The product of approximately one out of every four acres of California cropland is now sold in foreign markets and thus the state's agricultural economy is dependent upon international trade; and

WHEREAS, Expansion of markets for agricultural products abroad is needed to supply outlets for growing production of many California crops and to balance declines in domestic consumption of certain important products; and

WHEREAS, The trade policies often adopted by many of our important overseas trading partners are clearly discriminatory or otherwise violative of the General Agreement on Tariffs and Trade and are unfairly eroding export markets for California farm commodities; and

WHEREAS, A group of California food marketers have petitioned the United States Trade Representative to take their case against the European Economic Community before an international court, the General Agreement on Tariffs and Trade; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That agriculture is California's basic industry, and its well-being is vital to the economic health of the state; and be it further

Resolved, That it is in the best interest of the state, and of the United States as a whole, that there be the closest and most vigorous possible cooperation between the Office of the Trade Representative and the United States Department of Agriculture in seeking to improve the nation's trade balance by negotiating the reduction or

elimination of tariff and nontariff barriers, as well as other policies and programs, which encourage unfair competition in markets which the United States has historically served, which disrupt international trade patterns, and which block access to foreign markets for California agricultural products; and be it further

Resolved, That the Congress of the United States and its appropriate committees join with the executive agencies involved and urge their active participation in seeking the most effective remedies to the problems of protectionism and subsidized competition which so seriously affect the movement of United States', and particularly California's, agricultural products into international trade; 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 Trade Representative, to the Secretary of Agriculture, to the Speaker of the House of Respresentatives, to each Senator and Representative from California in the Congress of the United States, to the Department of State and the Department of Commerce, and to the chairmen of committees in Congress which have jurisdiction over foreign trade.

RESOLUTION CHAPTER 91

Assembly Concurrent Resolution No. 71—Relative to the Henry G. Fenton Bridge.

[Filed with Secretary of State August 18, 1982.]

WHEREAS, Henry G. Fenton was a San Diego contractor, pioneer rancher, owner of Western Salt Company, and founder of H. G. Fenton Material Company; and

WHEREAS, Mr. Fenton came to San Diego in 1880 at the age of eight as an orphan and settled in the San Pasqual Valley where he was involved in ranching and handling teams of horses; and

WHEREAS, He went into contracting, performing much of the road work for San Diego County and excavations for San Diego's downtown buildings in the early 1900's, prior to his purchase of the Western Salt Company in 1912; and

WHEREAS, He subsequently founded the H. G. Fenton Material Company, one of the largest producers of construction aggregates and concrete in San Diego County, and in 1927 he was one of the charter members of the Associated General Contractors of America, San Diego Chapter; and

WHEREAS, Henry G. Fenton also owned and operated a 1,000 cattle dairy ranch in the San Pasqual Valley and a 3,000 acre lima bean ranch, called Rancho Janal; and

WHEREAS, Active in civic affairs, Mr. Fenton was one of San

Diego's strongest supporters of the Boy Scouts and, for years, his San Pasqual Ranch was the setting for the annual "Old Timers" party, with the only prerequisite for attendance being 50 years' residence in the county; and

WHEREAS, The 22 ton granite boulder which sits in front of Henry G. Fenton's ranch contains the following inscription "Honoring our beloved old-timer, Henry G. Fenton, by admiring citizens of San Diego County, 1950"; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the old Miramar Road Overcrossing (Bridge #57-762) on Interstate Route 805 in San Diego County is hereby officially designated the Henry G. Fenton Bridge in honor of Mr. Henry G. Fenton; and be it further

Resolved, That the Department of Transportation be directed to determine the cost of and erect appropriate plaques and markers, consistent with the signing requirements for the state highway system, showing this official designation, and that all costs for these plaques and markers shall be donated by local citizens who appreciate Henry G. Fenton's services to the community; 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 92

Assembly Concurrent Resolution No. 86—Relative to the Malcolm G. Coombs Memorial Bridge.

[Filed with Secretary of State August 18, 1982.]

WHEREAS, Malcolm G. Coombs was a resident of southern Humboldt County since approximately 1946 until his death on June 15, 1981; and

WHEREAS, Mal Coombs was a highly respected and admired businessman and community leader in the Garberville area of Humboldt County and served as president of the Garberville-Redway Chamber of Commerce from January to December 1957 and as president of the Rotary Club of Garberville from 1950 to 1951; and

WHEREAS, He was also an active business participant and leader throughout Humboldt County and the State of California and served as a member of the California State Water Commission, as a member of the governing board of the Humboldt Bay Harbor, Recreation and Conservation District, on the Humboldt State University Advisory Board, and as a member and chairman of the Southern Humboldt Unified School District; and

WHEREAS, Malcolm Coombs' dedication to the timber industry,

his untiring efforts toward the improvement of the community, his philanthropic gifts, and his public service for the betterment of the community and of mankind, made him a beloved and respected person whose loss will be sorely felt by the people of Humboldt County and elsewhere; and

WHEREAS, It would be a fitting tribute to Malcolm G. Coombs for the long years of community service rendered by him to the people of the state, Humboldt County, and particularly the Garberville area, that Bridge No. 4-155 on State Highway Route 101, located four miles south of Garberville and spanning the South Fork of the Eel River, be named in his memory; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That Bridge No. 4-155 on State Highway Route 101, located four miles south of Garberville and spanning the South Fork of the Eel River, is hereby officially designated the Malcolm G. Coombs Memorial Bridge in memory of Malcolm G. Coombs; and be it further

Resolved, That the Department of Transportation be directed to determine the cost of appropriate plaques and markers, consistent with the signing requirements for the state highway system, showing this official designation and, upon receiving donations from private sources covering that cost, to erect those plaques and markers; 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 93

Assembly Concurrent Resolution No. 97—Relative to the Special Olympics.

[Filed with Secretary of State August 18, 1982.]

WHEREAS, The Special Olympics is the largest sports program in the entire world designed for individuals with exceptional needs; and

WHEREAS, More than 26,000 athletes, eight years of age and older, with the assistance of over 10,000 year-round volunteers, now participate in programs and competitions conducted throughout the state during the school year by the 67 area boards of California Special Olympics, Inc.; and

WHEREAS, Many Special Olympians experience the feeling of accomplishment for the first time through their involvement in Special Olympics programs and competitions, often leading to unanticipated breakthroughs in their development which enable them to live active lives outside of mental institutions; and

WHEREAS, Participants in the Special Olympics are eligible to receive full life, health, and accident insurance for Special Olympics

events and activities for only twenty-five cents ($0.25) per year, which could be of great assistance to individuals with exceptional needs who come from low-income families; and

WHEREAS, There are approximately 750,000 individuals with exceptional needs in California who could benefit by participating in the Special Olympics, at no cost to the state; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That all school districts, special education services regions, and county offices conducting special education programs are requested to work with California Special Olympics, Inc., to develop and establish recreational therapy programs to serve as part of the individualized education programs for those individuals with exceptional needs who are eligible to participate in the Special Olympics; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the governing board of all school districts, special education services regions, and county offices conducting special education programs.

RESOLUTION CHAPTER 94

Assembly Concurrent Resolution No. 103—Relative to agricultural pest control.

[Filed with Secretary of State August 18, 1982.]

WHEREAS, California is the number one state in the production of food and fiber with over thirteen billion dollars ($13,000,000,000) in sales in 1981; and

WHEREAS, California's economy prospers greatly from this bountiful harvest, creating hundreds of thousands of jobs and generating more than fifty billion dollars ($50,000,000,000) in economic activity beyond the farm; and

WHEREAS, The recent Mediterranean fruit fly infestation has jeopardized this bounty and the state's economy; and

WHEREAS, With air transportation breeching the normal geophysical pest barriers, many experts believe that this infestation began with air travelers smuggling in Mediterranean fruit fly-infested fruit; and

WHEREAS, The Pest Response Task Force appointed by Governor Brown in October 1981, recommends a more aggressive public education program in an effort to prevent pest infestations similar to that of the Mediterranean fruit fly; and

WHEREAS, Air travelers are an important target group for this recommended program; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby requests that the

Director of Food and Agriculture meet with air carrier representatives on or before July 1, 1982, to discuss more effective methods of informing air travelers on the need for pest exclusion; and be it further

Resolved, That the director, with the assistance of the United States Department of Agriculture, investigate the feasibility of producing an attractive and instructive brochure to be distributed to air travelers which discusses the travelers' role in, and the need for, pest exclusion; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Governor, the Secretary of the United States Department of Agriculture, and the Director of Food and Agriculture.

RESOLUTION CHAPTER 95

Assembly Joint Resolution No. 79—Relative to the Amador County Wine Grape Growers Association.

[Filed with Secretary of State August 18, 1982.]

WHEREAS, The Amador County Wine Grape Growers Association has produced quality wines from vineyards in Amador County's Shenandoah Valley for over 100 years; and

WHEREAS, The Amador County Wine Grape Growers Association has made application to the federal Bureau of Alcohol, Tobacco, and Firearms for the designation of Amador County's Shenandoah Valley as a viticultural area; and

WHEREAS, Designation of Amador County's Shenandoah Valley as a viticultural area is appropriate to protect the "estate bottled" term on the Amador County Wine Grape Growers Association wine labels and is indicative of quality wine made under strict control of the winery; and

WHEREAS, Designation as a viticultural area and labeling as "estate bottled" is important to the economic well-being of the Amador County wine making industry; now, therefore, be it

Resolved, by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California memorializes the federal Bureau of Alcohol, Tobacco, and Firearms to favorably consider the application of the Amador County Wine Grape Growers Association for the designation of Amador County's Shenandoah Valley as a viticultural area; 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; and be it further

Resolved, That the Chief Clerk of the Assembly transmit this resolution to the Director of the Bureau of Alcohol, Tobacco, and Firearms.

RESOLUTION CHAPTER 96

Assembly Joint Resolution No. 87—Relative to natural gas decontrol.

[Filed with Secretary of State August 18, 1982.]

WHEREAS, Utility rates throughout the State of California have risen dramatically over the last year; and

WHEREAS, The price of natural gas is a major factor in rising utility bills; and

WHEREAS, California is particularly dependent upon natural gas; and

WHEREAS, The Federal Energy Regulatory Commission has already begun to administratively decontrol the price of natural gas transported in interstate commerce, which will result in higher costs to California consumers; and

WHEREAS, The Federal Energy Regulatory Commission has indicated that it plans to administratively decontrol "old" natural gas; and

WHEREAS, "Old" natural gas represents approximately 40 percent of all natural gas consumed in California; and

WHEREAS, It has been estimated that administrative decontrol of "old" natural gas could cost California consumers over one billion dollars a year; and

WHEREAS, Decontrol of natural gas would have a severe impact upon the already burdened ratepayers, particularly the poor and the elderly; and

WHEREAS, Decontrol of natural gas would also have an adverse impact on major portions of California's economy, including agriculture, public services, and small businesses and would result in the loss of thousands of jobs; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California hereby respectfully memorializes the President and Congress to require the Federal Energy Regulatory Commission to take no further action to accelerate the administrative decontrol of natural gas prices; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Federal Energy Regulatory Commission.

RESOLUTION CHAPTER 97

Assembly Joint Resolution No. 104—Relative to the American night-fighter squadrons of World War II.

[Filed with Secretary of State August 18, 1982.]

WHEREAS, In 1942 the first night-fighter squadrons of the United States Army Air Corps were formed; and

WHEREAS, These units served valiantly during the Second World War, and were pioneers of airborne radar offensive and defensive tactics; and

WHEREAS, The aircraft most representative of those manned by American squadrons was the P-61 "Black Widow," developed solely as a night-fighter by the Northrup Aircraft Corporation of Hawthorne, California; and

WHEREAS, It is appropriate on the 40th anniversary of the formation of American night-fighter squadrons that a commemorative postage stamp be issued by the United States Postal Service, and the most fitting design for such a stamp is a depiction of the P-61 "Black Widow" aircraft; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully requests the United States Postal Service to issue a postage stamp in 1982 to commemorate the service of the American night-fighter squadrons of World War II, and that the postage stamp depict the P-61 "Black Widow" aircraft; 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; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Postmaster General.

RESOLUTION CHAPTER 98

Senate Concurrent Resolution No. 30—Relative to the industrially injured.

[Filed with Secretary of State August 19, 1982.]

WHEREAS, There are significant numbers of industrially injured each year; and

WHEREAS, Federal law encourages the rehiring of industrially injured federal employees pursuant to Section 8151 of Title 5 of the United States Code; and

WHEREAS, State law encourages the rehiring of industrially

injured state employees pursuant to Sections 4800, 4850, 6100, and 6200 of the Labor Code; and

WHEREAS, The rehiring of industrially injured employees requires minimal, if any, retraining and allows the employee to retain accrued benefits; and

WHEREAS, There are no statistics that substantiate that an industrially injured employee is a greater risk to be injured in the future; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That private employers are hereby encouraged to rehire the industrially injured, whenever feasible.

RESOLUTION CHAPTER 99

Assembly Concurrent Resolution No. 78—Relative to handicapped parking.

[Filed with Secretary of State August 20, 1982.]

WHEREAS, It is recognized that public parking for handicapped persons is necessary to allow those persons to function in society in an independent manner and to have access to facilities for employment, education, recreation, shopping, and housing; and

WHEREAS, Parking spaces for the handicapped have been designated throughout the state by governmental entities, as well as private organizations and individuals, to assure access for the handicapped; and

WHEREAS, Numerous citizens, both handicapped and nonhandicapped, are greatly concerned about the frequent misuse of those parking spaces by unauthorized drivers; and

WHEREAS, Unauthorized use of those parking spaces results in unavailability of facilities to the handicapped, thereby denying them access to the mainstream of society; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the members hereby support efforts to increase public awareness of the need to keep parking spaces designated for the handicapped available to the handicapped and to avoid the undesirable result of the misuse of those parking spaces; and be it further

Resolved, That the Legislature encourages local governmental entities to enforce statutes and ordinances to assure that parking spaces for the handicapped are used only by those persons for whom they were intended; and be it further

Resolved, That the people of California are urged to be aware of the need to preserve parking spaces for the handicapped for their use, to refrain from inappropriately parking in them, to make every effort to support and encourage the awareness and acceptance of the

handicapped, and to support the right of access for all citizens by encouraging cities and counties to designate Blue Curb Days throughout the state; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Director of General Services, the Director of Rehabilitation, the County Supervisors Association of California, the League of California Cities, county boards of supervisors, and city councils.

RESOLUTION CHAPTER 100

Assembly Concurrent Resolution No. 89—Relative to the State Department of Aging.

[Filed with Secretary of State August 20, 1982.]

WHEREAS, Federal legislation enacted in 1973 provided that the state agencies serving as the focal point for planning and providing services to older persons must give preference to hiring persons 60 years or older as a means of involving seniors directly in the development and execution of Older Americans Act programs subject to merit system requirements; and

WHEREAS, Federal legislation requires that the same state agencies have affirmative action programs; and

WHEREAS, California legislation enacted in 1980 prescribed that the State Department of Aging make age affirmative action appointments which would serve as a model for employing qualified persons 60 years of age or older (60-plus); and

WHEREAS, The State Department of Aging has been expressly established to develop, coordinate and administer resources to meet the needs of older persons; and

WHEREAS, The State Department of Aging has not carried out or even established an effective employment plan for the hiring of persons 60-plus; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, as follows:

(1) That the State Department of Aging, with the assistance of the State Personnel Board, shall establish an initiatory hiring and appointment goal of 14 percent for older persons in fiscal year 1982–83. This goal shall include all 60-plus new hires and training and promotions of older persons within the department. The steps to this overall goal shall be submitted to the Assembly Committee of Aging within 60 days of the enactment of this resolution.

(2) That the State Department of Aging, with the assistance of the State Personnel Board, shall establish long-term goals for continued representation of older persons in the department's total work force and by occupational level: clerical, technical, professional, and

administrative. These goals shall be submitted to the Assembly Committee on Aging within 60 days of the enactment of this resolution.

(3) That the State Department of Aging, in conjunction with the State Personnel Board, shall utilize focused recruitment methods targeted at attracting persons 60 years of age or older to examine for positions in the department. Should the focused recruitment method of attracting persons 60 years of age or older for positions in the department fail, the State Personnel Board may consider using the supplemental certification process.

(4) That the State Department of Aging, in conjunction with the State Personnel Board, shall initiate contact with schools of gerontology for recruiting and upgrading 60-plus applicants for various professional and managerial positions in the State Department of Aging and in the area agencies on aging.

(5) That the State Department of Aging, in conjunction with the State Personnel Board, shall attempt to have at least one older person on each qualifications appraisal panel used to establish eligible lists for positions in the State Department of Aging.

(6) That the State Department of Aging, in structuring its departmental work force and job qualifications, shall utilize every opportunity to initiate and expand job sharing and flextime, and other innovative devices to provide more options and to provide a model for the hiring, training, and retraining of older persons, and that the department shall identify all positions with job-sharing potential.

(7) That the State Department of Aging shall assume the responsibility for overseeing 60-plus hiring enforcement goals within area agencies on aging and their contract service providers and shall require those areas to document steps for overcoming 60-plus hiring deficiencies.

(8) That the State Personnel Board recruitment manager shall be sensitive to the focused recruitment of older persons and shall consider older persons as a targeted population along with other minority groups. This manager shall work with major senior organizations and schools of gerontology in developing focused recruitment.

(9) That the Assembly Committee on Aging continue closely monitoring the 60-plus years of age staff progress of the State Department of Aging.

(10) That the State Department of Aging provide a report to the Legislature by January 1, 1983, on the accomplishment and progress towards the goals in paragraphs (1), (2), and (4) of this resolution; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of the State Department of Aging and the members of the State Personnel Board.

RESOLUTION CHAPTER 101

Assembly Concurrent Resolution No. 91—Relative to elderly persons.

[Filed with Secretary of State August 20, 1982.]

WHEREAS, There are 3.4 million people over the age of 60 in California, comprising 14.4 percent of the state's population; and

WHEREAS, By the year 2020, the over-60 population will have doubled; and

WHEREAS, Approximately 14 percent of the older Americans have incomes below the federal poverty line, another 10-15 percent are clustered just above it; and

WHEREAS, The Older Americans Act calls for government assistance to be rendered to those seniors who are in the greatest economic and social need; and

WHEREAS, The 1978 amendments to the federal Older Americans Act direct state agencies to develop an intrastate funding formula which must reflect the proportion of individuals among the planning and service areas in greatest economic or social need; and

WHEREAS, The 1978 amendments to the federal Older Americans Act define greatest economic need as the need resulting from an income at or below the poverty threshold established by the Bureau of the Census; and

WHEREAS, The 1978 amendments define greatest social need as the need caused by noneconomic factors which include physical and mental disabilities, language barriers, cultural or social isolation, including that caused by racial or ethnic status which restrict an individual's ability to perform normal daily tasks or which threaten his or her capacity to live independently; and

WHEREAS, The 1980 census shall include information on age, income levels, language proficiency, and disability; and

WHEREAS, The Legislature recognizes that the state's limited resources should be targeted toward those older Californians with greater need than others; and

WHEREAS, The Department of Aging follows federal definitions in administering programs for the aged, but does not provide operational definitions to area agencies on aging on how to measure greatest economic and social need; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Department of Aging is hereby requested, with reference to programs within the jurisdiction of the Department of Aging, to: (1) Conduct a study which would include simulations of hypothetical funding formulas which permit examination of various choices in categories of, and weights to be given to, language, income level, geography, the number or percentage of persons over 60 years of age, and race in order to provide a comprehensive set of choices for selection of the most

appropriate funding formula, (2) perform an analysis of conceptual and operational definitions of greatest economic and social need, which includes the input from each of the area agencies on aging as to the process they have utilized to develop local operational determinations of "greatest economic and social need", (3) consult with the schools of gerontology in this state as to the findings made in the study and the analysis; and be it further

Resolved, That the Department of Aging is requested to deliver to the legislative committees on aging a report summarizing the results of such a study by March 1, 1983; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of the Department of Aging.

RESOLUTION CHAPTER 102

Assembly Joint Resolution No. 60—Relative to rates of interest.

[Filed with Secretary of State August 20, 1982.]

WHEREAS, The discount rate policies of the Federal Reserve Board over the past 18 months together with the recent preemption of state usury law limitations on interest rates by federal statutes have created economic stagnation and accelerated rather than retarded inflationary pressures in the nation's economy for the foreseeable future; and

WHEREAS, The impact of high discount rates and unregulated interest rates will, if unchecked, lead inevitably to economic disaster with attendant tragic social consequences; and

WHEREAS, It is the opinion of the Members of Legislature of the State of California, that immediate federal action is necessary to forestall a nationwide economic disaster; 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 immediately enact legislation placing a maximum chargeable interest rate of 2 percent above the level at the time of lending of an index selected by Congress and the President for its accuracy as a measure of the average cost of funds; 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 103

Senate Concurrent Resolution No. 49—Relative to the Clyde V. Kane Safety Roadside Rest.

[Filed with Secretary of State August 23, 1982.]

WHEREAS, Clyde V. Kane, one of the last District Engineers in the former Division of Highways, Department of Public Works, died on July 13, 1981; and

WHEREAS, He served as District Engineer of District 08 in San Bernardino for the Division of Highways from 1953 to 1970, when he retired from state service; and

WHEREAS, Mr. Kane was a native of New Mexico, but moved with his family to California in 1912 at the age of 10 years and spent the remainder of his life as a California citizen; and

WHEREAS, He graduated as a civil engineer from the University of California in 1927 and immediately began working for the Division of Highways in San Bernardino, where he continued working for the next 42 years of his life, with the exception of military service in World War II; and

WHEREAS, Mr. Kane voluntarily entered the U.S. Army Engineers in midcareer, at age 40, to serve in World War II, and in that war he was Chief of Engineering Construction of the Pan American Highway in Central America and was in charge of constructing and maintaining the Ledo Road in China and Burma, greatly aiding the Allies' war effort; and

WHEREAS, He was instrumental in the construction and improvement of many of the major highways in Southern California, such as Interstate Routes 10, 15, and 40 and State Highway Routes 91, 18, and 50 during his service as District Engineer; and

WHEREAS, He was a pioneer in the field of ecology, seeking to preserve the native plant life of Southern California, and making the desert highways compatible with the natural environment, thus enabling travelers crossing the Mojave Desert to gain appreciation for the beauty of California's desert life; and

WHEREAS, On his retirement, he was recognized by John A. Legarra, then State Highway Engineer, as one of the outstanding highway builders in the United States; and

WHEREAS, Mr. Kane was recognized as an outstanding public servant and citizen of San Bernardino by numerous civic organizations; and

WHEREAS, Mr. Kane will be long remembered both by the Department of Transportation and by the state's professional engineers not only for his many tangible accomplishments but also for his inspired leadership, integrity, and fortitude during a period of great growth in the state's highway program; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly

thereof concurring, That the Midway Safety Roadside Rest, 32 miles east of Barstow on Interstate Route 15, be designated the Clyde V. Kane Safety Roadside Rest; and be it further

Resolved, That the Department of Transportation be directed to determine the cost of appropriate plaques and markers, consistent with the signing requirements for the National System of Interstate and Defense Highways, showing this official designation and, upon receiving donations from private sources covering that cost, erect those plaques and markers; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Director of Transportation.

RESOLUTION CHAPTER 104

Senate Concurrent Resolution No. 60—Relative to private interest and public participation entities.

[Filed with Secretary of State August 23, 1982.]

WHEREAS, State and local governments in urban areas throughout the United States are consolidating their efforts to promote economic development; and

WHEREAS, The Legislature proposes that "private interest and public participation entities" be fostered in California to enhance and develop the economy; and

WHEREAS, These entities would galvanize the economic interest of sizeable geographic areas within the state, and would create an important identity for the promotion of economic growth, and the resulting character of these entities would parallel efforts at the national level toward re-industrialization in the United States; and

WHEREAS, The first entity of this kind to organize in California is the Foothill Corridor Marketing Consortium, which embraces an area consisting of portions of eastern Los Angeles County, San Bernardino County, and Riverside County, to form a corridor delineated by the Foothill, San Bernardino, and Pomona Freeways; and

WHEREAS, The western boundary extends to the Long Beach Freeway and the eastern boundary is the population cluster encompassing the Cities of San Bernardino, Riverside, and Redlands; and

WHEREAS, The Foothill Corridor includes an international airport, three primary rail lines, and 15 institutions of higher learning, and is approximately 70 miles in length and 20 miles wide, enclosing an area of about 1,400 square miles; and

WHEREAS, The uniting of large geographical areas would encourage industrial growth and encourage the private sector to provide jobs, and would not require the expenditure of any tax

dollars; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature expresses its support of the further creation of private interest and public participation entities throughout the State of California, and requests that the appropriate state agencies provide available information for this purpose, at a cost equal to the actual cost incurred by the state agencies in providing the information.

RESOLUTION CHAPTER 105

Senate Concurrent Resolution No. 61—Relative to fair carnival contracts.

[Filed with Secretary of State August 23, 1982.]

WHEREAS, State-supported fairs contract with independent carnival companies during the fair season; and

WHEREAS, The transactions occurring between carnivals and the public are basically cash transactions, with no audit of actual revenues collected; and

WHEREAS, The fairs are usually paid a percentage of the gross taken in by the carnival companies; and

WHEREAS, At present, the Division of Fairs and Expositions of the Department of Food and Agriculture is unsure of the actual revenue taken in by the carnivals; and

WHEREAS, An increase in revenue of 75 percent was noted by a Canadian fair using a universal coupon system as a revenue control technique; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Division of Fairs and Expositions of the Department of Food and Agriculture is hereby requested to select and request two state-supported fairs to implement revenue control techniques with respect to carnival contracts for the 1983 fair season; and be it further

Resolved, That the two state-supported fairs report their findings on the revenue control techniques implemented by the division by January 1, 1984; and be it further

Resolved, That the division review all findings of the project and make recommendations to the Legislature on whether or not to require state-supported fairs to utilize revenue control techniques in the future; and be it further

Resolved, That all of the division's costs for the study and report be done within existing appropriations to the division; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Director of Food and Agriculture.

RESOLUTION CHAPTER 106

Senate Concurrent Resolution No. 62—Relative to electric rates.

[Filed with Secretary of State August 23, 1982.]

WHEREAS, The Public Utilities Commission is responsible under the Constitution and laws of the State of California to regulate privately owned electric utilities in the public interest; and

WHEREAS, Rapidly rising energy costs, reflected in electrical rate increases, are resulting in significant burdens on residential ratepayers; and

WHEREAS, Volatile interest rates and rising construction costs have greatly increased the burdens on utilities of constructing new electrical supply facilities and maintaining existing supply facilities; and

WHEREAS, The maintenance of dependable electrical generation, transmission, and distribution systems is vital to the economic health of California; and

WHEREAS, The establishment of cost-effective load management tariffs will allow individual ratepayers a measure of control over their electricity bills by choosing levels of supply and service appropriate to their assessments of the value of their electricity demands; and

WHEREAS, Cost-effective investments in load management can reduce rises in electricity costs by reducing the need to consume high-cost fuel supplies, and the need to construct new electrical generation facilities; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Public Utilities Commission is requested to take the following actions:

(1) Order the electric utilities under its jurisdiction to prepare and file tariffs providing for alternative rate schedules for electrical service options which will increase incentives and opportunities for cost-effective load management, to install metering and other devices necessary to the proper functioning of these tariffs, and to participate in research, development, and demonstration projects presenting a reasonable probability of resulting in information, procedures, and devices capable of expanding the range or certainty of cost-effective load management techniques, and

(2) Provide for the timely recovery of all costs incurred by electric utilities pursuant to these activities; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Public Utilities Commission.

RESOLUTION CHAPTER 107

Senate Concurrent Resolution No. 69—Relative to crime.

[Filed with Secretary of State August 23, 1982.]

WHEREAS, The problems of crime in California necessitate the establishment of crime prevention units in law enforcement agencies throughout the state and the expansion of community crime prevention efforts; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Commission on Peace Officer Standards and Training is hereby requested to prepare guidelines which may be followed by law enforcement agencies for community crime prevention. The guidelines shall include, but not be limited to:

(1) Promoting and increasing the adoption of crime prevention units and activities within law enforcement agencies.

(2) Promoting and increasing public participation in crime prevention.

(3) Expanding the use of analysis of crime information for community crime prevention; and be it further

Resolved, That the Commission on Peace Officer Standards and Training require that the course of training leading to the basic certificate issued by the commission shall, on and after July 1, 1983, include adequate instruction in procedures for community crime prevention and that the commission maintain and update the existing course for the training of specialists in crime prevention; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Commission on Peace Officer Standards and Training.

RESOLUTION CHAPTER 108

Senate Joint Resolution No. 47—Relative to federal impact aid to California schools.

[Filed with Secretary of State August 23, 1982.]

WHEREAS, Since 1951, the federal government has made payments to school districts educating students from federally connected families whose parents work on or who live and work on federal property not subject to state property taxes; and

WHEREAS, The federal government, under the McCullough vs. Maryland decision, does not pay state property taxes; and

WHEREAS, Post exchanges and commissaries on federal property do not collect state sales tax; and

WHEREAS, The federal government, under the provisions of the

Soldiers and Sailors Relief Act, enables military personnel stationed in California to be exempt from California state income taxes; and

WHEREAS, The federal government is the largest property holder in the state and has military installations which occupy valuable property around the state's major harbors and which cover hundreds of square miles in other areas of the state; and

WHEREAS, In the 1980–81 fiscal year, the federal government burdened the California schools with 46,046 students whose parents both lived and worked on nontaxpaying federal property, and 183,642 students whose parents worked on nontaxpaying federal property, although the parents lived on property that did pay property taxes; and

WHEREAS, The federal government has instituted a policy of eliminating impact aid that has reduced impact aid revenues of 413 school districts in California from $93,957,170 in the 1979–80 fiscal year to $48,754,896 in the 1981–82 fiscal year; and proposes to further reduce impact aid payments to the state in the 1982–83 fiscal year to $34,312,000; and

WHEREAS, The loss of these funds to the school districts of California has created a situation that has drastically reduced education offerings to all students and has shifted the burden to other residents who do pay taxes; 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:

(a) Restore impact aid funding for all federally connected students in California.

(b) Institute a policy which will recognize the federal obligation to assist school districts in meeting the burden of educating children from federally connected families who are living or working on nontaxpaying federal property.

(c) Recognize that the provision of an adequate educational program for the military dependents and other federally connected children is beneficial to the morale of citizens serving in the armed forces of the United States and to those communities that are impacted by federal activities; 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 109

Senate Joint Resolution No. 67—Relative to the 195th Anniversary of the United States Constitution.

[Filed with Secretary of State August 23, 1982.]

WHEREAS, The Constitution of the United States of America is an inspired document "of the people, by the people, and for the people"; and

WHEREAS, The people's freedom of religion, of speech, of the press, to peaceably assemble, and to petition, of their own free will and accord, are inspired ideas set forth in the Constitution of the United States; and

WHEREAS, The Constitution has sheltered the pursuit of free enterprise, resulting in the extraordinary availability of jobs, food, clothing, and shelter in every community in America; and

WHEREAS, On September 17, 1787, one hundred and ninety-five years ago, George Washington, the chairman of the constitutional convention, Benjamin Franklin, and thirty-seven other great Americans approved this immortal instrument of government; now, therefore, be it

Resolved by the Senate and the Assembly of the State of California, jointly, That the President of the United States of America, the Congress of the United States, the Governor of the State of California, the governors of the several states, and the legislatures thereof be respectfully urged to join with all Americans in proclaiming our fidelity to the principles contained in the Constitution of the United States; and be it further

Resolved, That every citizen of the United States is urged to actively participate in the observance of this anniversary and advance in understanding of the Constitution so that we shall "secure the blessings of liberty to ourselves and our posterity"; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Governor of California, and to the governors and legislatures of each of the 50 states.

RESOLUTION CHAPTER 110

Assembly Concurrent Resolution No. 109—Relative to the Southwest Museum.

[Filed with Secretary of State August 26, 1982.]

WHEREAS, The Southwest Museum is the oldest museum in California; and

WHEREAS, The founder of the Southwest Museum was Charles Lummis, who was an early California writer, journalist, and historian; and

WHEREAS, The Southwest Museum's collections of American Indian and Spanish colonial art and artifacts are among the most important in the nation; and

WHEREAS, The Southwest Museum has agreed to pay the cost of purchasing and erecting directional signs on State Highway Route 11 that indicate the direction to the Southwest Museum; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Department of Transportation is hereby requested to erect and maintain directional signs at the northbound and southbound exits of Avenue 43 from State Highway Route 11 in Highland Park, Los Angeles, to indicate the direction to the Southwest Museum if the Southwest Museum pays the cost of purchasing and erecting the signs; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the California Transportation Commission and the Director of Transportation.

RESOLUTION CHAPTER 111

Assembly Concurrent Resolution No. 123—Relative to State Highway Route 1.

[Filed with Secretary of State August 26, 1982.]

WHEREAS, State Highway Route 1 in Los Angeles County, known as the Pacific Coast Highway, is confined between bluffs and mountains on one side and ocean beaches on the other side in the Malibu-Pacific Palisades area; and

WHEREAS, There are six lanes of highway pavement for 3.5 miles between McClure Tunnel and Temescal Canyon and four lanes of highway pavement for 8.5 miles between Temescal Canyon and Malibu Canyon, with a painted ten foot wide continuous median serving as a left turn lane; and

WHEREAS, Traffic volumes are near or in excess of designed capacity with increasingly severe congestion and delays; and

WHEREAS, There are no major highway improvement projects planned; and

WHEREAS, Major deficiencies exist, including increasing numbers of vehicles; the side friction associated with driveways; shoulder parking and pedestrians; particularly heavy recreational

use of beaches; alignment; mixture of commuter, through, and recreational traffic; accidents, earth slides which occur along the palisades sometimes blocking the highway; and no reasonable alternate routes; and

WHEREAS, New planned or anticipated growth will cause traffic far in excess of the existing capacity; now, therefore, be it

Resolved, by the Assembly of the State of California, the Senate thereof concurring, That the Department of Transportation conduct a feasibility study of measures to reduce traffic congestion on State Highway Route 1 between the McClure Tunnel and Malibu Canyon Road and report the results of the study with recommendations to the Legislature by December 31, 1983; and be it further

Resolved, That the department establish a Pacific Coast Highway Advisory Committee composed of representatives of citizens groups and affected governmental agencies to assist the department in identifying, reviewing, and evaluating traffic congestion reduction methods; and that the committee have representatives from, but not limited to, the Department of the California Highway Patrol, the California Coastal Commission, the California Department of Parks and Recreation, the Los Angeles County Departments of Roads and of Beaches, and the Malibu Township Council and Chamber of Commerce; and be it further

Resolved, That the department shall utilize existing funds and staff to conduct the study requested, and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Director of Transportation.

RESOLUTION CHAPTER 112

Assembly Concurrent Resolution No. 131—Relative to the Llano disposal site.

[Filed with Secretary of State August 26, 1982.]

WHEREAS, There is a disposal site for hazardous waste material located in the community of Llano in Los Angeles County; and

WHEREAS, Senate Bill 618 of the 1981–82 Regular Session, which was chaptered as Chapter 756 of the Statutes of 1981, created the Hazardous Substance Account which is to be funded by the state in the average amount of $10 million per year for 10 years; and

WHEREAS, This "superfund" should be given an opportunity to work, as it is preferable to a piecemeal approach to restoring hazardous waste disposal sites; and

WHEREAS, The State Department of Health Services has ranked the Llano disposal site ninth in priority among the 11 disposal sites which are subject to short-term remedial action by the department, upon the basis that there is no groundwater contamination nor are

there any persons residing near the site; and

WHEREAS, The State Department of Health Services will spend approximately $100,000 on the Llano disposal site, including short-term remedial action, fencing, some cleanup, and hauling; 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 State Department of Health Services to take the following actions:

(a) Review the Llano disposal site's priority ranking on a regular basis.

(b) Upgrade the ranking of the Llano disposal site, if possible.

(c) Fulfill the commitment the department has made to restore the Llano disposal site.

(d) If at all feasible, engage in accelerated and more extensive restoration activities for this site than it has currently planned.

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Director of Health Services and to the Governor.

RESOLUTION CHAPTER 113

Assembly Concurrent Resolution No. 136—Relative to veterans.

[Filed with Secretary of State August 26, 1982.]

WHEREAS, Veterans have made a unique contribution to the history of the United States and to the State of California; and

WHEREAS, Veterans are the subject of several specialized state and federal programs; and

WHEREAS, State employees providing services to veterans should be familiar with the special needs and experiences of veterans; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the State Personnel Board provide for the appointment of a veteran who is a member of, or endorsed by, a federally recognized veterans' group or a nonprofit community-based veterans' organization to any oral examination review panel interviewing for any state class which involves the provision of specialized services to veterans; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the State Personnel Board.

RESOLUTION CHAPTER 114

Senate Concurrent Resolution No. 46—Relating to state highways and guideways.

[Filed with Secretary of State August 26, 1982.]

WHEREAS, An adequate system of highways is essential to the social and economic well-being of the citizens of this state; and

WHEREAS, Public recognition of the need for completion of vital state highway and guideway projects is increasing; and

WHEREAS, Funding shortages have delayed many of these vitally needed projects; and

WHEREAS, The internal administrative and budgetary policies of the Department of Transportation are inadequate to permit a comprehensive and thorough analysis of existing or projected revenue needs; and

WHEREAS, As a result of funding limitations, many vital state highway and guideway projects cannot be included in the 1982 State Transportation Improvement Program; and

WHEREAS, To enable the Legislature to act most effectively when addressing the funding requirements, a specific identification of those high-priority state highway and guideway improvements which are capable of early implementation and which best meet the requirements of the people of California is needed; and

WHEREAS, Many of these high-priority state highway and guideway improvements have not been identified and the revenue requirements for their implementation have not been estimated; and

WHEREAS, The California Transportation Commission is responsible for coordinating and developing, in cooperation with local and regional entities, a comprehensive balanced transportation planning policy for the movement of people and goods within the state; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the California Transportation Commission, in cooperation with local and regional entities, is hereby requested to identify specific high-priority state highway and guideway projects; and be it further

Resolved, That each highway project identified should be capable of implementation and substantial completion within five years following submission of this study and be a high-priority increment of the California freeway and expressway system which will satisfy one or more of the following criteria:

(1) Is recognized as having potential for improving highway safety.

(2) Is an improvement necessary to complete an important link of the California freeway and expressway system.

(3) Is a necessary addition to the traffic carrying capacity of an

existing element of the California freeway and expressway system; and be it further

Resolved, That each guideway project identified should be capable of implementation and substantial completion within five years following submission of this study and be a high-priority increment of the California transportation system which will satisfy one or more of the following criteria:

(1) Is recognized as having potential for reducing highway congestion.

(2) Is an improvement necessary to provide service which supplements the existing system of local streets or the state highway system, or both; and be it further

Resolved, That the commission shall, in identifying high-priority projects, give consideration to their geographic distribution as well as meeting statewide needs for inter-regional highway and guideway service; and be it further

Resolved, In order to assure that the Legislature is provided information necessary to assess total funding requirements, the commission shall specify the estimated cost of each identified improvement; and be it further

Resolved, That local and regional entities and the Department of Transportation shall cooperate with and provide assistance to the commission to facilitate the identification and estimated cost of each improvement; and be it further

Resolved, That the commission is requested to submit a report containing the identified improvements to the highways in this state and specified costs to the Legislature not later than January 1, 1983; and be it further

Resolved, That the commission is requested to submit a separate report containing the identified improvements to the guideways in this state and specified costs 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 California Transportation Commission.

RESOLUTION CHAPTER 115

Senate Joint Resolution No. 53—Relative to tank truck vehicles.

[Filed with Secretary of State August 26, 1982.]

WHEREAS, In December 1981, the Department of the California Highway Patrol published a study on tank truck accidents entitled "California Tank Truck Accident Survey," examining tank truck accidents, comparing them with all truck accidents, and determining what action might be necessary to reduce their occurrence and severity; and

WHEREAS, The general findings under the study were that:

(1) Tank trucks are involved in accidents that are more severe in terms of fatalities and injuries than other truck accidents.

(2) Tank truck accidents differ from other truck accidents mostly in terms of overturns, cargo spills, fires, and mechanical defects.

(3) Tank trucks hauling liquids require special skill of the driver in lane-changing or swerving maneuvers and on curves.

(4) Methods are available for modifying the design of tank trucks to reduce the number of tank truck caused accidents and the hazardous effects of the accidents that would still occur.

(5) Guidelines are available for establishing performance limits for improved stability against overturn and improved protection against cargo leakage after an overturn; and

WHEREAS, Additional findings under the study were that almost 60 percent of the cargoes of tank truck vehicles are composed of hazardous materials, that is, cargoes of petroleum products, chemicals or acids or compressed or liquefied gas, with over half of the cargoes carrying petroleum products; and

WHEREAS, Fatal collisions such as the recent collision occurring in California in the Caldecott Tunnel involving a tank truck vehicle carrying a cargo of flammable products, causing numerous deaths and injuries, must be safeguarded against; and

WHEREAS, Tank truck vehicles were found in the study to be unstable, overturning far more frequently than trucks in general; and

WHEREAS, When a tank truck overturns in an accident, the occurrence of a fatality is twice as likely as in a nonoverturn tank truck accident; and

WHEREAS, After a tank truck overturns 53 percent of the spills were found in the study to have occurred through cracks, ruptures or punctures of the tank, resulting in fires in almost half of these spill accidents, with 40 percent of these fires due to cargoes of gasoline; 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 Congress to investigate and regulate by enacting appropriate laws and regulations, the design of tank truck vehicles, including, but not limited to, establishing standards for the improvement of roll and tilt stability, pressure retention and leakage limits on dome covers, vents, and safety valves, equipment maintenance, equipment inspection, and the training and selection of tank truck drivers; and be it further

Resolved, That the Congress is urged to review research performed by both the federal government and other organizations as part of the requested investigation regarding the design of tank truck vehicles, and to consult with California authorities in the development of standards for the design of tank truck vehicles; and be it further

Resolved, That the Congress is requested to hold public hearings

in adopting practical solutions to design deficiencies of tank truck vehicles to be applicable nationwide; 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 116

Senate Concurrent Resolution No. 59—Relative to disabled state employees.

[Filed with Secretary of State August 27, 1982.]

WHEREAS, The disability of state employees, in terms of the cost of benefits paid and the loss in productivity of those disabled, represents a substantial expense both to the state taxpayer and the disabled individual; and

WHEREAS, The various benefits and rehabilitation programs available to disabled state employees are the responsibility of a variety of agencies; and

WHEREAS, This situation may result in a duplication of benefits available, an ineffectiveness of rehabilitation efforts, and an inequity in the treatment of individual employees; and

WHEREAS, Any significant changes in this area have substantial fiscal and administrative implications; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature of the State of California requests the heads of the following departments, agencies or entities to establish a study team under the direction of the Department of Personnel Administration, to be comprised of representatives of the Public Employees' Retirement System, the Employment Development Department, the Department of Finance, the Department of Rehabilitation, the Department of Industrial Relations, the State Personnel Board, the Department of General Services, the State Compensation Insurance Fund, and the California State University; and be it further

Resolved, That the study team determine all of the following:

(a) The salary replacement requirements of disabled state employees.

(b) The potential savings to the state of any change in the current rehabilitation program.

(c) The aggregate benefits currently available to disabled state employees and related costs, and the extent, if any, to which the benefits are being duplicated.

(d) The existing rehabilitation programs available and the

effectiveness of these programs.

(e) Any recommendations necessary to implement an effective rehabilitation program and adequate disability benefits.

(f) The impact of the collective bargaining process on implementation of these programs and benefits; and be it further

Resolved, That the study team, within the funds budgeted for the participating state agencies for the 1982–83 fiscal year, consult with appropriate employee organizations and legislative staff and prepare a preliminary report of its study, to be presented at a public hearing conducted by the Department of Personnel Administration no later than July 31, 1983; and be it further

Resolved, That the study team prepare a final report of its study, to include written comment from employee organizations and other interested parties, together with its recommendations, to the Legislature no later than October 31, 1983.

RESOLUTION CHAPTER 117

Senate Concurrent Resolution No. 70—Relative to the revitalization of south central Los Angeles.

[Filed with Secretary of State August 27, 1982.]

WHEREAS, Federal, state, and local governments throughout the United States are consolidating their efforts to stimulate private and public economic development in urban areas; and

WHEREAS, Legislation is pending before the United States Congress and the California Legislature which would establish procedures for state and local governments to designate enterprise zones as one means for encouraging private sector investment in economically depressed urban areas; and

WHEREAS, The revised Century Freeway consent decree, entered by order of the Federal District Court for the Ninth Circuit on September 20, 1981, provides for at least 3,700 housing units for the Housing Replenishment Program and establishes a housing trust fund to be administered by the Department of Housing and Community Development; and

WHEREAS, The Legislature finds that certain blighted areas exist in the central part of the south central City of Los Angeles which are demonstrated physical, social, or economic liabilities that require redevelopment in the interest of the health, safety, and general welfare of the people of that community and of the State of California; and

WHEREAS, There is an urgent need to continue to revitalize that economically depressed area within the south central City of Los Angeles to provide for low- and moderate-income residential housing and to attract and stimulate orderly business, commercial,

and industrial development; and

WHEREAS, The Legislature was pleased to learn that the City of Los Angeles, the County of Los Angeles, segments of the private sector, and community entities have developed, launched, and committed themselves to a program to preserve the valuable land located within the first impact zone of the Century Freeway known as the Goodyear site, in order to keep that resource available to serve the area's residents and benefit the economy of the City and the County of Los Angeles and of the State of California as a whole; and

WHEREAS, The bold plans of these public and private entities should be fostered because the extraordinary redevelopment and enterprise programs planned for the project site offer an unprecedented opportunity to revitalize the economically depressed inner-city urban area by providing new housing, jobs, shopping areas, and recreational and other public facilities to serve the residents of the Century Freeway corridor; and

WHEREAS, The unification of these partnership efforts by state and local governments and community organizations to provide timely assistance to the revival of decaying sections of south central Los Angeles would provide the incentive for industrial growth and encourage the private sector to invest in the provision of critically needed jobs and affordable housing to preserve and enhance the economic well-being of the citizens of California, and would be consistent with the concepts of state autonomy and local home rule; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature supports and encourages the continued commitment of the City of Los Angeles and the County of Los Angeles to, and the continued involvement of the private sector and community organizations in, the redevelopment and revitalization of the economically depressed south central Los Angeles area, in order to create an environmentally and economically balanced community; and be it further

Resolved, That the Legislature requests that the appropriate state agencies provide all available information and assistance to promote the accomplishment of those goals.

RESOLUTION CHAPTER 118

Senate Joint Resolution No. 64—Relative to agriculture disaster emergency loans.

[Filed with Secretary of State August 27, 1982.]

WHEREAS, Agriculture is California's chief industry, leading the country with over $13 billion in gross cash farm receipts and providing many hundreds of thousands of jobs from on-farm

production and the processing and marketing sectors; and

WHEREAS, The impact of California agriculture from the production of 250 various crops and livestock products extends far beyond the boarders of this state and significantly affects the entire nation's balance of trade; and

WHEREAS, The Counties of Fresno and Tulare rank first and second, respectively, as California's leading agricultural counties in total value of production, amounting to over $3.3 billion in sales annually; and

WHEREAS, Natural disasters in the form of hail storms on March 28, 1982, and frost on or about April 7, 1982, devastated the southwestern and southeastern portions of both counties, extensively damaging crops; and

WHEREAS, The Fresno County Agricultural Commissioner has documented that 3,019 growers suffered losses of $122,273,852 to their raisin, winegrape, tablegrape, plum, nectarine, peach, apricot, strawberry, and almond crops as a direct result of these two natural catastrophes; and

WHEREAS, The Tulare County Agricultural Commissioner has assessed the damage to be $20,343,244, affecting 15,975 acres of virtually the same crops held by approximately 1,500 farmers; and

WHEREAS, The extent of the damage due to the unseasonable frost varied from 5% to 90%, and the damage due to the hail varied from 10% to 100%, depending for both on the specific location and crop type; and

WHEREAS, Most of the growers hit by the disasters have small farming operations and are not diversified enough to readily absorb their losses; and

WHEREAS, Unemployment is abnormally high in the area with the economy in the two counties significantly impacted by the natural disasters, especially in the many small farm communities; and

WHEREAS, The Boards of Supervisors for Fresno and Tulare Counties have requested the Governor of California to designate their counties as United States Department of Agriculture (USDA) Farmers Home Administration emergency loan areas and the Governor, in turn, has made such a request to the federal government; and

WHEREAS, The USDA County Emergency Boards developed damage assessment reports in conjunction with the agricultural commissioners for Fresno and Tulare Counties and the USDA State Emergency Board reviewed these reports, concurred with their damage assessments and has recently referred their conclusions directly to the Secretary of Agriculture for his determination; and

WHEREAS, It is in the best interest of the State of California, and the United States as a whole, that the Secretary of Agriculture make a favorable finding in this matter as soon as possible; 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 United States Secretary of Agriculture to make a favorable finding on the designation of Fresno and Tulare Counties in the State of California as USDA Farmers Home Administration emergency loan areas at the earliest time possible; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of Agriculture, to the Speaker of the House of Representatives, and to each Senator and Represenative from California in the Congress of the United States.

RESOLUTION CHAPTER 119

Assembly Concurrent Resolution No. 112—Relative to weight fees.

[Filed with Secretary of State August 27, 1982.]

WHEREAS, The Legislature recognizes that California's farm vehicles utilize the highways and roads of the state on a very limited basis, yet pay the same weight fees as other commercial vehicles traveling five to 10 times the annual mileage of farm vehicles; and

WHEREAS, This inequity was documented as early as June 1976 in a report of the office of the Auditor General to the Joint Legislative Audit Committee entitled "Equity of Highway User Taxes"; and

WHEREAS, No fewer than one-half of all other state governments recognize the limited use of highways and roads by farm vehicles and provide distinct consideration for farm vehicles for registration purposes; and

WHEREAS, In 1981, the Legislature enacted a transportation finance statute (Chapter 541 of the Statutes of 1981), which increases weight fees paid on all commercial vehicles, including farm vehicles, by 50 percent; and

WHEREAS, The Legislature recognizes the importance of equity in the payment of weight fees; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislative Analyst, after consultation with the Assembly and Senate Offices of Research and the industries affected, is hereby requested to develop information which can be used to determine the most cost-effective method of establishing a class of farm vehicles, distinct from commercial truck classification, for the purpose of paying weight fees and to submit a report thereon to the Legislature not later than July 1, 1983; and be it further

Resolved, That the information shall consider, but not be limited to consideration of, such features as limitations on usage, vehicle weight limits, limits on mileage traveled, a separate schedule of weight fees not to exceed a specified percentage of those specified in Section 9400 of the Vehicle Code, a means by which the Department of Motor Vehicles could verify an applicant as a bona

fide farmer, a means for keeping net revenues from weight fees unchanged, and a means of identification for the farm vehicle; and be it further

Resolved, That the information shall include a cost analysis for establishing a class of farm vehicles; and be it further

Resolved, That the Legislative Analyst shall utilize existing funds and staff to compile the information requested; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Legislative Analyst.

RESOLUTION CHAPTER 120

Assembly Concurrent Resolution No. 122—Relative to the State Building Standards Commission.

[Filed with Secretary of State August 27, 1982.]

WHEREAS, The Legislature passed and the Governor signed Senate Bill No. 331 during the 1978–79 session (Chapter 1152 of the Statutes of 1979), establishing broad, new powers and responsibilities within the State Building Standards Commission; and

WHEREAS, In January, 1982, it came to the attention of the Legislature that the commission is contemplating the publication and sale of the Uniform Plumbing Code, a model code, as a state document under provisions contained in SB 331; and

WHEREAS, There exists doubt as to the intent of the Legislature with respect to those provisions upon which the commission now relies for its authority to publish and sell this and, possibly, other model codes already published by organizations responsible for their content; and

WHEREAS, Legislation is under consideration at the current session that should resolve the question of this authority of the commission beyond January 1, 1983, but not for the balance of the calendar year 1982; 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 State Building Standards Commission to delay the publication in whole, or in part, of the text of any model code until January 1, 1983; and be it further

Resolved, That, in the event that Senate Bill No. 1856 is enacted at the 1981–82 legislative session, the State Building Standards Commission and each of the governing bodies of the organizations which publish the model code enumerated in Section 17922 of the Health and Safety Code, submit to the Legislature individual reports on any progress that may have occurred pursuant to Senate Bill No. 1856 with respect to proposed agreements to publish each respective uniform code and its corresponding part of the State Building

Standards Code as an incorporated document in accordance with the legislative intent that the respective organizations reach an agreement acceptable to all parties concerned as soon as practicable and the report shall be filed by June 30, 1983; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the members of the State Building Standards Commission.

RESOLUTION CHAPTER 121

Assembly Concurrent Resolution No. 142—Relative to commending Vin Scully.

[Filed with Secretary of State August 27, 1982.]

WHEREAS, Vin Scully, the "Voice of the Dodgers" for the past 32 seasons, has been named the 1982 recipient of the Ford C. Frick Award, and in recognition thereof, is deserving of special honor and the highest commendations; and

WHEREAS, The Ford C. Frick Award was established in 1978, and is presented annually to members of the broadcasting profession who have made major contributions to the game of Baseball; and

WHEREAS, A native of New York, Vin Scully attended Fordham Prep and graduated in 1944, and after service in the United States Navy, returned to Fordham University and graduated in 1949; and

WHEREAS, In 1950, he joined the Brooklyn Dodgers' announcing team headed by Red Barber, and accompanied the Dodger organization in its move to Los Angeles in 1958; and

WHEREAS, Vin Scully, who as a little boy declared his intention to become a sports announcer, has been aptly described as entertaining, precise, proficient, charming, friendly, outgoing, smooth, relaxed, warm, knowledgeable, intelligent, literate, concise, well-prepared, and colorful, and his many fans who have been able to "see" and enjoy what Vin Scully has had to say over the years will wholeheartedly agree with this description; and

WHEREAS, Vin credits Red Barber with instilling in him the proper attitude and stressing those things which have made him such a success—getting to the park early, doing his homework, being prepared, and being accurate; and

WHEREAS, He has covered many of Baseball's most thrilling moments, including Sandy Koufax's four no-hitters, Hank Aaron's 715th home run, Maury Wills' 104 stolen bases, Don Drysdales' scoreless innings streak, and the Dodgers' World Series triumphs over the New York Yankees in 1955, 1963, and 1981, and throughout his career he has distinguished himself with his natural talent combined with a splendid voice and a fluid delivery, and he has elevated the business of broadcasting Baseball to an art; and

WHEREAS, In 1974, the Hollywood Radio and Television Society saluted Vin Scully and presented him with a plaque which contained the words "We See What You Say"; in 1976, Dodger Fans showed their admiration of Vin when they voted him the "Most Memorable Personality" in the Dodgers' Baseball history; and in 1978, he was named by the National Sportscasters and Sportswriters Association as "Sportscaster of the Year", and he has won the California award as the top sportscaster on more than 15 occasions; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature commends Vin Scully, and extends heartiest congratulations to him, upon the occasion of his receipt of the Ford C. Frick Award, for the many years of enjoyment he has provided so many people and for being such an outstanding reflection of the enjoyment and excitement the game of Baseball has to offer; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a suitably prepared copy of this resolution to Vin Scully.

RESOLUTION CHAPTER 122

Assembly Concurrent Resolution No. 152—Relative to memorializing Ralph N. Kleps.

[Filed with Secretary of State August 27, 1982.]

WHEREAS, It was with the most profound sorrow and a deep sense of loss that word was received of the passing of Ralph N. Kleps, former Legislative Counsel and retired Chief Administrator of the California Courts, on August 15, 1982, in San Francisco, at the age of 68; and

WHEREAS, Mr. Kleps was one of the few persons in state service to hold positions of great responsibility in all three branches of state government—executive, legislative, and judicial; and

WHEREAS, Born in Batavia, New York, and a graduate from Cornell University and Cornell Law School, Mr. Kleps began his public service career in 1941 as law secretary to the Chief Justice of the California Supreme Court, Phil S. Gibson, thereafter he served as Director of the Administrative Agencies Survey for the California Judicial Council, which survey culminated in the enactment in 1945 of the California Administrative Procedure Act; and

WHEREAS, Mr. Kleps became the first Chief of the Division of Administrative Procedure when that office was created in 1945 pursuant to the legislation and contributed greatly during his tenure in that office in the formulation of the framework and guidelines for the conduct of hearings by state administrative agencies; and

WHEREAS, In 1950, following the appointment of Fred B. Wood, the then Legislative Counsel, to the District Court of Appeal, Mr.

Kleps was selected as Legislative Counsel, serving in that office for 11 years, during which time he won the respect and friendship of the Members of the Legislature and the employees of the Legislative Counsel Bureau for his legal knowledge, impartiality, and administrative abilities in providing legal assistance and counsel to the Members of the Legislature; and

WHEREAS, He was appointed in 1962 as director of the newly created position of Administrative Director of the Courts; and

WHEREAS, During his tenure as Administrative Director of the Courts, Mr. Kleps' expertise and professionalism as a lawyer and administrator came to fore as he organized the staff and established the procedures which have enabled the Administrative Office of the Courts to provide invaluable service to the Judicial Council and the entire court system, including staff services to provide legal research as to procedural rules and constitutional and statutory amendments, programs to help solve administrative and management problems of the courts, judicial statistical research reports to the Legislature on the need for additional judges, administration of state funds for the appellate courts, continuing legal education and court management programs for judges, and liaison services for all courts and for state and local agencies concerned with judicial administration; and

WHEREAS, In 1977, Mr. Kleps resigned from state service but remained active in the field of law by writing numerous legal articles on court administration; and

WHEREAS, Mr. Kleps was nationally known among lawmakers as Chairman of the National Legislative Conference, and as a consultant and author of numerous legal articles on court administration, including the leading and authoritative law review article, "Certiorarified Mandamus; Court Review of California Administrative Decisions 1939–49," which was published in the Stanford Law Review; and

WHEREAS, Ralph N. Kleps' professional activities have been characterized by his sterling professional competence, tireless industry, courtesy and fairness, and loyal, distinguished service, and it is appropriate at this time that the many achievements of this distinguished public servant be acknowledged; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the members express their deepest sympathy at the passing of Ralph N. Kleps, and by this resolution, memorialize his illustrious record of personal and professional achievement and dedicated service on behalf of his community and 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 Chief Clerk of the Assembly transmit a copy of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 123

Assembly Joint Resolution No. 65—Relative to the establishment of a National Academy of Peace and Conflict Resolution.

[Filed with Secretary of State August 27, 1982.]

WHEREAS, Armed conflict between nations and within our society is increasing at an alarming rate, and recent conflicts throughout the world make it necessary to develop new and creative means of managing conflict before it escalates into violence, so that the greatest challenge facing the people of the State of California and this nation is the development of new techniques to resolve and prevent violent conflict; and

WHEREAS, The Commission on Proposals for the National Academy of Peace and Conflict Resolution has recommended that a National Academy of Peace and Conflict Resolution be established to increase our nation's capability of responding to national and international conflicts and to protect and preserve the life of the citizens of this nation and the world; and

WHEREAS, The resolution of conflicts, whether personal, local, national, or international, can best be accomplished by the use of trained personnel, and the systematic use of trained personnel, in the resolution of international conflicts could save this nation and others countless billions of dollars and untold human suffering; and

WHEREAS, The Peace Academy's immediate impact would be symbolic in that it would demonstrate in a visible, tangible form that history's most powerful nation does have a permanent interest in and commitment to peace; and

WHEREAS, Far beyond this immediate impact will be the long-range effect of the Peace Academy as it attracts the best and the brightest from our own society and hopefully also from many other nations (until they etablish their own Peace Academies), trains them in the rapidly developing social science of Conflict Resolution, and sends them back to join the growing worldwide pool of experts in peacemaking, who will be available to spot and damp down potential explosion points before they can contribute to the worldwide levels of tension, conflict, and violence; and

WHEREAS, In this way the closed circle and rising spiral of unresolved conflict, violence, increased tension, and insecurity leading to more conflict can be broken, and that spiral perhaps directed in a downward course leading to lower levels of tension all across world society; and

WHEREAS, It has been hypothesized that every international conflict finds much of its base in the internal conflicts within the societies involved, so that Peace Academy graduates and second-generation students and trainees of such graduates will achieve major accomplishments in solving internal societal conflicts and thereby gradually lower the level of tension and conflict in every

major society, thus reducing the likelihood of individuals or populations accepting international violence as a solution to their problems; and

WHEREAS, Although working for disarmament is important, and to the degree that the existence of our horrible overkill potential augments the levels of international tension which in turn lead to increased conflict and violence, such efforts are an essential contribution to a more stable world; nonetheless, working solely for disarmament can also lead to a focus on treating effects, rather than causes, because the reasons people are willing to have their life's earnings poured into massive "defense" budgets are their feelings of fear and insecurity resulting from worldwide levels of tension, conflict, and violence; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the President and Congress are respectfully memorialized to establish a National Academy of Peace and Conflict Resolution dedicated to training persons in peaceful conflict resolution techniques; and be it futher

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 124

Assembly Joint Resolution No. 86—Relative to gas and electric utility rates.

[Filed with Secretary of State August 27, 1982.]

WHEREAS, Public utilities providing gas and electric energy to consumers in California have historically been governed by the "flow-through" method of accounting for current tax reductions in ratemaking; and

WHEREAS, The "flow-through" method of accounting allows the utilities' current tax reductions to be immediately reflected in lower rates to utility customers; and

WHEREAS, The federal Economic Recovery Tax Act of 1981, proposed and signed into law by President Reagan, provides that in order to be eligible for the investment tax credit and accelerated cost recovery tax reductions provided by that act, public utilities must use the "normalization" method of accounting in ratemaking; and

WHEREAS, The "normalization" method of accounting does not allow the utilities' current tax reductions to be immediately reflected in lower rates to utility customers; and

WHEREAS, This federal act therefore has the effect of granting

windfall tax breaks to investor-owned utilties and prohibits them from passing the savings on to the ratepayers; and

WHEREAS, Gas and electric utility rates have increased extraordinarily rapidly in California in recent years, causing severe financial burdens and economic dislocations for utility customers; and

WHEREAS, In 1982, 687 million dollars in gas and electric utility rate increases for California consumers are directly attributable to the use of the "normalization" method of accounting as required by this federal act, and 844 million dollars in 1983 gas and electric utiltity rate increases will occur as a direct result of the provisons of that act; and

WHEREAS, Failure to pass the tax relief on to consumers is, in effect, a utility rate increase of a magnitude such as was recently experienced in the 909 million dollar rate increase granted to Pacific Gas and Electric Company, approximately 20 percent of the increase being due to the effects of the Economic Recovery Tax Act of 1981; 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 revise the federal Economic Recovery Tax Act of 1981 to provide that the tax benefits to investor-owned electric and gas utility companies resulting from changes in accelerated depreciation rules, investment tax credits and other tax deductions be passed through to the utilities' ratepayers; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Chairman of the House and Senate Committees on Taxation.

RESOLUTION CHAPTER 125

Assembly Joint Resolution No. 89—Relative to federally assisted student financial aid programs.

[Filed with Secretary of State August 27, 1982.]

WHEREAS, A strong national economy and defense relies upon a well-trained pool of human resources; and

WHEREAS, It is within the national interest to assist all citizens in their efforts to avoid prolonged dependence on federal assistance programs; and

WHEREAS, Postsecondary educational opportunities have proven beneficial in aiding citizens in obtaining long-term, unsubsidized

employment; and

WHEREAS, The attainment of this employment contributes to the national economy and enables these individuals to repay the national investment in each person so employed; and

WHEREAS, The State of California has demonstrated its longstanding commitment to maintaining accessibility to quality postsecondary education; and

WHEREAS, The approval of recent and ongoing efforts to cut student financial aid programs will operate to reduce current funding for federal financial aid assistance to students in California by approximately $132.6 million and will result in the loss of over 198,000 student financial aid awards in the fiscal year 1982–83; and

WHEREAS, Federal outreach programs such as Special Programs for Disadvantaged Students (TRIO) and student financial assistance programs such as the State Student Incentive Grants, Pell Grants, Supplemental Education Opportunity Grants, Work-Study, and Guaranteed Student Loans have expanded the opportunities for postsecondary education; and

WHEREAS, Federally proposed reductions in these programs will eliminate the opportunities which are available to a significant number of this nation's citizens to successfully enter into and complete a program of postsecondary education; 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 each Senator and Representative from California in the Congress of the United States to work for the support of a federal appropriation level equivalent to that appropriated for the 1981 fiscal year for the support of these federally assisted student financial aid programs, and for the enactment of federal legislation to accelerate loan collection efforts on delinquent student loans so as to establish a revolving student loan funding mechanism; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and the Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 126

Assembly Joint Resolution No. 90—Relating to federal telecommunications legislation.

[Filed with Secretary of State August 27, 1982.]

WHEREAS, The State of California and Californians are major consumers of telecommunications and information services in the

nation's preeminent information economy; and

WHEREAS, California has always supported a policy of universal access to telecommunications and information services, acknowledging it as vital to the health of the state's economy and civic life; and

WHEREAS, Access to telecommunications and information services, at reasonable costs, contributes to the growth of commerce, the effectiveness of government, the delivery of educational benefits, the development of an informed and active citizenry, and the reliability of emergency and public safety services; and

WHEREAS, The California Public Utilities Commission has responsibly and effectively secured the benefits of traditional telecommunications services for all Californians, and in so doing upheld the state's proper and sovereign role; and

WHEREAS, The Congress is currently considering legislation which would, if enacted, radically alter the existing structure of telecommunications regulation in the United States; and

WHEREAS, The recent settlement between the United States Department of Justice and the American Telephone and Telegraph Company calls into question many of the fundaments underlying proposed legislation regarding telecommunications; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to refrain from enacting proposed legislation regarding telecommunications until the legislation incorporates all of the following principles: (1) there shall be universal access to telecommunications and information services in the United States, (2) these services shall be reasonably priced so that smaller users of these services shall not be economically penalized in favor of larger users of these services, (3) the corporate reorganization of American Telephone and Telegraph Company shall be structured to insure the future viability of local telephone companies and the continued availability of reliable, high quality telephone service at affordable cost, (4) there shall be an enlarged role for consumers in the making of telecommunications policy at all levels of government, and (5) the states' ability to design and implement telecommunications policy now and in the future shall not be abrogated or reduced; and be it further

Resolved, That the Legislature of the State of California also requests the Governor of the State of California and the California Public Utilities Commission cooperate in petitioning the Congress to incorporate these principles in any telecommunications legislation; and be it further

Resolved, That each Senator and Representative from California in the Congress seek to amend proposed legislation regarding telecommunications, and any other related legislation as may be introduced in the current session of Congress, to incorporate those

principles; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States; to the Speaker of the House of Representatives; to the Chairman of the Senate Subcommittee on Communications; to the Chairman of the House Subcommittee on Telecommunications, Consumer Protection, and Finance; to each Senator and Representative from California in the Congress of the United States; to the Governor of the State of California; and to the California Public Utilities Commission.

RESOLUTION CHAPTER 127

Assembly Joint Resolution No. 96—Relative to the Federal Home Loan Mortgage Corporation.

[Filed with Secretary of State August 27, 1982.]

WHEREAS, The State of California has an insufficient supply of internal credit to meet the homeownership demands of its citizens; and

WHEREAS, The Federal Home Loan Mortgage Corporation has been and continues to be a major external supplier of available mortgage credit for California homebuyers; and

WHEREAS, During the last four years, the Federal Home Loan Mortgage Corporation has significantly contributed to fulfilling the housing credit demands of Californians by purchasing over $11 billion in California home loans; and

WHEREAS, The Federal Home Loan Mortgage Corporation operates as a housing investment conduit between the nation's capital investment markets and California's housing market; and

WHEREAS, Federal legislation is now pending in the Senate and House of Representatives of the United States Congress to enable the corporation to raise additional capital to support the expansion of its housing services and volume capacity to purchase and guarantee home loans; and

WHEREAS, The legislation to increase the capital base of the Federal Home Loan Mortgage Corporation proposes to raise capital through the issuance of public common stock without reliance on governmental subsidies or appropriations; and

WHEREAS, The Federal Home Loan Mortgage Corporation with additional capital will be capable of expending its urgently needed services to California homebuyers and mortgage lenders; 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 legislation now in the Senate and House of

Representatives of the United States Congress that will enable the corporation to increase its capital base through private sector mechanisms and therefore allow the corporation to expand its valuable services to California homebuyers; 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 Respresentatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 128

Assembly Joint Resolution No. 98—Relative to hydroelectric energy.

[Filed with Secretary of State August 27, 1982.]

WHEREAS, The United States government has expressed the policy of reducing the nation's dependence upon imported petroleum and increasing the nation's capability to foster the greater use of renewable and alternative technologies, including hydroelectric power; and

WHEREAS, Hydroelectric energy is an inexpensive source of electrical power, the use of which could reduce the cost of energy to consumers; and

WHEREAS, The transmission capability to transport hydroelectric power from such sources are currently available or are being developed; and

WHEREAS, The use of hydroelectric energy rather than oil for electric power production would significantly lessen the amount of uncontrolled emissions to the California environment; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California hereby requests the United States Department of Energy to investigate the possibility of securing hydroelectric energy from proposed hydroelectric projects, including, particularly, the securing of this energy for areas of California which are heavily dependent upon petroleum resources for the generation of electric energy; 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 enact appropriate legislation to ensure full federal support of all potential hydroelectric energy sources; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United

States, to the United States Department of Energy, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 129

Assembly Joint Resolution No. 103—Relative to equal educational opportunity for women.

[Filed with Secretary of State August 27, 1982]

WHEREAS, 1982 marks the 10th year of Title IX becoming law; and

WHEREAS, Women now comprise over 50 percent of the student population of the elementary, secondary, and postsecondary educational institutions in the State of California; and

WHEREAS, The State of California has demonstrated a long standing history and commitment to equal opportunity in education; and

WHEREAS, Equal opportunity in education is assured to women students in educational institutions in the State of California by Title IX of the Federal Education Amendments of 1972; and

WHEREAS, The 1975 Title IX regulations and the 1979 Intercollegiate Athletics Policy Guidelines define the effect of Title IX and address concerns of collegiate athletics; and

WHEREAS, Title IX is necessary to present and future generations of students to promote and ensure sex equity in education; and

WHEREAS, The Administration of President Reagan as represented by the Secretary of the Department of Education, has expressed its intent to rewrite Title IX, weakening and limiting the equity protection afforded by the law and the regulations implementing it; 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 each Senator and Representative from California in the Congress of the United States to preserve the scope and strength of Title IX and to work for the defeat of any legislation which would weaken or dismantle Title IX; 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; and be it further

Resolved, That the Assembly and Senate of the State of California jointly proclaim June 23, 1982, Title IX Day.

RESOLUTION CHAPTER 130

Assembly Joint Resolution No. 105—Relative to housing.

[Filed with Secretary of State August 27, 1982.]

WHEREAS, Both the United States and the State of California have adopted the goal of ensuring a decent home and suitable living environment for every family; and

WHEREAS, Over 315,000 new housing units are needed annually for the next five years for California to keep pace with housing demand; and

WHEREAS, Only 105,000 homes and apartments were built in California in 1981; and

WHEREAS, Housing demand is expected to remain high as a result of new household formation and in-migration, which demand can only be met by a sustained and high level of housing production; and

WHEREAS, Housing construction provides new job opportunities in housing and other fields, and produces additional sales, income and property taxes to support government services; and

WHEREAS, Decisions to locate or expand business and industrial facilities in the state are influenced by the availability and affordability of housing for workers; and

WHEREAS, The Reagan Administration has proposed elimination of the Section 8 new construction program—the only major federal housing construction program; and

WHEREAS, The Reagan Administration has recommended a program of housing vouchers which, instead of funding construction of new housing, would enable the holders of vouchers to compete for housing in the existing stock; and

WHEREAS, The Reagan Administration has proposed to convert all existing Section 8 certificates to housing vouchers; 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 United States Congress to permit each state to utilize any funds available for housing vouchers, in excess of funds needed to convert existing Section 8 housing certificates to housing vouchers, for a state-designed and state-implemented program to stimulate new rental housing production; 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 in the Congress of the United States.

RESOLUTION CHAPTER 131

Assembly Joint Resolution No. 112—Relative to the Mt. Shasta Ski Area.

[Filed with Secretary of State August 27, 1982.]

WHEREAS, There is a recognized need for a regional downhill ski area on Mt. Shasta; and

WHEREAS, To accommodate the relocation of downhill skiing, wilderness boundary lines must be legislated for Mt. Shasta; 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 finalize the Mt. Shasta Wilderness Area in order to reestablish skiing on Mt. Shasta; 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 132

Assembly Joint Resolution No. 113—Relative to radioactive waste.

[Filed with Secretary of State August 27, 1982.]

WHEREAS, Today, more than 20 years into the era of commercial nuclear power, the United States has still not agreed upon a policy and a program for permanent isolation of commercial high-level radioactive waste; and

WHEREAS, Nearly all of the waste produced thus far is contained in spent fuel, about 8,000 metric tons (MTU), which is stored at operating reactors; and

WHEREAS, By the year 2000, over 70,000 MTU of spent fuel is expected to be generated; and

WHEREAS, Most of the high-level radioactive fuel will be in storage, since the 1990's are the earliest that either reprocessing of spent fuel to recover usable elements or direct disposal of the fuel can occur; and

WHEREAS, The continued lack of federal repositories for the safe permanent isolation of commercial high-level radioactive waste poses the following problems for the federal policy in this area:

(a) Some people oppose the further growth of commercial nuclear power until the problem of permanent waste isolation is satisfactorily resolved, and that opposition is likely to grow as long as

the problem remains unresolved.

(b) The lack of an isolation system leaves nuclear utilities with two critical problems: (1) some reactors are running out of spent fuel storage space at reactor sites and may have to shut down beginning in 1986 unless more storage space is available in time and (2) utilities are financially liable for growing inventories of spent fuel and have no idea when or how or at what cost that fuel will be transferred to a permanent repository.

(c) Repeated federal failure in waste management has created widespread skepticism that the federal government can or will develop a successful waste isolation system and has left little room for further failure; and

WHEREAS, California, by statute, has imposed a moratorium on siting of nuclear fission thermal powerplants in this state until there has been developed and the United States through its authorized agency has approved and there exists a demonstrated technology or means for the disposal of high-level nuclear waste; and

WHEREAS, The federal adoption of a plan that will systematically develop and demonstrate technology or means for the disposal of commercial high-level radioactive waste does not, in and of itself, constitute, the federal approval or existence of this technology or means; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to take appropriate actions to adopt and implement a plan that will systematically develop and demonstrate technology or means for the disposal of commercial high-level radioactive waste. This plan should include, but not be limited to, both in situ and site specific testing and should be offered to the states and other interested parties for full review; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and the Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 133

Assembly Joint Resolution No. 125—Relative to Children's Peace Day.

[Filed with Secretary of State August 27, 1982.]

WHEREAS, On Thanksgiving Day, November 25, 1982, a national Children's Peace Day will be held during which children will visit the elected officials throughout the country to awaken the

experience of peace within ourselves; and

WHEREAS, The children will speak for all of us through the simple act of thanking each official for supporting peace and asking how children can help bring peace to the world; and

WHEREAS, The California Legislature supports Children's Peace Day and recognizes that the clarity of a child's point of view can yet lead to 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 memorializes the President and the Congress of the United States to note the importance of Children's Peace Day and to join with the children in their efforts to bring peace to the world; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 134

Assembly Concurrent Resolution No. 96—Relative to economic and financial education.

[Filed with Secretary of State August 30, 1982.]

WHEREAS, A large number of Americans lack an understanding of the American economic system and basic economic principles; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That school districts, offices of county superintendents, certificated employee associations, and the State Board of Education are requested to support efforts to teach in the California public schools an understanding of the American economic system and economic principles; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the governing boards of all school districts, to all offices of county superintendents, to statewide associations of certificated employees, and to the State Board of Education.

RESOLUTION CHAPTER 135

Assembly Concurrent Resolution No. 116—Relative to emergency medical personnel.

[Filed with Secretary of State August 30, 1982.]

WHEREAS, There is an increasing use of paramedics and other emergency medical personnel throughout the State of California as an integral part of local public health and safety protection; and

WHEREAS, The effectiveness of emergency medical personnel has been well established with many fatalities, injuries, and disabilities prevented by the timely, skilled action of emergency medical personnel; and

WHEREAS, Emergency medical personnel may perform life-saving services under great stress and threat to personal health and safety; and

WHEREAS, The possibility exists that many emergency medical personnel engaged in hazardous life-saving activities may not be provided equitable pension benefits relative to other public safety personnel; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That emergency medical personnel, if found to be engaged in hazardous activities, should be provided pension benefits equalized to those benefits provided to other public safety personnel; and be it further

Resolved, That the Legislature directs the Public Employees' Retirement System, when requested by a contracting agency of the Public Employees' Retirement System and in consultation with the Emergency Medical Service Authority, paramedic organizations, and local governments, to review the current pension benefits provided to emergency medical personnel and report to the Legislature not later than 12 months after the review has been requested by a contracting agency, on the following:

(a) Those types and classes of local emergency medical personnel which should, based on relative risk of their activities, be eligible for Public Employees' Retirement System public safety members benefits;

(b) The fiscal effect on state and local government of the addition of appropriate emergency medical personnel to the class of safety members of the Public Employees' Retirement System; and

(c) The need for further statutory changes necessary to facilitate the addition of appropriate emergency medical personnel to the class of safety members of the Public Employees' Retirement System; and be it further

Resolved, That the contracting agency requesting the review shall pay all related costs of the study as determined by the entities involved; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Board of Administration of the Public Employees' Retirement System.

RESOLUTION CHAPTER 136

Assembly Concurrent Resolution No. 117—Relative to waterbeds in rental units.

[Filed with Secretary of State August 30, 1982.]

WHEREAS, Forty-five percent of California residents are renters; and

WHEREAS, The availability of rental housing is an increasing problem; and

WHEREAS, It has been estimated that over 60 percent of California's landlords refuse to rent to people who own waterbeds; and

WHEREAS, Many consumers purchase and use waterbeds under the recommendation or prescription of a medical provider for medical reasons such as arthritis, allergies, insomnia, poor circulation, back ailments, and pregnancy; and

WHEREAS, Current landlord policies have a detrimental effect on an industry which provides over 20,000 jobs in California in a time of declining economic conditions and reduced government revenues; and

WHEREAS, The waterbed industry sought for 10 years to resolve the rental practices against waterbed owners through speakers' bureaus, convention booths, trade paper advertisements, and individual contacts in the free market system; and

WHEREAS, The Department of Housing and Community Development has served as an independent and neutral legislative resource in the area of housing, and has the expertise to study the matter; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature directs the Department of Housing and Community Development to undertake a study to recommend under what conditions, if any, landlords can safely permit waterbeds in rental units with reasonable protection of their investment and property; and be it further

Resolved, That this study be completed within three months from the date of authorization and that there be a three-month period of review for public comment between the date of publication and any possible introduction of legislation.

Resolved, That the Department of Housing and Community Development may accept the sum of ten thousand dollars ($10,000) from the Waterbed Manufacturers Association, and any additional funds from any other private source, for the express purpose of defraying the the complete cost of this study; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Department of Housing and Community Development.

RESOLUTION CHAPTER 137

Assembly Concurrent Resolution No. 129—Relative to Joint Rule 40.1.

[Filed with Secretary of State August 30, 1982.]

Resolved by the Assembly of the State of California, the Senate thereof concurring, That Rule 40.1 is added to the Temporary Joint Rules of the Senate and the Assembly for the 1981–82 Regular Session, to read:

Review of Administrative Regulations

40.1. The Joint Rules Committee, with regard to joint committees, and the respective rules committee of each house, with regard to standing and select committees of the house, shall approve any request for a priority review made by a committee pursuant to subdivision (m) of Section 11349.7 of the Government Code and shall submit approved requests to the Office of Administrative Law. The Joint Rules Committee or the respective rules committee, and the committee initiating the request, shall each receive a copy of the priority review.

RESOLUTION CHAPTER 138

Assembly Concurrent Resolution No. 145—Relative to peace officer safety.

[Filed with Secretary of State August 30, 1982.]

WHEREAS, Existing law provides that certain persons are deemed to be peace officers for the purposes of enforcing the law; and

WHEREAS, Peace officers encounter potentially dangerous situations on a continuing basis in the performance of their duties; and

WHEREAS, Safety and protective equipment is necessary to protect law enforcement personnel from personal injury, to protect the public from the overt action of others, and to assist law enforcement personnel in the performance of their duties; and

WHEREAS, Such safety and protective equipment may include, but is not limited to, chemical mace, utility jackets, float coats or vests, night sticks or batons, off-duty holsters, ammunition, and body armor; and

WHEREAS, The failure of a state agency to provide or maintain proper safety and protective equipment for its law enforcement personnel seriously jeopardizes the lives of peace officers and the effectiveness of their ability to protect the public; and

WHEREAS, In California a significant number of state agencies employ peace officers, including, but not limited to, the Department of the California Highway Patrol, the California State Police Division, the University of California Police Department, the California State University Police Department, the Department of Corrections, the Department of Alcohol and Beverage Control, the Division of Investigation of the Department of Consumer Affairs, the Wildlife Protection Branch of the Department of Fish and Game, the Department of Forestry, the Department of Motor Vehicles, the California Horse Racing Board, the State Fire Marshal, the Division of Labor Law Enforcement, the Department of Parks and Recreation, the State Department of Health Services, the State Department of Social Services, the State Department of Mental Health, the State Department of Developmental Services, the State Department of Alcohol and Drug Abuse, the Office of Statewide Health Planning and Development, the Department of Insurance, and the Department of Justice; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature strongly urges the directors of the state agencies employing peace officers to place a high priority on the provision and maintenance of appropriate safety and protective equipment for their peace officers; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to each state agency which employs peace officers.

RESOLUTION CHAPTER 139

Assembly Joint Resolution 72—Relative to veterans' benefits.

[Filed with Secretary of State August 30, 1982.]

WHEREAS, As a result of an amendment to the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35) sponsored by the Reagan Administration, veterans of the United States armed forces separated after July 31, 1981, are no longer able to avail themselves of unemployment benefits except in rare circumstances; and

WHEREAS, This loss of benefits to veterans constitutes a severe disincentive to those contemplating enlistment in the United States military, and thus will make recruitment of qualified individuals to serve in the armed forces much more difficult; and

WHEREAS, This loss of benefits amounts to real economic injustice against active duty servicemen and women who, in many cases, must already rely on food stamps and other forms of public assistance to make ends meet; and

WHEREAS, It has been shown that less than 20 percent of veterans are able to secure employment upon their release from active duty or discharge in which they can use skills learned while in the military;

and

WHEREAS, These newly enacted restrictions stand in stark contrast to the 52 weeks of unemployment benefits afforded to veterans after World War II; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to support and enact necessary changes to the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35) so that ex-military persons who served their country honorably are not deprived of their rightful benefits in assisting them in their transition from military to civilian life; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 140

Assembly Joint Resolution No. 80—Relative to ocean and coastal resources.

[Filed with Secretary of State August 30, 1982.]

WHEREAS, The California coastal management program is essential for the wise management of the coastal resources of this state, including fisheries, beaches, wetlands, and wildlife; and

WHEREAS, There is a national interest in the continuation of ocean and coastal resources management programs such as the Coastal Zone Management Program, the Coastal Energy Impact Program, the Sea Grant Program, and the Living Marine Resources Program; and

WHEREAS, State coastal management programs provide the primary vehicle for the wise management and protection of our valuable coastal and marine resources and for state participation in the Outer Continental Shelf leasing programs; and

WHEREAS, Coastal states have a legitimate role in the Outer Continental Shelf activities and other coastal energy programs and must be prepared to fully participate in the leasing process and in the siting of energy facilities; and

WHEREAS, The Department of the Interior intends to accelerate the leasing of tracts in the Outer Continental Shelf for the exploration of oil and gas; and

WHEREAS, Revenues from a nonrenewable offshore natural resource which belongs to the people of the United States should be reinvested in ocean and coastal programs which provide

management for renewable coastal resources; and

WHEREAS, Federal financial support for state coastal zone management and related marine programs is being withdrawn and an inequity exists because inland states receive royalties from mineral leases on federal lands, and coastal states affected by the federal Outer Continental Shelf oil and gas leasing and development now receive no direct compensation; and

WHEREAS, The total federal revenues from the development of oil and gas on California's Outer Continental Shelf amounted to $2.38 billion in federal Fiscal Year 1981; 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 support the establishment of an ocean and coastal resources management and development fund, supported by Outer Continental Shelf oil and gas revenues, and to provide that the money from the fund be distributed to coastal and Great Lake states and territories in block grants for coastal management, research, energy impact planning and mitigation, and fisheries management programs; 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 141

Assembly Joint Resolution No. 111—Relative to the elimination of the Community Service Employment for Older Americans.

[Filed with Secretary of State August 30, 1982.]

WHEREAS, Elderly persons are an important natural resource which can be utilized to improve the general welfare of our nation; and

WHEREAS, Unemployment among persons 55 years of age and older is skyrocketing; and

WHEREAS, Many elderly persons find that it is absolutely necessary to supplement their meager incomes through the social security system or other pension systems, by engaging in employment; and

WHEREAS, The difficult task of finding employment is complicated for elderly persons due to age discrimination, as well as the fact that many elders have been out of the work force for a number of years; and

WHEREAS, Tremendous strides in employment of elderly persons

have been made through the federally funded Community Service Employment for Older Americans program, provided for pursuant to Title V of the Older Americans Act, as amended; and

WHEREAS, This program has been extremely effective in promoting useful part-time opportunities in community service activities for unemployed low-income workers, as well as placement into unsubsidized employment; and

WHEREAS, In December of 1981, subsequent to Congressional action, President Reagan signed into law a three-year extension for this program; and

WHEREAS, Recommendations have been made to eliminate this program through federal budget action; and

WHEREAS, The demise of this program would add to the difficulties which currently exist in securing employment for the elderly; now, therefore be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to refrain from taking any action which could lead to the elimination or dismantling of the Community Service Employment for Older Americans program, and to extend full funding to the program, as budgeted in fiscal year 1981–82; 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 142

Assembly Joint Resolution No. 116—Relative to encouraging contributions of sophisticated technology to schools.

[Filed with Secretary of State August 30, 1982.]

WHEREAS, We live in an increasingly computerized society; and

WHEREAS, Education must keep pace with technological developments; and

WHEREAS, Our schoolchildren are not receiving adequate training in the use and application of computers and other sophisticated equipment; and

WHEREAS, It has been said that nothing more effectively contributes to the cultivation of a country than the education of the youth; and

WHEREAS, Legislation exists in the House of Representatives of the Congress of the United States to allow greater tax credits and deductions for corporations which make charitable contributions of

computers or other sophisticated technological equipment to schools; 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 each Senator and Representative from California in the Congress of the United States to support efforts to encourage corporations to make charitable contributions of computers or other sophisticated technological equipment to schools by allowing the corporations to claim greater tax credits and deductions for these contributions; 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 143

Assembly Joint Resolution No. 117—Relative to California's Outer Continental Shelf.

[Filed with Secretary of State August 30, 1982.]

WHEREAS, The United States Department of the Interior has decided to lease certain areas of the Outer Continental Shelf off the southern California coast on June 11, 1982; and

WHEREAS, The areas covered by the lawsuit filed by the State of California are the 12 tracts adjacent to Santa Monica Bay, the precautionary area off of the Ports of Los Angeles and Long Beach, and nine tracts within the three and one-half nautical mile buffer zone offshore of Orange County; and

WHEREAS, The exploration, development, and production of oil in these areas would threaten ecological preserves and other ecologically sensitive areas; increase the risk of oil spills; increase onshore air pollution; increase hazards to vessel traffic safety; and seriously threaten the economy and quality of life of southern California coastal communities; and

WHEREAS, The proposed leases are in direct conflict with the provision of the federal Coastal Zone Management Act of 1972, which requires federal action directly affecting the state to be conducted in a manner consistent with the state's approved coastal management program; and

WHEREAS, The Secretary of the Interior violated the provisions of the Outer Continental Shelf Lands Act amendments by offering the above-described tracts for lease sale in spite of reasonable recommendations by the Governor of California that the tracts be deleted from the lease sale; and

WHEREAS, There is no likelihood of obtaining oil from these areas in amounts which would meaningfully assist America's national energy supply needs in comparison to the potential economic and ecological damage which could result; and

WHEREAS, The State of California has brought an action in federal court seeking declaratory and injunctive relief in order to stop the proposed lease sale in these areas; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California strongly supports the actions taken by the state to prevent the June 11, 1982, proposed lease sale of the above-described tracts by the United States Department of the Interior; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and the Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 144

Assembly Joint Resolution No. 120—Relative to water quality standards.

[Filed with Secretary of State August 30, 1982.]

WHEREAS, Louisiana-Pacific Corporation and Crown Simpson Pulp Company, owners and operators of two nearly identical pulp mills located on the Samoa peninsula near Eureka, California, applied for and received from the State Water Resources Control Board in 1977 variances from federal ocean discharge limitations on biochemical oxygen demand (BOD) and alkalinity or acidity (pH); and

WHEREAS, Municipalities are already eligible for exemption from those requirements under the Clean Water Act of 1977; and

WHEREAS, The Environmental Protection Agency has refused to approve the variances granted to the two pulp mills by the State Water Resources Control Board; and

WHEREAS, The State Water Resources Control Board has concluded that compliance with the federal requirements will result in negligible benefits to the ocean environment; and

WHEREAS, The effluents currently being discharged with primary treatment are nontoxic and have never been shown to cause significant degradation of the ocean environment; and

WHEREAS, Compliance with the federal requirements will require construction of secondary treatment facilities at each mill, with the cost to each company estimated at ten million dollars ($10,000,000) to fifteen million dollars ($15,000,000) in capital costs,

and one million dollars ($1,000,000) to two million dollars ($2,000,000) in annual operation and maintenance costs; and

WHEREAS, Operation of the secondary treatment systems will have a net negative impact on energy, air pollution, visibility, sludge disposal, and chemical usage without any measurable improvement in receiving water quality; and

WHEREAS, Construction and operation of the required secondary treatment plants will add substantially to the two mills' costs of production, with no corresponding benefits to the environment; and

WHEREAS, Both mills have already been forced to curtail production periodically and lay off employees because of relatively high production costs and the companies' inability to compete in a weakened pulp market; and

WHEREAS, Compliance with the federal requirements will reduce still further the two companies' ability to compete successfully on the world pulp market and provide continued employment for the mills' workers; and

WHEREAS, Unemployment in Humboldt County is currently more than 17 percent, and further layoffs would exacerbate the county's depressed economic position, now therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California requests the Environmental Protection Agency to reopen its proceedings in this case and approve the variances granted the two pulp mills by the State Water Resources Control Board; and be it further

Resolved, That, if it is not feasible to reopen the proceedings, the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to amend the Clean Water Act of 1977, after careful evaluation of the potential water quality impacts of such action, to provide appropriate relief and to incorporate in the legislation the following provisions:

(a) All existing conditions and requirements of Section 301(h) of the Clean Water Act of 1977 applying to municipal dischargers shall be applicable to industrial dischargers.

(b) In order to demonstrate eligibility for a waiver, the applicant shall demonstrate there is no reasonable relationship between the economic and social costs and the benefits to be obtained, including the objectives of the Clean Water Act of 1977.

(c) The effluent limitations established under any such waiver shall be at such a level necessary to implement the applicable state water quality standards, sufficient to assure the protection and propagation of shellfish, fish, fauna, wildlife, and other aquatic organisms. In setting such standards, the administrator shall take into account any seasonal variations, an adequate margin of safety, and any lack of knowledge concerning the relationship between effluent limitations and water quality and any lack of knowledge of the effects of the discharge on receiving water beneficial uses.

(d) Any such waiver shall not exceed a period of time greater than five years, with provisions for renewal upon application by the

discharger.

(e) A decline in ambient water quality during the course of the permit may constitute grounds for the termination of the waiver even if a direct cause and effect relationship cannot be shown.

(f) Any waiver of effluent standards will be limited to the standards for biochemical oxygen demand (BOD) and acidity or alkalinity (pH).

(g) No such waiver shall be allowed in estuarine areas or designated areas of special biological significance.

(h) A state properly certified to administer NPDES permits shall have the right to have the Environmental Protection Agency be the responsible agency for hearing variances or an individual variance without otherwise endangering any other portion of a certified state's program. The state may, however, choose to hear all such variances.

(i) The review process shall consider overall economic factors to ensure that the applicant is not granted an undue competitive advantage over other producers in that industry as a result of the modification in discharge limitations; 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 Administrator of the Environmental Protection Agency, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 145

Senate Concurrent Resolution No. 48—Relative to the Joint Committee on Fire, Police, Emergency, and Disaster Services.

[Filed with Secretary of State August 30, 1982.]

Resolved by the Senate of the State of California, the Assembly thereof concurring, That notwithstanding the termination date contained in Resolution Chapter 27 of the Statutes of 1981, the Joint Committee on Fire, Police, Emergency, and Disaster Services shall continue in existence until it is terminated by the Legislature on a date subsequent to the adoption of this measure; and be it further

Resolved, That notwithstanding the provisions of Resolution Chapter 27 of the Statutes of 1981, the Joint Committee on Fire, Police, Emergency, and Disaster Services shall so continue in existence with a membership, effective upon the adoption of this measure, of six Members of the Senate appointed by the Committee on Rules thereof, and six Members of the Assembly, appointed by the Speaker thereof.

RESOLUTION CHAPTER 146

Senate Concurrent Resolution No. 52—Relative to the 1984 Olympic Games.

[Filed with Secretary of State August 30, 1982.]

WHEREAS, In 1984 the City of Los Angeles will host the Olympic Games; and

WHEREAS, The Olympic Games will have a significant economic impact upon the residents of the greater Los Angeles area; and

WHEREAS, It is equitable that local and minority providers of goods and services be entitled to adequate and just access and representation with respect to Olympic-related contracts; now, therefore, be it

Resolved by the Senate of the State of California the Assembly thereof concurring, That the Legislature hereby expresses its concern that in the letting of Olympic-related contracts for the 1984 Olympic Games the Los Angeles Olympic Organizing Committee insure that a fair proportion of its direct contracts for the purchase of goods and services used in connection with the 1984 Olympic Games be placed with small, minority and women-owned businesses located in the State of California which meet all bonding and solvency requirements imposed by law, and that the committee further insure that its prime contractors are contractually required to make all possible efforts to place subcontracts, and to combine in joint ventures, in compliance with such policy; and be it further

Resolved, That the Legislature expresses its concern to the Los Angeles Olympic Organizing Committee that the letting of Olympic-related contracts for the 1984 Olympic Games, be just, fair, and equitable with due regard to those persons doing business in the greater Los Angeles area who are providers of goods and services which may be utilized in the 1984 Olympic Games; and be it further

Resolved, That the Los Angeles Olympic Organizing Committee designate an office and advocate for small business relations to promote small business owners access to the contracts available in the 1984 Olympic Games effort; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President of the Los Angeles Olympic Organizing Committee, Mr. Peter V. Ueberroth, and to the Mayor of Los Angeles, the Honorable Tom Bradley.

RESOLUTION CHAPTER 147

Senate Concurrent Resolution No. 64—Relative to crime statistics.

[Filed with Secretary of State August 30, 1982.]

WHEREAS, At the present time, there is no systematic collection of the ages of crime victims; and

WHEREAS, In order to better understand the problem of crime as it affects senior citizens, systematic collection of this information on a statewide basis is essential; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That local law enforcement officials are requested to make every attempt to modify their data gathering procedures and computer storage systems to provide information as to the number of victims of violent crimes who are 60 years of age or older; and be it further

Resolved, That the Department of Justice is requested to solicit and collect information from local law enforcement agencies concerning the ages of victims of crime and to incorporate that information in its crime statistic reporting system; and be it further

Resolved, That the Secretary of the Senate send copies of this resolution to the Attorney General.

RESOLUTION CHAPTER 148

Senate Concurrent Resolution No. 86—Relative to the John "Chuck" Erreca Safety Roadside Rest.

[Filed with Secretary of State August 30, 1982.]

WHEREAS, John "Chuck" Erreca was born on December 29, 1910, in the City of Los Banos, in the County of Merced, the son of immigrant French Basques; and

WHEREAS, He grew up in the "American tradition" of hard work on his father's ranch; and

WHEREAS, He attended public schools in Los Banos, and graduated from St. Mary's College, majoring in Economics; and

WHEREAS, He returned to the ranch near Los Banos and became a successful farmer and cattle rancher; and

WHEREAS, His success in farming and ranching enabled him to participate in civic affairs and serve without salary for 23 years on the Los Banos City Council, 17 years of which he was the Mayor of the City; and

WHEREAS, He served as an officer and president of the Central Valley Division of the League of California Cities from 1951–1953; and

WHEREAS, In 1953 "Chuck" Erreca was elected to the Board of

Directors of the League of California Cities and in 1959 was elected as its State President, and he served as the Chairman of the League's Committee on Transportation, Streets, and Highways; and

WHEREAS, Through his statewide recognition and knowledge of transportation and urban affairs, in 1961 he was appointed to the California Highway Commission; and

WHEREAS, In 1963 he was appointed to the post of Director of Public Works by Governor Edmund G. "Pat" Brown; and

WHEREAS, "Chuck" Erreca was the first director to hold that position from outside state government; and

WHEREAS, He successfully developed harmony between the Department of Public Works and the Legislature with his knowledge and outstanding ability to deal with people; and

WHEREAS, Mr. Erreca quickly won the respect and loyalty of the 18,000 employees within the department because of his ability, honesty, warmth, fair play, wisdom, and leadership; and

WHEREAS, More than 1,300 miles of freeway and 1,100 miles of conventional highways were built in California during the 4½ years he served as director; and

WHEREAS, It was during this period under "Chuck" Erreca's guidance that construction of the 320-mile Interstate 5 (Westside Freeway) peaked; this super highway serves as a major connector between the San Francisco and Los Angeles areas, and it makes available for settlement on the west side of the San Joaquin Valley desirable land sufficient to serve the needs of millions of future citizens; and

WHEREAS, In conjunction with the above activities as director, "Chuck" Erreca personally concerned himself with the needs and comfort of the traveling public in the matter of adequate roadside rests; and

WHEREAS, He was a cofounder of the Merced County Fair Board; and

WHEREAS, "Chuck" Erreca served as a director of both the San Joaquin Water District and the Grassland Water District; and

WHEREAS, "Chuck" Erreca helped establish the Los Banos Community Hospital and the Catholic School; and

WHEREAS, He received a Medal of Commendation from Pope Pius XII (Bene Merenti Medal); now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Panoche Safety Roadside Rest on Interstate Route 5 be designated as the John "Chuck" Erreca Safety Roadside Rest; and be it further

Resolved, That the Department of Transportation be directed to determine the cost of appropriate plaques and markers, consistent with signing requirements for the National System of Interstate and Defense Highways, showing this official designation and, upon receiving donations from private sources covering that cost, to erect those plaques and markers; and be it further

Resolved, That a copy of this resolution be posted and maintained

by the Department of Transportation at the John "Chuck" Erreca Roadside Rest in the traveler's information display case; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Director of Transportation.

RESOLUTION CHAPTER 149

Senate Concurrent Resolution No. 87—Relative to the Joint Committee on the State's Economy.

[Filed with Secretary of State August 30, 1982.]

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Joint Committee on the State's Economy and the advisory committees created pursuant to Resolution Chapter 4 of the Statutes of 1980, are continued in existence through January 31, 1984, notwithstanding the provisions of any prior concurrent resolution affecting these committees. The committee shall continue to have the powers and duties granted and imposed by the resolutions creating and continuing it. The committee may expend any funds heretofore or hereafter made available, and further allocations may be made by the Joint Rules Committee. In accordance with Joint Rule 36.8, any expenditure of funds by the committee shall be made in compliance with policies set forth by, and subject to the approval of, the Joint Rules Committee.

RESOLUTION CHAPTER 150

Senate Joint Resolution No. 37—Relative to the United States Coast Guard.

[Filed with Secretary of State August 30, 1982.]

WHEREAS, The United States Coast Guard is a branch of the armed services originally created to defend our coastline and to ensure safe and orderly marine navigation in our territorial waters; and

WHEREAS, During the last 10 years, the Coast Guard has been given many additional responsibilities pursuant to numerous federal acts, including the Boat and Safety Act, the Port and Waterways Safety Act, the Port and Tanker Safety Act, the Fishery Conservation and Management Act, the Water Pollution Control Act, the Clean Water Act, and the OCS Land Act Amendments; and

WHEREAS, During this same period, the buying power of annual

Coast Guard appropriations has remained approximately unchanged; and

WHEREAS, The United States Department of Transportation has announced substantial cutbacks to take effect March 15th, 1982, in basic Coast Guard services; and

WHEREAS, The proposed loss of services in California includes the elimination of the Vessel Traffic Service in San Francisco Bay; and

WHEREAS, The 1981 Coast Guard's Vessel Traffic Service, by directing over 65,000 movements in San Francisco Bay, provided essential safety services for vessels using the bay and its numerous ports and harbors, including inland delta ports; and

WHEREAS, San Francisco Bay is one of only four areas in the country which, because of its unique conditions, has Coast Guard Vessel Traffic Service; and

WHEREAS, The Coast Guard has in the past stated that the Vessel Traffic Service is a major factor in avoiding ship collisions; and

WHEREAS, Termination of this service will pose a serious threat to navigation and create unnecessary risks to life, property, and the environment; and

WHEREAS, The United States Department of Transportation has begun negotiations with California maritime representatives to explore alternatives permitting continuance of Vessel Traffic Service in San Francisco Bay; 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 and the President of the United States to support legislation providing for the agreements necessary to continue Vessel Traffic Service; and be it further

Resolved, That the United States Department of Transportation is requested to continue negotiations with the California maritime industry and concerned citizens to explore the feasibility of alternatives for joint public and private sector operation of a marine navigation traffic 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, to each Senator and Representative from California in the Congress of the United States, and to the Secretary of Transportation.

RESOLUTION CHAPTER 151

Senate Joint Resolution No. 41—Relative to New Melones Dam.

[Filed with Secretary of State August 30, 1982.]

WHEREAS, At a time when Californians are vitally concerned about their ever-increasing utility bills, the New Melones Dam is completed, but remains unfilled, denying a less expensive source of a clean, renewable hydroelectric power; and

WHEREAS, In July 1973, the Legislature of the State of California, by adoption of Assembly Joint Resolution No. 7, urged Congress to proceed with construction of New Melones Dam as quickly as possible; and

WHEREAS, In 1974, the people of California, by means of a statewide vote on an initiative measure, expressed their desire not to keep the Stanislaus River as a wild and scenic river; and

WHEREAS, In May 1980, the Legislature, by adoption of Assembly Joint Resolution No. 58, reaffirmed its position by urging Congress to proceed to fill the New Melones Reservoir to its maximum operating level; and

WHEREAS, Nearly 350 million dollars have been expended to construct this major project which is now fully operational and will provide the people of California extensive benefits, including fish and wildlife enhancement, water quality protection, hydroelectric power, irrigation water storage, and flood control prevention; and

WHEREAS, New Melones Dam will significantly help to restore the Stanislaus River fisheries run to its historical levels; and

WHEREAS, A fully operational reservoir would help to foster and maintain environmentally beneficial water quality standards for the southern portion of the Sacramento-San Joaquin Delta; and

WHEREAS, New Melones Dam is vitally needed to prevent unnecessary flooding and seepage damage to prime farmlands along the Lower Stanislaus River and the Sacramento-San Joaquin Delta; and

WHEREAS, The average annual generation by the New Melones Dam over a long period of years is 455 billion watt hours of electricity, which would conserve an average of 750,000 barrels of fuel oil, and the State Water Resources Control Board's decision restricting the dam's water level at 844 feet denies the public the benefit of 275 billion watt hours, causing the consumption of an additional 455,000 barrels of fuel oil; and

WHEREAS, The lost watts of renewable energy amounts to 24 million dollars that the public must absorb and replace with more expensive, less desirable, oil-generated power; and

WHEREAS, New Melones Dam, with a capacity of 2.4 million acre-feet, has the potential to provide over 222,000 acre-feet of irrigation water, a supply sufficient to serve 80,000 acres, with revenues of over 40 million dollars annually from farmland productivity; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California supports the Secretary of the Interior in his efforts to operate the New Melones Reservoir at its maximum capacity to fully achieve all the benefits envisioned by Congress when the project was authorized; and be it

further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of the Interior, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 152

Senate Joint Resolution No. 60—Relative to radio telecommunications.

[Filed with Secretary of State August 30, 1982.]

WHEREAS, The Los Angeles County Sheriff's Department has petitioned the Federal Communications Commission in compliance with S.1.401 of the Commission's rules, to provide, in sufficient quantities, additional allocated frequencies to Land Mobile Service for Public Safety Agencies in the major metropolitan areas like Los Angeles, Chicago, and New York; and

WHEREAS, The Los Angeles County Sheriff's Department, in the petition, further suggested that a block of contiguous frequencies proportionate to the local population also be allocated for those less populated urban and rural areas; and

WHEREAS, Radio telecommunication is the principal medium of command and control communications for those agencies which are charged with the maintenance of the public safety; and

WHEREAS, There are insufficient radio spectrum frequencies allocated in the Land Mobile public service; and

WHEREAS, The California Emergency Council, in cooperation with the California Peace Officers Association, has resolved to support in principle the petition submitted to the Federal Communications Commission by the Sheriff of Los Angeles County, in the interest of all public safety organizations in the United States; and

WHEREAS, The California Emergency Council seeks the allocation of additional radio spectrum frequencies as proposed in the petition; 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 Federal Communications Commission to adopt the principles in the petition submitted by the Sheriff of Los Angeles County; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Federal Communications Commission.

RESOLUTION CHAPTER 153

Senate Joint Resolution No. 62—Relative to the establishment of the United States Academy of Peace and Conflict Resolution.

[Filed with Secretary of State August 30, 1982.]

WHEREAS, People throughout California are concerned about the rise in social and cultural hostilities, the increasing incidence of violent conflicts among nations and peoples, and the ever-present threat of nuclear war; and

WHEREAS, There is a need to promote nonviolent methods of resolving human conflict; and

WHEREAS, Conflict resolution techniques have repeatedly been demonstrated to provide a constructive, cost-effective means of resolving potentially violent human conflicts; and

WHEREAS, Legislation is now pending in Congress which would establish the United States Academy of Peace and Conflict Resolution, which would serve to advance international peace through the development and implementation of programs to promote the use of conflict resolution techniques in international conflicts; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California supports the passage of the "United States Academy of Peace and Conflict Resolution Act," H.R. 5088; and be it further

Resolved, That the Legislature of the State of California respectfully memorializes the California delegation to the Congress of the United States to work to secure that bill's passage; 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 154

Senate Joint Resolution No. 68—Relative to the California raisin industry.

[Filed with Secretary of State August 30, 1982.]

WHEREAS, The California raisin industry, one of the oldest industries in our state, is currently facing damaging and unfair competition in world trade as a result of the European Economic Community subsidization of Greek raisin sales; and

WHEREAS, The lack of a strong international trade policy on the

part of the United States government has already resulted in serious economic injury to California's canning fruit and vegetable industry; and

WHEREAS, If the common market policy continues to be extended, trade with most of California's agricultural products will be similarly adversely affected; and

WHEREAS, The common market unfair trade actions have caused, and are expected to continue to cause, substantial economic losses to our California farm families and the thousands of farm laborers, packinghouse employees, and other persons engaged in related industries, such as wine, transportation, banking, real estate, and numerous others; and

WHEREAS, It has been determined that the California raisin industry alone does not have sufficient capital resources to survive the unfair common market attack on California raisin markets; 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 memorialize the Congress and President of the United States to immediately take whatever action is necessary to promptly protect our California raisin industry's established markets and restore fair world trade in light of unfair practices being engaged in by the European economic community; 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 155

Senate Joint Resolution No. 69—Relative to hospital care for military retirees.

[Filed with Secretary of State August 30, 1982.]

WHEREAS, The State of California has the largest retired military community in the United States; and

WHEREAS, California includes among its population over 195,000 retired military personnel in addition to their dependent families; and

WHEREAS, These military retirees receive over $180,000,000 per month in retired military pay which equates to over $2 billion annually, much of which goes for the daily living expenses of the retired military community and thus helps support the economy of the State of California; and

WHEREAS, It is believed that the contributions of the retired

military community to this country are beyond most people's realization; and

WHEREAS, The health care of our retired military community should be of primary concern to the Department of Defense because of the large outlay of existing federal funds through CHAMPUS for private care of retired military personnel; and

WHEREAS, The Department of Defense has military on-base hospital facilities in California which, through expansion, could accommodate retired military personnel and dependents in addition to active duty personnel; and

WHEREAS, Expanding existing on-base hospital facilities will mean design, construction, and added personnel, all of which are sorely needed in the present state of the economy; and

WHEREAS, Outlays for hospital construction and additional personnel will not only provide needed jobs, but over the long period will reduce, or eliminate to a large degree, the need for CHAMPUS funds, thus producing a savings to the Department of Defense; and

WHEREAS, These savings could be put to effective use to stimulate other areas of the economy; 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 requests the President and Congress of the United States to enact legislation recognizing the medical needs of retired military personnel and their families by expanding medical facilities on defense installations to permit use by retired personnel who now rely on private care, so that expansion of these facilities will not only create construction jobs for unemployed workers, but also reduce over the next decade CHAMPUS payments for private care; and be it further

Resolved, That the Legislature of the State of California supports enactment of legislation to address these matters; 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 Senate Armed Services Committee, to the House Armed Services Committee, and to the chairman of each committee of the Senate and House of Representatives for consideration of legislation.

RESOLUTION CHAPTER 156

Senate Joint Resolution No. 46—Relating to Crude Oil Windfall Profit Tax Act of 1980.

[Filed with Secretary of State September 1, 1982.]

WHEREAS, The California State Lands Commission administers trust lands containing crude oil reserves and provides by contractual arrangements with private firms for development of these reserves; and

WHEREAS, The development of these reserves produces revenues for the state which are dedicated to public purposes and which are intended to be exempt from the windfall profit tax on crude oil; and

WHEREAS, The state is using net profits contracts for the development of the crude oil reserves on its trust lands; and

WHEREAS, The United States Treasury Department and the Internal Revenue Service have interpreted the Crude Oil Windfall Profit Tax Act of 1980 as requiring allocation of crude oil production to net profits interests in a manner which imposes an unintended windfall profit tax burden on a property with an exempt state net profits interest that, if the tax is treated as a reimbursable expense, is borne by the state net profits interest, thereby diverting to the United States Treasury oil revenues that would have been used for public purposes in the State of California; and

WHEREAS, Congress did not intend for any state interest, including a net profits interest, to bear the burden of the windfall profit tax; and

WHEREAS, Senators Cranston and Hayakawa have introduced S. 753, Congressman Glenn Anderson has introduced H.R. 3044, and Congressman Rostenkowski has introduced H.R. 6056, the Technical Corrections Act of 1982 which has been amended by Congressman Matsui and joined by Congressmen Stark and Rousselot, before the 97th Congress which are bills amending the Crude Oil Windfall Profit Tax Act of 1980 to provide for allocation of crude oil production to net profits interests in proportion to their respective percentage shares of net profits, thereby eliminating the unintended windfall profit tax burden placed on the state's net profits interest by the interpretation of the act's present language by the United States Treasury Department and the Internal Revenue Service; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress of the United States to enact and the President to approve S. 753 by Senators Cranston and Hayakawa, H.R. 3044 by Congressman Glenn Anderson, and H.R. 6056 by Congressman Rostenkowski amending the Crude Oil Windfall Profit Tax Act of 1980 to provide for allocation of crude oil production, for the purpose of assessing the windfall profit tax, among the holders of net profits interests in proportion to their respective shares of net profits, so that states employing or intending to employ net profits contracts for development of crude oil reserves in their trust lands may enjoy a complete exemption from the windfall profit tax; 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 as well as other appropriate members in the Congress of the United States, to the Secretary of the Department of the Treasury, and to the Commissioner of the Internal Revenue Service.

RESOLUTION CHAPTER 157

Senate Concurrent Resolution No. 84—Relative to the Philip S. Raine Safety Roadside Rest.

[Filed with Secretary of State September 1, 1982.]

WHEREAS, Philip S. Raine was a career Department of Transportation engineer whose employment began with the Division of Toll Bridges; and

WHEREAS, Mr. Raine subsequently served with distinction as the department's legislative representative during a critical period for transportation; and

WHEREAS, Mr. Raine, in recognition of his many talents and abilities, was assigned to be the Chief of the Division of Highways in March of 1978; and

WHEREAS, In that capacity, he developed a cooperative rapport with the newly created California Transportation Commission and regional transportation planning agencies; and

WHEREAS, Mr. Raine not only had an appreciation and understanding of manmade bridges and highways, but also had a strong attraction for nature and the outdoors; and

WHEREAS, He was forced to an early retirement and subsequent death by cancer in 1981 without fulfilling his potential as a transportation manager and leader; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Tipton Safety Roadside Rest on State Highway Route 99 be designated as the Philip S. Raine Safety Roadside Rest; and be it further

Resolved, That the Department of Transportation be directed to determine the cost of erecting appropriate plaques and markers, consistent with signing requirements for the state highway system, showing this official designation and, upon receiving donations from private sources covering that cost, to erect those plaques and markers; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Director of Transportation.

RESOLUTION CHAPTER 158

Senate Concurrent Resolution No. 33—Relative to the Joint Committee on Science and Technology.

[Filed with Secretary of State September 1, 1982.]

WHEREAS, California is the nation's preeminent center of scientific research and technology development; and

WHEREAS, The continued growth and vitality of technology-based industries is critical to California's economy; and

WHEREAS, Competition from other nations threatens to erode California's technological advantage; and

WHEREAS, The future of high technology industries in California is directly affected by the quality of education and research in California's public schools and universities; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That:

(1) The Joint Committee on Science and Technology is hereby created, authorized, and directed to investigate, study, and analyze the following:

(a) Ways to preserve and stimulate the growth of high technology industries in California.

(b) The need to increase the quality of math and science instruction in public schools.

(c) Methods to maintain and enhance the high quality of scientific research in California's public universities.

(d) Problems related to capital formation and expanding investments in new industries.

(e) Government regulations and tax policies which affect the growth and emergence of high technology industries.

(f) The activities of state government agencies which relate to the growth and development of technology-based industries in California.

(2) The committee shall consist of three members of the Senate appointed by the Committee on Rules thereof, and three members of the Assembly appointed by the Speaker of the Assembly. The chairman of the committee shall be appointed by the Joint Rules Committee.

(3) The committee shall have the following additional powers and duties:

(a) All of the rights, duties, and powers conferred upon investigating committees and their members by the provisions of the Joint Rules of the Senate and Assembly as they are adopted and amended from time to time, which provisions are incorporated herein and made applicable to the committee and its members.

(b) To contract, subject to the Joint Rules, with such other agencies, public or private, as it deems necessary for the rendition and affording of those services, facilities, studies, and reports to the

committee as will best assist it to carry out the purposes for which it is created.

(c) To do any and all other things necessary or convenient to enable it fully and adequately to exercise its powers, perform its duties, and accomplish the objects and purposes of this resolution.

(4) The Joint Rules Committee may make funds available from the Contingent Funds of the Assembly and Senate as it deems necessary for the purposes of this measure, and the joint committee may expend these funds for the expenses of the committee and its members and for any charges, expenses, or claims it may incur under this resolution; provided, that any expenditure of funds shall be made in compliance with policies set forth by the Joint Rules Committee and shall be subject to the approval of the Joint Rules Committee.

(5) The Joint Committee on Science and Technology shall be terminated on January 1, 1985.

RESOLUTION CHAPTER 159

Assembly Concurrent Resolution No. 67—Relative to the California Conservation Corps.

[Filed with Secretary of State September 2, 1982.]

WHEREAS, The California Conservation Corps was established to employ young men and women, and preserve and enhance the natural resources in urban and rural areas of the state; and

WHEREAS, The CCC has contributed to the rural economy and communities of California by employing youth from rural areas and establishing CCC centers in rural areas; and

WHEREAS, During emergencies in rural areas the CCC has been one of the first agencies to respond to shore up levees in the Delta protecting over 35,000 acres of prime agricultural farmland, and to spend over 418,000 hours stripping 2.6 million pounds of fruit from a 50-square-mile area in Santa Clara, Alameda, and San Mateo Counties in order to protect California's $14 billion rural agricultural industry from further infestation by the Mediterranean fruit fly; and

WHEREAS, The CCC has also engaged in emergency operations by fighting over 400 fires in remote rural areas to protect valuable watershed and timberlands, and has also cleaned up mud and debris and provided temporary roofing in a 25-square-block area following a devastating windstorm in Arvin; and

WHEREAS, The economy of Northern California rural areas has been assisted with the planting of over 10 million trees as a future timber resource and by the clearance of over 150 miles of streams for salmon and steelhead spawning which support the commercial fishing industry and tourist recreation; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate

thereof concurring, That the Members thank and commend the California Conservation Corps for its highly effective efforts in supporting the state's rural economy, providing emergency operations during times of crises, and preserving and enhancing the natural resources of the state, and extend best wishes for continued success in its future endeavors; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a suitably prepared copy of this resolution to B. T. Collins, Director of the California Conservation Corps.

RESOLUTION CHAPTER 160

Assembly Concurrent Resolution No. 104—Relative to air pollution in the San Joaquin Valley.

[Filed with Secretary of State September 2, 1982]

WHEREAS, The San Joaquin Valley is a basin devoid of any natural outlet; and

WHEREAS, The San Joaquin Valley is the most important agricultural producing region in the United States; and

WHEREAS, The San Joaquin Valley has been designated by the Environmental Protection Agency as potentially the worst air basin in the United States; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature requests that a task force comprised of 12 members who are residents of the San Joaquin Valley be appointed as follows: (1) the Governor shall appoint one county supervisor, one city councilperson, one physician, and one meteorologist; (2) the Senate Rules Committee shall appoint one county supervisor, one city councilperson, one public member, and one oil specialist; and (3) the Speaker of the Assembly shall appoint one county supervisor, one city councilperson, one public member, and one farmer; and be it further

Resolved, That this task force shall become operative on February 1, 1983, and shall meet and review the need for establishment of a San Joaquin Valley-wide air basin district or the possibility of the unification of existing air pollution districts, and shall make recommendations to the Legislature by June 1, 1984, as to recommended courses of action in dealing with the air pollution problem in the San Joaquin Valley; and be it further

Resolved, That the Office of Planning and Research is hereby requested to provide technical assistance to the task force in its review of the air quality problems in the San Joaquin Valley and to assist the task force in the preparation of its report to the Legislature; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of

this resolution to the Governor and to the Office of Planning and Research.

RESOLUTION CHAPTER 161

Assembly Concurrent Resolution No. 108—Relative to the New Melones Reservoir.

[Filed with Secretary of State September 2, 1982.]

WHEREAS, The cost of energy has escalated rapidly to the detriment of a large segment of California's people; and

WHEREAS, Increasing utility rates are imposing hardships on California families, and particularly so in the service area of the Pacific Gas and Electric Company; and

WHEREAS, The cost of fuel to generate energy is, in large part, responsible for the high cost of energy for residential consumers; and

WHEREAS, It is sound public policy to minimize the burning of oil and to reduce the quantity of oil we use; and

WHEREAS, The New Melones Reservoir, if operated as directed by order of Secretary of the Interior Cecil Andrus and reaffirmed by Secretary of the Interior James Watt, could generate each year an average 450,000,000 kilowatt hours of energy, thereby replacing approximately 820,000 barrels of oil; and

WHEREAS, The preponderant amount of energy produced would be available at the times most needed, thereby reducing the need of the Pacific Gas and Electric Company to purchase generating capacity from the Southern California Edison Company at a cost of approximately one million dollars for each month, or portion thereof of each month, as they are now required to do when this capacity is needed; and

WHEREAS, Those purchases inevitably become part of the rate structure of the Pacific Gas and Electric Company; and

WHEREAS, To provide the needed capacity requires oil-fired generation in southern California during the months when air quality is a major problem, and the burning compounds that problem; and

WHEREAS, The filling of the New Melones Reservoir would result in the reservoir having a dependable capacity year in and year out to contribute to available peaking power to the benefit of the environment and the consumer by generating clean, nonpolluting, lower cost energy, and the only purpose served by the failure to fill the reservoir is to allow the continued use of a short stretch of white water by a handful of the states' residents; and

WHEREAS, White water with similar aesthetic qualities and degree of difficulty exists in the same proximity to its users; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the current policy of the State Water Resources Control Board relative to the filling of the New Melones Reservoir, that is, preserving the white water to the detriment of dependable power generation capacity, as well as other benefits not related to irrigation, is not acceptable, and the board is hereby requested to review its policy in light of the public need for affordable power; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the State Water Resources Control Board and to appropriate state and federal agencies.

RESOLUTION CHAPTER 162

Assembly Concurrent Resolution No. 135—Relative to the Edmond J. Russ Freeway Interchange and the Arthur H. Edmonds Underpass.

[Filed with Secretary of State September 2, 1982.]

WHEREAS, Edmond J. Russ was a member of the Gardena City Council from 1968 to 1972, and was Mayor from 1974 to 1982; and

WHEREAS, Edmond J. Russ has been a member of the Los Angeles County Transportation Commission since 1977 when he was elected by the League of California Cities to represent the 79 smaller cities in Los Angeles County; and

WHEREAS, Commissioner Russ served as Chairman of the Los Angeles County Transportation Commission in 1979, and now chairs the Commission's Finance Review Committee—the committee which develops funding recommendations for transit and highway projects in Los Angeles County; and

WHEREAS, Commissioner Russ served as Chairman of the Route 91/110 Interchange Task Force—the task force established to work with the Department of Transportation for the completion of the interchange between the Harbor (Route 110) and Artesia (Route 91) Freeways; and

WHEREAS, Commissioner Russ has been an articulate spokesman for transportation improvements in southern California, including the efficient coordination of paratransit services; and

WHEREAS, Commissioner Russ has retired from public office, after many years of outstanding service to the people of California; and

WHEREAS, The Los Angeles Transportation Commission appreciates the contribution of Edmond J. Russ to the citizens of Los Angeles County; and

WHEREAS, Arthur H. Edmonds served on the Yolo County Board of Supervisors from 1966 to 1981 and was the main proponent of

extending State Highway Route 84 from Michigan Boulevard in West Sacramento to State Highway Route 16 at Kegle Drive in Bryte; and

WHEREAS, Arthur H. Edmonds organized an unprecedented amount of support for the project from the West Sacramento District Chamber of Commerce, the Washington Unified School District, the East Yolo Community Services District, and the citizens of Broderick, Bryte, and West Sacramento; and

WHEREAS, The completion of the Route 84 extension will provide direct access between the communities of east Yolo County, guaranteeing improved emergency vehicle and commercial service; and

WHEREAS, Authur H. Edmonds has received the support for the completion of this project from numerous legislators since the early 1960s, including Senators Randolph Collier, Fred Marler, John Dunlap, and Jim Nielsen, and Assemblymen Ed Z'berg, Vic Fazio, Sam Geddes, and Tom Hannigan; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the interchange between the Harbor (Route 110) and Artesia (Route 91) Freeways is hereby officially designated the Edmond J. Russ Freeway Interchange; and be it further

Resolved, That the Department of Transportation be directed to determine the cost of, and to erect, appropriate plaques and markers, consistent with the signing requirements for the state highway system, showing that official designation, upon receiving donations from private sources covering the costs of erecting those plaques and markers; and be it further

Resolved, That the Mikon Underpass on State Highway Route 84 in Yolo County, Bridge No. 22-176, be designated the Arthur H. Edmonds Underpass, and be it further

Resolved, That the Department of Transportation be directed to determine the cost of, and to erect appropriate plaques and markers, consistent with the signing requirements for the state highway system, showing that official designation, upon receiving donations from private sources covering the costs of erecting those plaques and markers; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Transportation; and be it further

Resolved, That the Chief Clerk of the Assembly transmit suitably prepared copies of this resolution to Edmond J. Russ and Arthur H. Edmonds.

RESOLUTION CHAPTER 163

Assembly Concurrent Resolution No. 139—Relative to Eugene Marias.

[Filed with Secretary of State September 2, 1982.]

WHEREAS, The passing of Eugene Marias has left a void in California's legal community and saddened his family and friends; and

WHEREAS, Eugene Marias has left his wife of four decades, Muriel; his daughter, Deirdre; his grandson, Gifford; his sister, Sylvia; his brother, Seymour; and a host of others—family members, personal friends, professional colleagues, and students—who will miss him profoundly; and

WHEREAS, Eugene Marias was a senior partner in the law firm of Rose, Klein, and Marias; he received his A.B. degree from the University of Southern California in 1940 and his law degree from the USC Law Center in 1946; he specialized in the field of Workers' Compensation Law and became one of the nation's foremost practitioners in that area; and

WHEREAS, Eugene Marias was a man renowned for his superb personal integrity as well as for his outstanding professional expertise; and

WHEREAS, Eugene Marias was a kind and honest man whose nobility of character was manifested by innumerable acts of love; those whose lives were touched by Eugene Marias will always be inspired by their memories of him; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Members express their sadness and sense of loss at the passing of Eugene Marias, and convey their sympathy to his family; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to Muriel Marias, Deirdre Lindheim, Gifford Lindheim, Sylvia Glantz, and Seymour Marias.

RESOLUTION CHAPTER 164

Assembly Concurrent Resolution No. 143—Relative to sales and use tax.

[Filed with Secretary of State September 2, 1982.]

Resolved by the Assembly of the State of California, the Senate thereof concurring, That, in situations where it has come to the attention of the Franchise Tax Board that a person has been investigated for an alleged illegal activity, including, but not limited to, the sale of narcotics and other illegal drugs, and the Franchise Tax

Board estimates the income earned from that alleged illegal activity and assesses income tax against that person, the State Board of Equalization, if that person fails to make a return, pursuant to Section 6511 of the Revenue and Taxation Code, is hereby directed for a period of one year to make an estimate of the gross receipts of the person, or, as the case may be, of the amount of the total sales price of tangible personal property sold or purchased by the person, the sale, storage, use, or other consumption of which in this state is subject to the sales and use tax, and is further directed, upon the basis of that estimate, to compute, determine, and collect the amount of sales and use tax required to be paid to the state; and be it further

Resolved, That the costs incurred by the State Board of Equalization in computing, determining, and collecting sales and use taxes as the result of this measure be absorbed within the board's existing budget; and be it further

Resolved, That on or before January 1, 1984, the State Board of Equalization shall report to the Legislature on the revenues derived from, and the cost of, collecting sales tax as provided in this resolution together with its recommendation on whether the collection program should continue; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Board of Equalization and the Franchise Tax Board.

RESOLUTION CHAPTER 165

Assembly Concurrent Resolution No. 146—Relative to toxic building materials.

[Filed with Secretary of State September 2, 1982.]

WHEREAS, The United States has one of the highest fire death and injury rates in the industrialized world; and

WHEREAS, More than 80 percent of those deaths are due to toxic products of combustion, not flames; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the State Fire Marshal, in conjunction with the Department of Industrial Relations, which shall be the lead agency for this purpose, is directed to assess the test methods as currently exist in the field of combustion toxicology and to adopt or adapt the most appropriate existing test method to rate the relative toxicity of all materials intended for use in or as a part of high-density occupancy buildings. The most appropriate test shall substantially meet the following criteria:

(a) The development of such test method shall have been substantially funded by public sources, or currently used by building code officials or code authorities,

(b) The test shall not only measure the lethality of a material but also the time it takes to reach lethality,

(c) The results of testing using such methods can be shown to be reproducible in laboratories independent of that of the developing organization,

(d) The test can readily be used for independent testing; and be it further

Resolved, That the Department of Industrial Relations, in conjunction with the State Fire Marshal, which shall be the lead agency for this purpose, is directed to assess the test methods as currently exist in the field of combustibility and to adopt or adapt the most appropriate existing test methods to rate the relative combustibility of all materials intended for use in or as a part of high-density occupancy buildings. The relative combustibility tests which are adopted or adapted shall determine ignitability, flame spread, rate of heat release, and rate and extent of smoke generation. The most appropriate tests shall substantially meet the following criteria:

(a) The development of such test methods shall have been substantially funded by public sources, or currently used by building code officials or code authorities,

(b) The test shall not only measure the lethality of a material but also the time it takes to reach lethality,

(c) The results of testing using such methods can be shown to be reproducible in labortories independent of that of the developing organization,

(d) The tests can readily be used for independent testing.

Those tests which are currently used by the Bureau of Home Furnishings or the State Fire Marshal to regulate the flammability of products under their jurisdiction shall be deemed to meet the criteria of this clause for the testing of those products; and be it further

Resolved, That it is the intent of the Legislature that the cost of these activities be borne by existing state funds and that no additional appropriation shall be required, and be it further

Resolved, That the State Department of Health Services cooperate with the State Fire Marshal and the Department of Industrial Relations in any appropriate way; and be it further

Resolved, That the participating agencies shall consult with representatives of other state agencies, the metals industry, the plastics industry, fire services, the health professions, and the general public as appropriate; and be it further

Resolved, That it is also the intent of the Legislature that if regulations are subsequently adopted based on these tests that the use or restriction of any material shall be based on consideration of all toxicity and combustibility test measurements adopted or adapted pursuant to this resolution; and be it further

Resolved, That it is the intent of the Legislature that the tests adopted pursuant to this resolution be used also to ultimately

develop a hazard rating index; and be it further

Resolved, That the state shall not publish a rating, with the exception of the one currently published by the State Fire Marshal pursuant to Section 13144.1 of the Health and Safety Code, which lists particular products unless both the toxicity and combustibility test measurements are listed; and be it further

Resolved, That the Director of the Department of Industrial Relations and the State Fire Marshal shall submit copies of their reports to the Legislature by April 30, 1983; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Director of Health Services, the Director of Industrial Relations, and to the State Fire Marshal.

RESOLUTION CHAPTER 166

Assembly Concurrent Resolution No. 150—Relative to proclaiming Guadalcanal 40th Anniversary Week.

[Filed with Secretary of State September 2, 1982.]

WHEREAS, On August 7, 1942, at 6:30 a.m., the bombardment of Guadalcanal and Tulagi in the Solomon Islands by U.S. naval ships and Australian ships and navy planes began to soften up the beachheads for the landing of 20,000 Marines from the First Division; and with the landing at 8:05 a.m. of the 20,000 leathernecks, the rollback of the great Japanese Empire began with the roughest, bravest battles Americans had ever fought; and

WHEREAS, On August 9, 1942, at 1:30 a.m., the surface battles of Savo Straits began and became known as the nightmare in Savo Sound, wherein the heavy cruisers U.S.S. Quincy, U.S.S. Vincennes, U.S.S. Astoria and the Australian heavy cruiser Canberra were sunk, and the heavy cruiser Chicago, the destroyer Patterson, and the destroyer Ralph Talbot were damaged, leaving 1,024 men dead and 709 men wounded; and

WHEREAS, On August 11, 1942, the destroyer U.S.S. Jarvis was sunk by Japanese planes west of Guadalcanal, killing 247 men, while proceeding to Perth, Australia, for repair of damage suffered in the air raid of August 9; and

WHEREAS, The Solomon Islands campaign is a unique, unforgettable chapter in American naval history, marked by unremitting warfare and sudden and vicious surface engagements, mostly at night at very close range and all of them deadly, and after 17 months of fighting, a total of 24 American fighting ships had been sunk, including aircraft carriers, heavy cruisers, light cruisers, and destroyers; and

WHEREAS, The Royal Japanese Navy lost a total of 24 fighting ships, including light carriers, heavy cruisers, light cruisers,

destroyers, and submarines, as well as two-thirds of the 36,000 Army and Navy men brought to fight at Guadalcanal; and

WHEREAS, Six months of terror, disease, and death cost the U.S. Army and Marines 1,592 deaths out of 60,000 troops, and an unknown number of deaths in the Navy; yet, victory was achieved, and Ironbottom Sound in the Solomons became an epitaph; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Governor is requested to proclaim August 7 to August 14, 1982, as "Guadalcanal 40th Anniversary Week," and that he join the Members of the California Legislature in urging all Californians to observe this solemn memorial occasion; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Governor.

RESOLUTION CHAPTER 167

Assembly Concurrent Resolution No. 153—Relative to commending George R. Reilly upon the occasion of his retirement from the State Board of Equalization.

[Filed with Secretary of State September 2, 1982.]

WHEREAS, George R. Reilly, member of the State Board of Equalization, has resigned from his position following 44 years of dedicated and responsible service, the longest tenure of any elected state official in the history of California; and

WHEREAS, First elected to the Board of Equalization in 1938 and reelected thereto at four-year intervals, George represented the First Equalization District comprised of all or part of 21 counties, served as vice chairman of the board in 1981, and distinguished himself as chairman of the board for 10 years; and

WHEREAS, He was born in the Mission District of San Francisco, graduated from San Francisco schools and attended Sacred Heart College, and, a licensed California real estate broker, was in the real estate and property appraisal business for many years; and

WHEREAS, He initiated his career of public service as a member of the San Francisco Election Commission, from that office was named to the Board of Permit Appeals and subsequently became a member of the San Francisco Board of Supervisors; and

WHEREAS, He was one of the founders of the Irish-Israeli-Italian Society of San Francisco and has served as one of the three copresidents ever since; has been a Director of the Civic League of Improvement Clubs and Associations of San Francisco; and, professionally, has devoted of his time as Vice President of the San Francisco Branch of the American Society of Appraisers, member of

the Executive Committee of the Western States Association of Tax Administrators, and member of the California Assessors' Association; and

WHEREAS, His excellence as a public official has been complemented by an ongoing rapport with both his colleagues and constituents, and he will be sorely missed by all of those having had the pleasure of associating with him; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the members express their appreciation to George R. Reilly for his many invaluable contributions on behalf of the people of the state through his 44 years of service on the State Board of Equalization, and convey to him best wishes for every success in his future endeavors; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to George R. Reilly.

RESOLUTION CHAPTER 168

Assembly Concurrent Resolution No. 154—Relative to the Arthur H. Edmonds Underpass.

[Filed with Secretary of State September 2, 1982.]

WHEREAS, Arthur H. Edmonds served on the Yolo County Board of Supervisors from 1966 to 1981 and was the main proponent of extending State Highway Route 84 from Michigan Boulevard in West Sacramento to State Highway Route 16 at Kegle Drive in Bryte; and

WHEREAS, Arthur H. Edmonds organized an unprecedented amount of support for the project from the West Sacramento District Chamber of Commerce, the Washington Unified School District, the East Yolo Community Services District, and the citizens of Broderick, Bryte, and West Sacramento; and

WHEREAS, The completion of the Route 84 extension will provide direct access between the communities of East Yolo County, guaranteeing improved emergency vehicle and commercial service; and

WHEREAS, Authur H. Edmonds has received the support for the completion of this project from numerous legislators since the early 1960s, including Senators Randolph Collier, Fred Marler, John Dunlap, and Jim Nielsen, and Assemblymen Ed Z'berg, Vic Fazio, Sam Geddes, and Tom Hannigan; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Mikon Underpass on State Highway Route 84 in Yolo County, Bridge No. 22-176, be designated the Arthur H. Edmonds Underpass, and be it further

Resolved, That the Department of Transportation be directed to determine the cost of, and to erect appropriate plaques and markers,

consistent with the signing requirements for the state highway system, showing that official designation, upon receiving donations from private sources covering the costs of erecting those plaques and markers; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Transportation; and be it further

Resolved, That the Chief Clerk of the Assembly transmit suitably prepared copies of this resolution to Arthur H. Edmonds.

RESOLUTION CHAPTER 169

Assembly Joint Resolution No. 69—Relative to federal funding of public library services.

[Filed with Secretary of State September 2, 1982.]

WHEREAS, The federal Library Services and Construction Act (20 U.S.C. Sec. 351 et seq.) since its passage has provided valuable support to the extension and improvement of public library services in California and throughout the nation; and

WHEREAS, Under the Library Services and Construction Act, $6,500,000 has been provided annually to the State of California to be distributed within the state by the State Librarian for library services to low-income, physically handicapped, and elderly persons, to the limited- and non-English speaking, and for the general improvement of the quality of library services and interlibrary cooperation in the state; and

WHEREAS, Many California public libraries and their underserved and limited- or non-English-speaking patrons have benefited and continue to benefit from the improved library services and access to free public library resources made possible by funds awarded by the State Librarian from the LSCA; and

WHEREAS, Funding for California's public libraries has been cut back as a result of the budgetary reductions following the passage of Proposition 13; and

WHEREAS, A 25 percent reduction in LSCA funding, which was $62,500,000 in 1981, has been proposed for the fiscal year 1982; and

WHEREAS, This reduction in funding would have an extremely detrimental effect upon the ability of California public libraries to continue to provide to their users even the present level of services, which has already been cut back to the basic level, and would limit the ability of the information-poor, particularly the Hispanic, blind, and disabled, to have equal access to the information resources enjoyed by California citizens; and

WHEREAS, Many current library services which assist the underserved and disadvantaged, including the California Spanish Language Data Base, reference networks, and the school-public

library cooperation program, receive full or partial funding from LSCA; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California commends the State Librarian and the library community for their continued support of free access to library information services and resources for the disadvantaged, the limited- and non-English speaking, the blind, and the disabled; 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 maintain at $62,500,000 the amount of funding given to the Library Services and Construction Act in 1982 and to provide adequate funding in subsequent years in order to provide vital federal funds to the State of California for library services to the disadvantaged; 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 170

Assembly Joint Resolution No.71—Relative to veterans' burial benefits.

[Filed with Secretary of State September 2, 1982.]

WHEREAS, A burial allowance of $300 has been a time-honored benefit available from the federal government for service in the United States Armed Forces; and

WHEREAS, The Reagan Administration, with the approval of Congress, has eliminated this benefit for all veterans except those with a compensable service-connected disability or receiving a pension; and

WHEREAS, This action has resulted in the loss of this benefit for 3.3 million California veterans; and

WHEREAS, The cost of burial of indigent veterans will now fall upon the counties in this state because of prohibitions in the California Military and Veterans Code against paupers' burials for veterans; and

WHEREAS, The estimated cost due to the loss of this benefit is estimated to be $250,000 to $300,000 in Los Angeles County alone; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California hereby respectfully memorializes the President and Congress of the United

States to reverse the recent federal action which eliminated the $300 burial benefit for veterans of the United States Armed Forces; 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 171

Assembly Joint Resolution No. 76—Relative to Social Security survivor's benefits.

[Filed with Secretary of State September 2, 1982.]

WHEREAS, The crimes of parricide and other forms of familial homicide are regarded as particularly heinous forms of murder; and

WHEREAS, Under existing federal law cases have recently occurred in California in which the perpetrators of these crimes, who are dependents of the victims, have been held eligible for the payment of Social Security survivor's benefits available because of the deaths resulting from the commission of the crimes; and

WHEREAS, The people of this state and other states are unjustly burdened by the payment of these benefits resulting directly from such crimes; 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 review and remedy by reform legislation the federal rules and regulations pertaining to Social Security survivor's benefits so that persons found sane and committed or sentenced to incarceration for the murder of a parent, spouse, or other family member will not benefit from federal funds paid as a result of the death of the murder victim; and be it further

Resolved, That the Legislature urges the President and Congress of the United States to act swiftly to enact legislation remedying this injustice whereby a murderer may benefit from the government of the United States for his heinous act; 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 172

Assembly Joint Resolution No. 93—Relative to tuna fishing.

[Filed with Secretary of State September 2, 1982.]

WHEREAS, Mexico has established an offshore extended economic zone for the regulation of commercial fishing; and

WHEREAS, In the past Mexico issued permits to American commercial fishermen to take fisheries products within the offshore economic zone, but will no longer issue these permits; and

WHEREAS, Past activities of the Mexican government to discourage the taking of fisheries products within the zone by American commercial fishermen included heavy fines and the confiscation of fish and nets; and

WHEREAS, In response to these activities the United States has embargoed all tuna and tuna products from Mexico; and

WHEREAS, Negotiations between Mexico and the United States on the issue of commercial fishing within the zone are currently at a standstill with neither side gaining anything positive as a result thereof; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President, the Congress of the United States, and the United States Secretary of State to reopen negotiations with Mexico on the issue of commercial fishing within the zone and to negotiate in total good faith avoiding approaches which could lead to the animosities that existed in the past; and be it further

Resolved, That the Legislature of the State of California firmly believes that two countries with similar economic interests and a common border should be able to coexist in harmony and negotiate in good faith, and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the United States Secretary of State.

RESOLUTION CHAPTER 173

Assembly Joint Resolution No. 110—Relative to student loan repayment.

[Filed with Secretary of State September 2, 1982.]

WHEREAS, Many persons obtained their education with the aid of student loans granted by the government for educational purposes; and

WHEREAS, Many persons have been unable to repay these student loans; and

WHEREAS, Many of these persons have acquired skills through their education which could benefit their communities; 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 implement a program whereby the applicable student loan authority may make a determination as to whether a person who is in default of a student loan is financially capable of repaying all or a portion of that loan, and which would authorize the student loan authority to require that the person perform community work related to his or her degree or field of study for which credit would be given towards the amount owed; 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 174

Assembly Joint Resolution No. 119—Relative to employment on the Outer Continental Shelf.

[Filed with Secretary of State September 2, 1982]

WHEREAS, A foreign company, "HEEREMA," has set an oil platform and is using foreign labor from Holland and Spain on the Outer Continental Shelf of California; and

WHEREAS, We have many Americans in the State of California unemployed; now, therefore, be it

Resolved, by the Assembly and Senate of the State of California, jointly, That the Legislature respectfully memorializes the President and the Congress of the United States to take such action as is necessary to ensure the use of American labor on the Outer Continental Shelf, with all applicable affirmative action guidelines; 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 175

Assembly Joint Resolution No. 127—Relative to hospice care.

[Filed with Secretary of State September 2, 1982.]

WHEREAS, The needs of the terminally ill, the bereaved, and their families in California and the nation have not been adequately met by the health care delivery system; and

WHEREAS, The hospice concept of care for the terminally ill, the bereaved, and their families first received worldwide acclaim because of the efforts of Dr. Cicely Saunders to deliver hospice care in England; and

WHEREAS, In the United States, the needs of the terminally ill of all ages was first brought to the attention of the health professions and the general public by Dr. Elisabeth Kubler-Ross; and

WHEREAS, Through the efforts of many volunteers and health professionals, the hospice program of care has become an accepted part of the health care delivery system; and

WHEREAS, The hospice program of care has received the official endorsement of numerous national organizations including the American Medical Association and the AFL-CIO; and

WHEREAS, Numerous national corporations including General Electric, Westinghouse, Warner-Lambert Foundation, RCA, and the National Cancer Institute, have provided the hospice benefit to its employees, dependents, and, in some cases, its retirees; and

WHEREAS, A large number of terminally ill patients and their families qualify for financial assistance under Medicare coverage; and

WHEREAS, Hospices in California have provided national leadership in education, training, and program development, and in the setting of standards for the quality of care; and

WHEREAS, Legislation currently before the Congress of the United States, House Bill 5180 (Panetta, D-CA) and Senate Bill 1958 (Dole, R-KS), proposes the modification of Medicare benefits to provide assistance for terminally ill citizens seeking the comfort and services of hospice care, and these proposed revisions in federal law are in the best interest of California residents; 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 the provisions of House Bill 5180 (Panetta, D-CA) and Senate Bill 1958 (Dole, R-KS) to extend Medicare coverage to hospice services for terminally ill persons in the United States; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Chairman of the Senate Finance Committee, to the Chairman of the

House Committee on Ways and Means, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 176

Assembly Joint Resolution No. 128—Relative to wool and mohair research.

[Filed with Secretary of State September 2, 1982.]

WHEREAS, The Western Regional Research Center of the Science and Education Administration, an agency of the United States Department of Agriculture, located at Albany, California, has operated at that location since 1948; and

WHEREAS, The center has made substantial contributions to the wool and mohair industry through its research, educational, and consultative activities; and

WHEREAS, The wool industry is a major agricultural activity of the 17 western states where 80 percent of domestic wool is produced; and

WHEREAS, The center's research activities have led to significant improvements in the production, processing, and marketing of these natural fibers, and to the development of well over 100 public service patents related to all phases of the wool industry and the textile industry in general; and

WHEREAS, These research activities have resulted in improved textile qualities that have been utilized in such products as protective socks for amputees using artificial limbs and that have reduced energy and chemical needs for textile production and consumer maintenance, including low-temperature machine washability, greater acceptability of wool qualities by processes which reduce shrinkability, and in international recognition of the center's capability in both basic and applied research; and

WHEREAS, The center's scientific, technical, and support staffs located in the Albany area provide a substantial economic benefit to a generally low-income community; and

WHEREAS, The United States Department of Agriculture is presently planning to close the center at its current location; 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 maintain the effective wool and mohair research conducted by the Western Regional Research Center of the Science and Education Administration at the center's present location in Albany, California, until a more appropriate location in northern California is selected; 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 177

Assembly Joint Resolution No. 129—Relative to Ontario Airport.

[Filed with Secretary of State September 2, 1982.]

WHEREAS, Ontario Airport, a part of the Los Angeles International Airport complex, has become the transportation hub of the Inland Empire region of southern California and the focal point for major airline traffic; and

WHEREAS, In addition to its own traffic, Ontario Airport has become the major traffic overflow facility for Los Angeles International Airport, thus handling traffic originating from all over the world; and

WHEREAS, Airline traffic at Ontario Airport has increased every year since being designated as part of the LAX complex and has been the point of arrival for many international travelers to southern California; and

WHEREAS, It is time that Ontario Airport be fully recognized for its international importance and strategic position in the southern California international transportation network; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of California respectfully memorializes the President and Congress of the United States to direct the Civil Aeronautics Board to take the necessary action to designate Ontario Airport as an international airport, including United States customs clearance as part of its services and facilities as a port of entry to the United States; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Civil Aeronautics Board.

RESOLUTION CHAPTER 178

Senate Concurrent Resolution No. 75—Relative to the denial of necessities to handicapped infants.

[Filed with Secretary of State September 2, 1982.]

WHEREAS, An infant with Down's Syndrome in the State of Indiana was recently denied food, water, and medical attention since birth in a deliberate effort to deny the baby a chance at life; and

WHEREAS, The decision of the parents to let the baby die was supported by a court order barring doctors from feeding or treating the baby and was upheld by the Indiana Supreme Court; and

WHEREAS, Offers of adoption, medical aid, and family support were either refused or not considered by the parents or hospital staff; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the members express their distress that an infant would be allowed to die by calculated neglect because the infant was born mentally retarded; and be it further

Resolved, That it should not be within the purview of the courts or hospitals to determine the worth of a handicapped person's existence or to selectively deprive infants of life sustaining nourishment based upon that determination; and be it further

Resolved, That the Senate of the State of California, the Assembly thereof concurring, declares its intention that no handicapped infants in the state shall be denied food, water, or medical attention solely on the basis of handicap.

RESOLUTION CHAPTER 179

Senate Joint Resolution No. 27—Relative to radioactive waste.

[Filed with Secretary of State September 2, 1982.]

WHEREAS, The oceans of the world are vital to all life on the continents; and

WHEREAS, The ocean waters off the shore of California are the basis for the state's commercial and recreational fisheries which are a source of food for the people of California and are important to coastal recreation and tourism economies; and

WHEREAS, The marine environment is a fragile ecosystem that may be significantly altered or contaminated by shortsighted disposal of radioactive wastes; and

WHEREAS, Radioactive wastes have been dumped in the coastal waters off the shore of California and some samples of ocean sediment have been found to be contaminated with radioactive materials, including plutonium; and

WHEREAS, The consequences of nuclear wastes in the marine environment are poorly understood and pose a threat to the human food chain; and

WHEREAS, Congress is considering HR 6113 by Representative Norman D'Amours of New Hampshire to extend and amend the Marine Protection Research and Sanctuaries Act; and

WHEREAS, Representative Glenn Anderson of California has proposed an amendment to HR 6113 to require that any federal agency proposing to dump radioactive wastes in the ocean shall provide Congress and the public with site-specific information about the full health, environmental, and economic consequences of the proposed dumping; and

WHEREAS, The Anderson amendment also would allow either house of Congress to veto any permit the Environmental Protection Agency might issue for ocean dumping of radioactive waste; and

WHEREAS, The United States Environmental Protection Agency is preparing regulations to lift the current moratorium on ocean dumping of radioactive wastes in United States territorial waters, which has been in effect since 1970, and the United States Department of Energy is developing the option of seabed disposal of radioactive wastes; and

WHEREAS, The United States Navy is considering plans to scuttle decommissioned nuclear submarines in the ocean, possibly off the shore of Cape Mendocino; and

WHEREAS, Japan is considering plans to dump high-level radioactive wastes in the Pacific Ocean north of Micronesia, a United States trust territory; and

WHEREAS, The Pacific Marine Fisheries Commission, formed by interstate compact of the Pacific states, is scheduled to meet in Monterey, California, on November 15, 16, and 17, 1982, and is scheduled to discuss radioactive waste dumping in the Pacific Ocean; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress to ban the scuttling of nuclear submarines off the coast of California and all other radioactive waste disposal in Pacific Ocean waters under the control of the United States until and unless future valid and reliable scientific studies prove it is safe; and be it further

Resolved, That the Legislature supports the Anderson amendment to the Marine Protection Research and Sanctuaries Act as a reasonable interim measure while further scientific research is conducted; and be it further

Resolved, That the Legislature proposes an international treaty to ban the disposal of radioactive wastes anywhere in the Pacific Ocean until and unless future valid and reliable scientific studies prove it safe, and requests that the Congress and the President work diplomatically to oppose any disposal of radioactive wastes anywhere in the Pacific until the treaty takes effect; and be it further

Resolved, That the Legislature respectfully memorializes the Congress to conduct an investigation of the effects of all radioactive contamination of the oceans from all sources to determine the effects of the contamination and to prevent repetition of radioactive waste dumping done without public notice or in violation of laws; and be it further

Resolved, That the Legislature finds and declares that regular monitoring of marine life in the vicinity of the existing radioactive waste dumpsites off the shore of California, including those near the Farallon Islands, is necessary to protect the public health of the people of California; and be it further

Resolved, That the Legislature requests that the Congress, the President, the Environmental Protection Agency, the National Marine Fisheries Service, and the National Oceanic and Atmospheric Administration provide for this needed regular monitoring and provide full information from the monitoring to the California Legislature and to the California State Department of Health Services; and be it further

Resolved, That the Legislature requests that the Congress and the President require the Environmental Protection Agency to provide Pacific coast state and local governments with advance notice prior to publication in the Federal Register of any changes in ocean dumping regulations, and require the Environmental Protection Agency to consult with Pacific coast state and local governments and to conduct public hearings on the Pacific coast before adoption of any changes in ocean dumping regulations; and be it further

Resolved, That the Legislature respectfully requests the Pacific states and United States Pacific territories to join California in opposing all radioactive waste disposal in the Pacific until and unless future valid and reliable scientific studies prove it is safe, and invites the Pacific states and United States Pacific territories to a meeting in Monterey, California, on November 15, 16, and 17, 1982, in connection with the meeting of the Pacific Marine Fisheries Commission, to plan common strategy for this opposition; 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 Administrator of the Environmental Protection Agency, to the Director of the National Marine Fisheries Service, to the Administrator of the National Oceanic and Atmospheric Administration, and to the Governors and presiding officers of the Legislatures of Alaska, Hawaii, Idaho, Oregon, and Washington, and to the Governor of each of the United States Pacific territories.

RESOLUTION CHAPTER 180

Senate Joint Resolution No. 70—Relative to Social Security.

[Filed with Secretary of State September 2, 1982.]

WHEREAS, There are more than 4 million Californians over the age of 60, and more than 2.5 million Californians over the age of 65; and

WHEREAS, More than 3.1 million Californians who are aged or disabled, or who are the survivors or dependents of persons eligible for Social Security benefits, depend for their economic security on the integrity of the Social Security System; and

WHEREAS, Social Security System expenditures to and on behalf of citizens of California are currently approximately as much as 80 percent of the budget of the government of the State of California each year; and

WHEREAS, In May of 1981 the President presented Congress with a set of proposals for reforming the benefit structure and financing of the Social Security System; and

WHEREAS, Those proposals were found to be so onerous and unacceptable by the community of senior citizens of this country that the President withdrew them from consideration by Congress and instead appointed a National Commission on Social Security Reform, which is directed to report to the President and Congress on or before December 31, 1982; and

WHEREAS, The 97th Congress has authorized interfund borrowing between the Old Age and Survivors Insurance Fund, the Disability Insurance Fund, and the Health Insurance Fund, which collectively constitute the financial bases of the Social Security System; and

WHEREAS, The interfund borrowing authorization, which will be essential to permit continued payment of Social Security benefits beginning in the last calendar quarter of 1982, expires on December 31, 1982; and

WHEREAS, There is great fear and concern among members of the senior citizens community and among other groups whose economic security is vitally linked to the integrity of the Social Security System that the pending expiration of the interfund borrowing authority will be used as an excuse to recall the 97th Congress in a "lame duck" session after the November 1982 elections and, in such a session to attempt to adopt the President's original drastic and stringent revisions of the Social Security Act that would provoke extreme political opposition if attempted prior to the November 1982 elections; and

WHEREAS, It would be highly inappropriate for any major action to change the Social Security System to be taken in a lame duck session of Congress, but would be entirely appropriate for such decisions, if any, to be left to the deliberations of the 98th Congress,

which will convene in January of 1983 and will have two full years in which to grapple with the problems of Social Security; and

WHEREAS, It is possible that significant numbers of Members of Congress meeting in a lame duck session would, in fact, themselves be "lame ducks" by virtue of retirement or defeat in the elections and therefore not appropriately accountable to the electorate for major policy decisions enacted under such circumstances; and

WHEREAS, A lame duck session would not be necessary if the 97th Congress were to extend the interfund borrowing authority beyond December 31, 1982, before it adjourns for the November 1982 elections; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California memorializes the President and the Congress of the United States to extend the provisions of Public Law 97-123, which authorized interfund loans and transfers, to at least the first two calendar quarters of 1983, and be it further

Resolved, That the President and the leadership of the Senate and the House of Representatives be urged to assure the senior citizens of this state and this country that no efforts will be made to enact major changes in the benefit or financing structure of the Social Security System during the balance of the 97th 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, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 181

Assembly Constitutional Amendment No. 74—A resolution to propose to the people of the State of California an amendment to the Constitution of the state, by adding Section 10 to Article VII thereof, relating to elections.

[Filed with Secretary of State September 10, 1982.]

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its 1981–82 Regular Session commencing on the first day of December, 1980, two-thirds of the members elected to each of the two houses of the Legislature voting therefor, hereby proposes to the people of the State of California that the Constitution of the state be amended by adding Section 10 to Article VII thereof, to read as follows:

SEC. 10. (a) No person who is found liable in a civil action for making libelous or slanderous statements against an opposing

candidate during the course of an election campaign for any federal, statewide, Board of Equalization, or legislative office or for any county, city and county, city, district, or any other local elective office shall retain the seat to which he or she is elected, where it is established that the libel or slander was a major contributing cause in the defeat of an opposing candidate.

A libelous or slanderous statement shall be deemed to have been made by a person within the meaning of this section if that person actually made the statement or if the person actually or constructively assented to, authorized, or ratified the statement.

"Federal office," as used in this section means the office of United States Senator and Member of the House of Representatives; and to the extent that the provisions of this section do not conflict with any provision of federal law, it is intended that candidates seeking the office of United States Senator or Member of the House of Representatives comply with this section.

(b) In order to determine whether libelous or slanderous statements were a major contributing cause in the defeat of an opposing candidate, the trier of fact shall make a separate, distinct finding on that issue. If the trier of fact finds that libel or slander was a major contributing cause in the defeat of an opposing candidate and that the libelous or slanderous statement was made with knowledge that it was false or with reckless disregard of whether it was false or true, the person holding office shall be disqualified from or shall forfeit that office as provided in subdivision (d). The findings required by this section shall be in writing and shall be incorporated as part of the judgment.

(c) In a case where a person is disqualified from holding office or is required to forfeit an office under subdivisions (a) and (b), that disqualification or forfeiture shall create a vacancy in office, which vacancy shall be filled in the manner provided by law for the filling of a vacancy in that particular office.

(d) Once the judgment of liability is entered by the trial court and the time for filing a notice of appeal has expired, or all possibility of direct attack in the courts of this state has been finally exhausted, the person shall be disqualified from or shall forfeit the office involved in that election and shall have no authority to exercise the powers or perform the duties of the office.

(e) This section shall apply to libelous or slanderous statements made on or after the effective date of this section.

RESOLUTION CHAPTER 182

Assembly Concurrent Resolution No. 141—Relative to commending Alan S. Boyd.

[Filed with Secretary of State September 10, 1982.]

WHEREAS, Alan S. Boyd, President and Chairman of the Board of the National Railroad Passenger Corporation, has announced his retirement from AMTRAK, and in recognition of his outstanding service, is deserving of the highest honors and commendations; and

WHEREAS, Alan S. Boyd has served our country in numerous capacities during his professional career, and was appointed the first United States Secretary of Transportation in 1967; and

WHEREAS, In addition, he was selected to be the President of AMTRAK in 1978, and under his leadership AMTRAK has completely modernized its equipment fleet, has dramatically improved its ratio of passenger revenues to operating costs, has improved its on-time performance from 51 percent four years ago to 80 percent in 1982, and has steadily added new passenger services in California with the encouragement and support of the Legislature; and

WHEREAS, In 1971 AMTRAK operated three round trips daily between Los Angeles and San Diego and AMTRAK now operates seven round trips and transports more people on this one route than any other outside the Northeast Corridor; and

WHEREAS, In 1971, no passenger services existed in the San Joaquin Valley, while currently, two round trips operate daily between the Bay Area, Stockton, Fresno, and Bakersfield, and this route has been experiencing passenger gains exceeding 25 percent monthly over the preceeding year, despite lower overall travel on all other modes; and

WHEREAS, The State of California regained an overnight train service between northern and southern California for the first time since the late 1960's; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That Alan S. Boyd be commended for his energetic, professional, and businesslike stewardship of the nation's rail passenger service and his successful efforts to assist the State of California in revitalizing its intercity rail services; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a suitably prepared copy of this resolution to Alan S. Boyd.

RESOLUTION CHAPTER 183

Assembly Joint Resolution No. 107—Relating to multiple-employer trusts.

[Filed with Secretary of State September 10, 1982.]

WHEREAS, Under the federal Employee Retirement Income Security Act of 1974 (ERISA), multiple-employer trusts are minimally regulated while state regulation, except that relating to

insurance, is preempted; and

WHEREAS, Multiple-employer trusts offer to provide health benefit plans and the benefits of comprehensive group health and other insurance to the vast and particularly vulnerable market group composed of small businesses and small employers at reduced costs and operate in the junctures of federal and state jurisdictions; and

WHEREAS, Highly questionable business practices have occurred among the multiple-employer trusts, including the taking of immense fees, failures to provide comprehensive insurance benefits at reasonable costs, preparing brochures referring to health care providers without notice to or approval by those health care providers, failure to establish sound reserves, including a possible maximum unfunded group health insurance liability in California alone of $50,000,000, and business failures resulting in bankruptcy with policyholders being transferred to newly formed multiple-employer trusts; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the current federal statutes regulating the multiple-employer trust industry are ineffective and that the California Insurance Commissioner and the California Department of Corporations are well-equipped to regulate that industry; and be it further

Resolved, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to enact legislation permitting the states to regulate all multiple-employer trusts which do not meet the ERISA definition of "employee benefit plan;" 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.

STATUTES OF CALIFORNIA

1982

FIRST EXTRAORDINARY SESSION

1981–82

PROCLAMATION BY THE GOVERNOR

Convening the Legislature in First Extraordinary Session

Executive Department

State of California

PROCLAMATION

WHEREAS, an extraordinary occasion has arisen and now exists requiring that the Legislature of the State of California be convened in extraordinary session; now, therefore,

I, EDMUND G. BROWN JR., Governor of the State of California, by virtue of the power and authority vested in me by Section 3(b) of Article IV of the Constitution of the State of California, do hereby convene the Legislature of the State of California on the ninth day of November, 1981, at 9:30 a.m. to legislate upon the following subjects:

1. To consider and act upon legislation relative to State budget problems created by recent federal enactments and related court actions.

2. To consider and act upon legislation relative to reapportionment.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this fourth day of November, 1981.



Governor of California

ATTEST:

Secretary of State

by

Deputy Secretary of State

CHAPTER 1

An act to amend Section 11451.6 of the Welfare and Institutions Code, relating to public social services, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor November 9, 1981. Filed with Secretary of State November 9, 1981.]

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

SECTION 1. It is the intent of the Legislature that regulations which were filed by the Department of Social Services with the Office of Administrative Law on September 21, 1981, and subsequently filed with the Secretary of State on October 1, 1981, shall be implemented and effective immediately.

SEC. 2. Notwithstanding the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, or any provision of law, emergency regulations filed by the Department of Social Services on September 21, 1981, with the Office of Administrative Law, and subsequently filed on October 1, 1981, with the Secretary of State shall be adopted and these regulations shall not be subject to the review or approval of the Office of Administrative Law except as herein provided. The regulations shall be filed by the State Department of Social Services directly with the Secretary of State and such regulations shall be deemed to be necessary to meet an emergency for the immediate preservation of the public peace, health, and safety or general welfare of the state as defined by Section 11346.1 of the Government Code. The regulations shall not remain in effect more than 180 days unless the agency complies with the provisions as required by subdivision (e) of Section 11346.1 of the Government Code, and the Office of Administrative Law shall have no power to review or approve such regulations until the agency files the regulations with the office after public hearing. The scheduled public hearings of the Department of Social Services on November 9, 10, and 11 of 1981, to consider the regulations orginally filed with the Secretary of State on October 1, 1981, shall be deemed to have effectively noticed any changes in law pursuant to this act and shall be deemed sufficient notice to the public for the purposes of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the

Government Code.

SEC. 3. Section 11451.6 of the Welfare and Institutions Code is amended to read:

11451.6. Notwithstanding Section 11008, any exemption from earned income for work-related child care expenses shall be limited to the reasonable and necessary costs for child care for children during such times that the Superintendent of Public Instruction advises the welfare director of the county that he is unable to provide child care for each child eligible for services under Division 12.5 (commencing with Section 16700) of the Education Code. For purposes of this section, reasonable and necessary costs of child care are defined as actual costs, not to exceed the maximum allowable under federal law.

To the maximum extent possible, child care shall be provided as a service cost pursuant to Division 12.5 (commencing with Section 16700) of Part 3 of the Education 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 the necessity are:

In order to conform with provisions of federal law and to insure the fiscal integrity of public social services programs, it is necessary that this act go into immediate effect.

CHAPTER 2

An act to amend Sections 1088, 1110, and 13021 of the Unemployment Insurance Code, relating to taxation.

[Approved by Governor January 18, 1982. Filed with Secretary of State January 19, 1982.]

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

SECTION 1. 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, 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. 2. Section 1110 of the Unemployment Insurance Code is amended to read:

1110. (a) Employer contributions required under Sections 976 and 976.5 and, except as provided by subdivision (b) of this section, worker contributions required under Section 984 are due and payable on the first day of the calendar month following the close of each calendar quarter and shall become delinquent if not paid on or before the last day of such month.

(b) Workers' contributions required under Section 984 are due and payable at the same time as amounts required to be withheld under Section 13020 are paid to the department pursuant to Section 13021, regardless of the amount of accumulated unpaid liability for workers' contributions.

SEC. 3. Section 13021 of the Unemployment Insurance Code is amended to read:

13021. (a) Every employer required to withhold any tax under Section 13020 shall for each calendar quarter, whether or not wages are paid in the quarter, file a withholding return in a form prescribed by the department, and pay over the taxes so required to be withheld. Except as provided in subdivisions (b) and (c) of this section, the employer shall file a withholding return and remit the total amount of income taxes withheld during the calendar quarter on or before the last day of the month following the close of the calendar quarter.

(b) The employer shall remit the total amount of income tax withheld during each first or second month of each calendar quarter, on or before the 15th day of the second calendar month or on or before the 22nd day of the third calendar month, respectively, if the income tax withheld for that month is more than three hundred fifty dollars ($350).

(c) The employer shall remit the total amount of income tax withheld from the first through the 15th calendar day of the third month of each calendar quarter, on or before the 22nd calendar day of the third month if the income tax withheld for that period is more than one hundred seventy-five dollars ($175). Notwithstanding Section 1112, no interest or penalties shall be assessed against any employer who remits at least 95 percent of the amount required by this subdivision provided that the failure is not willful and any remaining amount due is paid with the next payment.

(d) The department may, if it believes such action is necessary,

require any employer to make the return required by this section and pay to it the tax deducted and withheld at any time, or from time to time but no less frequently than provided for in subdivision (a).

(e) For the purpose of this section, payment is deemed complete when it is placed in a properly addressed envelope, bearing the correct postage, and it is deposited in the United States mail.

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

SEC. 5. The amendments to Sections 1088, 1110, and 13021 of the Unemployment Insurance Code made by this act shall become operative on May 1, 1982.

CHAPTER 3

An act to add Sections 16366.35 and 16367.5 to, and to amend Section 16366.8 of, the Government Code, and to amend Sections 11008, 11155, 11157, 11158, 11201, 11250.6, 11250.7, 11253, 11308, 11310, 11350.1, 11403, 11450, 11451.6, 11457, 11475, 11475.1, 11475.2, 11476, 11476.1, 11476.2, 11477, 11478, 11478.5, and 14005.1 of, and to add Sections 11004, 11004.5, 11008.13, 11008.14, 11104, 11250.4, 11257, 11311, 11350.5, 11450.8, and 14007.5 to, and to repeal Sections 11004, 11104, 11255, 11257, and 11261 of, and to add Chapter 5 (commencing with Section 13000) to Part 3 of Division 9 of, the Welfare and Institutions Code, and to repeal Section 3 of Chapter 1077 of the Statutes of 1981, and Section 7 of Chapter 1080 of the Statutes of 1981, relating to public social services, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor February 17, 1982. Filed with Secretary of State February 17, 1982.]

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

SECTION 1. It is the intent of the Legislature that state law regarding the provisions of aid to families with dependent children comply with the provisions of the federal Omnibus Budget Reconciliation Act of 1981. The State Department of Social Services shall implement the provisions regarding the Aid to Families with Dependent Children program in the federal Omnibus Budget Reconciliation Act of 1981 that are optional with the state only as authorized in this act or in existing law.

SEC. 1.1. Section 16366.35 is added to the Government Code, to

read:

16366.35. Counties shall be granted maximum flexibility in administering federal categorical and block grant programs to the extent permitted by state planning requirements. It is the intent of the Legislature in enacting this section to provide counties maximum flexibility in setting priorities in these programs for any reduced funding.

SEC. 1.2. Section 16366.8 of the Government Code is amended to read:

16366.8. For those programs for which the state does not assume full administrative responsibility under the block grant consolidations reflected in the federal Omnibus Budget Reconciliation Act of 1981, but for which state agencies have continued administrative and funding responsibility, as reflected in the Budget Act of 1981, the following criteria shall be used in allocating any reduced levels of federal funds:

(a) The funds shall be utilized for the same purposes as discontinued federal grants.

(b) The funds shall serve the special populations which meet the criteria of need required by federal categorical grant legislation and regulation.

(c) Funds shall be administered by those state agencies currently administering the funds.

(d) To the extent that federal funds are allocated to counties on the basis of county plan submissions to appropriate state agencies, the county plans shall be amended to reflect reduced federal funding. The county shall hold at least one public hearing regarding the proposed changes to the county plans affected. With respect to any plans which are required to be approved by the state, the amended plans shall be approved by the appropriate state agencies and shall comply with the criteria set forth in this section. The approval shall be conducted and completed within 30 days to prevent interruptions in services.

(e) The amount expended in the 1981–82 state fiscal year by the state and by service providers for program administration of all federal categorical and block grant programs shall not exceed the percentage levels of administrative costs approved by the Legislature for departments and providers as of July 1, 1981, and reflected in each service provider grant in effect on that date.

If a state department finds that compliance with the provisions of this section disproportionately burdens certain programs or categories of clients, the department may withhold up to 5 percent of the total amount awarded to the department for each such categorical grant in order to equalize service levels.

SEC. 1.5. Section 16367.5 is added to the Government Code, to read:

16367.5. The State Office of Economic Opportunity shall receive and administer the federal Low Income Home Energy Assistance Block Grants, and shall allocate funds received as follows:

(a) An amount not to exceed 7.5 percent of the total federal allocation for crisis intervention. Crisis intervention shall consist solely of emergency assistance to eligible individuals for programs specified in this subdivision who give evidence of the following conditions: (1) proof of utility shut-off notice, (2) proof of energy termination, (3) insufficient funds to establish a new energy account, and insufficient funds to pay a current or delinquent utility bill. The crisis intervention program shall not include advocacy, community mobilization or community planning and education. The program shall include activities to enroll eligible individuals.

An amount not to exceed 10 percent of the total federal allocation for weatherization services for eligible individuals for programs specified in this subdivision, subject to reduction in the Budget Act.

For the purposes of this subdivision these services shall be available only to recipients of aid or persons eligible for aid under Chapter 2 (commencing with Section 11200) and Chapter 3 (commencing with Section 12000) of Part 3 of Division 9 of the Welfare and Institutions Code, county general assistance recipients under Part 5 (commencing with Section 17000) of Division 9 of the Welfare and Institutions Code, of the Food Stamp program.

(b) Five percent of the total federal allocation for purposes of administration. An additional 2.5 percent of the total federal allocation shall be set aside for administrative purposes and made available upon request of the Department of Finance and pursuant to Section 28 of Chapter 99 of the Statutes of 1981.

(c) An amount not to exceed 10 percent of the total federal allocation to the State Department of Social Services for social service programs under Chapter 5 (commencing with Section 13000) of Part 3 of Division 9 of the Welfare and Institutions Code.

(d) The remainder of the total federal allocation of aid to recipients of Aid to Families with Dependent Children and the Supplemental Security Income/State Supplementary Program for home energy costs.

SEC. 2. Section 11004 of the Welfare and Institutions Code is repealed.

SEC. 3. Section 11004 is added to the Welfare and Institutions Code, 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 or her 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 or her competence those facts required of him or her pursuant to subdivision (a) and to report promptly any changes in those facts.

(c) Current and future grants payable to an assistance unit may be reduced because of prior overpayments to the extent permitted by federal law. In every case, grant payments shall be reduced to a level no lower than 90 percent of the grant, when added to the family's liquid resources and income, appropriate to families in similar conditions to the assistance unit being adjusted. If permitted by federal law, grant payments to be adjusted because of prior overpayments caused by agency errors shall be reduced to a level no lower than 95 percent of the grant when added to the family's liquid resources and income, appropriate to families in similar conditions to the assistance unit being adjusted.

(d) Prior to effectuating any reduction of current grants to recover past overpayments, the recipient shall be advised of the proposed reduction and of his or her entitlement to a hearing on the propriety of the reduction.

(e) If the department determines after a hearing that an overpayment has occurred, the county providing the public social services shall seek to recover in accordance with subdivision (c) the full amount of the overpayment to the assistance unit, including any amount paid while the hearing process was pending, if required in order to conform to federal law or regulation. 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.

(f) If the individual responsible for the overpayment to the assistance unit is no longer eligible for public social services or if he or she becomes a member of another assistance unit, recoupment of overpayments shall be made against the individual or his or her present assistance unit, or both, to the extent consistent with the provisions of federal law.

(g) Where an overpayment has been made to an assistance unit which is no longer receiving public social services, recovery shall be made by appropriate action under state law against the income or resources of the individual responsible for the overpayment or against the family.

(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 and as a result the applicant or recipient does not receive the amount to which he or she is entitled, the county shall provide public social services equal to the full amount of the underpayment unless prohibited by federal law.

Any corrective payments made pursuant to this subdivision shall

be disregarded in determining the income of the family and shall be disregarded in determining the resources of the family in the month the corrective payment is made and in the following month.

(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. Any suits to recover overpayments described in subdivision (e) 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. 3.5. Section 11004.5 is added to the Welfare and Institutions Code, to read:

11004.5. The State Department of Social Services shall submit a report by January 1, 1983, to the chairpersons of the fiscal committees of the Legislature and the Joint Legislative Budget Committee, which analyzes overpayment information collected as a part of the error rate sampling process, including the amount of overpayment by type of error, source or cause of error, and recommendations regarding corrective action.

SEC. 4. Section 11008 of the Welfare and Institutions Code is amended to read:

11008. In order that recipients of public assistance may become self-supporting and productive members of their communities, it is essential that they be permitted to earn money without a proportionate deduction in their aid grants. It is the intention of the Legislature to promote this objective and the department, in implementing public assistance laws, is directed to do so in the light of this objective.

To the extent required by federal law, earned income of a recipient of aid under any public assistance program for which federal funds are available shall not be considered income or resources of the recipient, and shall not be deducted from the amount of aid to which the recipient would otherwise be entitled. In computing the amount of income determined to be available to support a recipient, the value of currently used resources shall be included, except as provided in Section 11018.

The State Department of Social Services shall submit a report by January 1, 1983, to the chairpersons of the fiscal committees of the Legislature and the Joint Legislative Budget Committee which evaluates the impact of the income disregard provisions of the federal Omnibus Budget Reconciliation Act of 1981 on the caseload of the Aid to Families With Dependent Children program, including the impact on the length of time recipients are on aid.

This section does not apply to recipients under Chapter 3 (commencing with Section 12000) of this part.

SEC. 5. Section 11008.13 is added to the Welfare and Institutions Code, to read:

11008.13. To the extent required by federal law, and as otherwise consistent with other provisions of this chapter:

(a) The income and resources of a sponsor and his or her spouse

shall be deemed as the income and resources of an alien who is an applicant for or recipient of aid under Chapter 2 (commencing with Section 11200).

(b) As a condition of eligibility, any individual who is an alien, during the period of three years after entry into the United States, shall be required to provide any information and documentation with respect to his or her sponsor as may be necessary in order to make any determination required under this section.

(c) If it is determined that as a result of a sponsor's failure to provide correct information an overpayment has been made to an alien, the alien and his or her sponsor shall be jointly and severally liable for repayments. Any such overpayment which is not repaid by the alien or sponsor shall be subject to recoupment pursuant to the provision of Section 11004.

The provisions of this section shall not apply to any alien who is:

(1) Admitted to the United States as a result of the application, prior to April 1, 1980, of the provisions of Section 203(a)(7) of the Immigration and Nationality Act.

(2) Admitted to the United States as a result of the application, after March 31, 1980, of the provisions of Section 207(c)(1) of that act.

(3) Paroled into the United States as a refugee under Section 212(d)(5) of that act.

(4) Granted political asylum by the Attorney General under Section 208 of that act.

(5) A Cuban or Haitian entrant as defined in Section 501(e) of the Refugee Education Assistance Act of 1980.

SEC. 6. Section 11008.14 is added to the Welfare and Institutions Code, to read:

11008.14. The income of an applicant for or recipient of aid under Chapter 2 (commencing with Section 11200) and the income of a spouse of the natural or adoptive parent of an eligible child living in the home of such applicant or recipient shall be considered available for purposes of eligibility determination and grant computation to the extent required by federal law.

SEC. 7. Section 11104 of the Welfare and Institutions Code is repealed.

SEC. 8. Section 11104 is added to the Welfare and Institutions Code, to read:

11104. Aliens shall be eligible for aid only to the extent permitted by federal law.

An alien shall only be eligible for aid if the alien has been lawfully admitted for permanent residence, or is otherwise permanently residing in the United States under color of law. No aid shall be paid unless evidence as to eligible alien status is presented.

SEC. 9. Section 11155 of the Welfare and Institutions Code is amended to read:

11155. In addition to the personal property permitted by other provisions of this part, and to the extent permitted by federal law, an applicant or recipient, including an applicant for or recipient of

aid to families with dependent children may retain items of personal property, other than cash, securities, instruments or other evidences of indebtedness, of a market value, less encumbrances, not to exceed one thousand dollars ($1,000), and in addition property, to the extent permitted by federal law, falling within the following categories.

1. The entire value of wedding and engagement rings, heirlooms and clothing.

2. The value of household furnishings and, in addition, other property used to provide, equip and maintain a household for the applicant or recipient.

3. Equipment and material of reasonable value which are necessary to implement an employment, rehabilitation or self-care plan necessary for employment of the applicant or recipient.

4. Any property right which is essential to land use or which is not available for the use of or expenditure by or in behalf of the applicant or recipient to meet a current or future need of the applicant or recipient.

In addition to all of the foregoing the director may at his discretion, and to the extent permitted by federal law, exempt other items of personal property not exempted under this section.

SEC. 10. Section 11157 of the Welfare and Institutions Code is amended to read:

11157. Notwithstanding Section 11008, all lump-sum income received by an applicant or recipient shall be regarded as income in the month received except nonrecurring lump-sum social insurance payments, which social insurance payments shall include but are not limited to social security income, railroad retirement benefits, veteran's benefits, workman's compensation, and disability insurance.

To the extent required, as a condition for receipt of federal funds, by federal law, lump-sum payments of income, as defined by federal law, received by an applicant for or recipient of aid under Chapter 2 (commencing with Section 11200) shall be considered income in the month received and the family shall be ineligible for aid for the number of months that equals the sum of all income received during such month less all applicable income disregards divided by the standard of need applicable to the family under Section 11452, with any remainder to be considered as income received in the first month following such period of ineligibility, should the family again request aid.

SEC. 11. Section 11158 of the Welfare and Institutions Code is amended to read:

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

To the extent permitted by federal law, for the purposes of

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

(a) Money or securities placed in an irrevocable trust for funeral, cremation, or interment expenses with any of the trustees mentioned in Section 7736 of the Business and Professions Code or Section 8775 of the Health and Safety Code.

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

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

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

SEC. 12. Section 11201 of the Welfare and Institutions Code is amended to read:

11201. For the purposes of this chapter, "unemployed parent" means a natural or adoptive parent with whom the child is living.

(a) A child shall be considered to be deprived of parental support or care due to the unemployment of his or her parent or parents when either of the following conditions is met:

(1) The parent qualifies as an unemployed parent in accordance with the standards for unemployed parents set by the federal government.

(2) The parent does not qualify as an unemployed parent in accordance with federal standards, but the parent meets the conditions of eligibility set forth in subdivision (b).

(b) Except as specified in paragraph (5), a parent who does not meet the federal standards for unemployed parents shall be an unemployed parent for the purposes of this chapter and a family eligible for aid only if the parent meets all of the following conditions of eligibility:

(1) The parent is not working or is employed only part time as determined in accordance with standards which may be developed by the department by regulation. The standards shall be consistent with federal law governing part-time employment for unemployed parents.

(2) If the parent is not ill, incapacitated, or over age 65, the parent shall register for employment and cooperate with the Employment Development Department, and shall either: (A) be available for and seeking employment or, (B) be accepted for, or participate in, a training program which has been approved by the department and which is essential for future support.

(3) Notwithstanding the provisions of Section 11270, the parent shall apply for, meet all conditions of eligibility for, and accept any unemployment insurance benefits for which he or she may be

eligible.

(4) The parent shall not have refused a bona fide offer of employment without good cause, including additional employment if the parent is employed only part time, or has terminated his or her employment without good cause within the 30 days immediately prior to the beginning date of aid or while receiving aid. The State Department of Social Services shall develop standards for determining good cause, which standards shall be consistent with the standards for good cause developed by the federal government in the work incentive program and consistent with the purposes of this chapter. When the Department of Social Services finds that a parent has refused or terminated employment without good cause, the family shall be ineligible for aid for 30 days.

(5) When one parent in the home (A) is employed fulltime, or (B) qualifies, or would qualify but refuses to do so, as an unemployed parent in accordance with the standards for unemployed parents set by the federal government, the other parent is not an unemployed parent for the purposes of this chapter unless the parent qualifies as an unemployed parent under paragraph (1) of subdivision (a).

Whenever a family's eligibility for aid is based upon parental unemployment, the term "unemployed parent" shall mean the principal wage earner, as defined by federal law.

SEC. 13. Section 11250.4 is added to the Welfare and Institutions Code, to read:

11250.4. To the extent required by federal law, aid under this chapter shall not be payable to a family budget unit if a caretaker relative is, on the last day of the month, participating in a strike , unless the strike is necessitated by an imminent health and safety hazard or abnormally dangerous working conditions at the place of employment as determined by the Division of Occupational Safety and Health, or a lockout as defined in Section 1132.8 of the Labor Code. For the purposes of this section, a strike necessitated by an imminent health and safety hazard or abnormally dangerous working condition shall last only so long as necessitated by the imminent hazard or abnormally dangerous working condition. If an individual other than a caretaker relative is participating in a strike, as defined in this section, on the last day of the month, subject to the exceptions and their limitations set forth in this section, that individual's needs shall not be included in determining the amount of aid payable to the assistance unit for the month during which the individual is participating in the strike on the last day of that month.

SEC. 14. Section 11250.6 of the Welfare and Institutions Code is amended to read:

11250.6. Except where inconsistent with federal laws, the income of any person under a contract of employment on an annual basis but who works and receives income from such contract in fewer than 12 months, but more than eight months, shall be prorated over the period of the contract for the purposes of this chapter.

SEC. 15. Section 11250.7 of the Welfare and Institutions Code is

amended to read:

11250.7. Except where inconsistent with federal law, the salary of a full-time certificated employee of a school district shall be prorated over a 12-month period for the purposes of determining eligibility for aid under this chapter.

SEC. 16. Section 11253 of the Welfare and Institutions Code is amended to read:

11253. Aid may not be granted under the provisions of this chapter to or in behalf of any child who has attained the age of 18 unless all of the following apply:

(a) The child is less than 19 years of age and is attending high school or the equivalent level of vocational or technical training on a full-time basis.

(b) The child can reasonably be expected to complete the educational or training program before his or her 19th birthday.

SEC. 17. Section 11255 of the Welfare and Institutions Code is repealed.

SEC. 18. Section 11257 of the Welfare and Institutions Code is repealed.

SEC. 19. Section 11257 is added to the Welfare and Institutions Code, to read:

11257. (a) No aid under this chapter shall be granted or paid for any child who has real or personal property, the combined market value reduced by any obligations or debts with respect to this property of which exceeds one thousand dollars ($1,000), or for any child or children in one family who have, or whose parents have, or the child or children and parents have, real and personal property the combined market value reduced by any obligations or debts with respect to this property which exceeds one thousand dollars ($1,000).

(b) Notwithstanding subdivision (a) above, an applicant or recipient may retain the following:

(1) Personal or real property owned by him or her, or in combination with any other person, without reference to its value, if it serves to provide the applicant or recipient with a home. The basic home may be a multiple-dwelling unit if the units not so occupied by the applicant or recipient are producing income for the support of the applicant or recipient consistent with their rental value.

(2) Personal property consisting of one automobile with maximum equity value as permitted by federal law.

(3) In addition to the foregoing, the director may at his or her discretion, and to the extent permitted by federal law, exempt other items of personal property not exempted under this section.

SEC. 20. Section 11261 of the Welfare and Institutions Code is repealed.

SEC. 21. Section 11308 of the Welfare and Institutions Code is amended to read:

11308. (a) Upon notification by the Employment Development Department that, pursuant to Chapter 4 (commencing with Section

5300) of Division 2 of the Unemployment Insurance Code, an individual registered pursuant to Section 11310 has been found to have failed or refused to appear for appraisal, to accept employment, or to otherwise participate in a work incentive program, the county department shall apply the following sanctions:

(1) If such individual is a caretaker relative receiving aid under this chapter, his or her needs shall not be taken into account in determining the family's need for assistance, and assistance in the form of protective or vendor payments shall be provided to the remaining members of the assistance unit. Under such circumstances, the caretaker relative may not be the protective payee.

(2) If the parent who is the principal wage earner makes such refusal, assistance to the family shall be denied.

(3) If such individual is the only dependent child in the family, assistance for the family shall be denied.

(4) If such individual is one of several dependent children in the family, assistance for such child shall be denied and his or her needs shall not be taken into account in determining the family's need for assistance.

(b) The sanctions under subdivision (a) of this section shall not be applied during a period of up to 60 days after such adverse decision, if the registrant has been certified and accepts counseling and other necessary services aimed at persuading him or her to participate in the WIN program. Meanwhile, where the individual is a caretaker relative, assistance to his or her family in the form of protective or vendor payments and counseling and other necessary services shall be provided.

(c) If an individual is a volunteer registrant and discontinues participation in the work incentive program, the volunteer registrant and his or her family are not subject to the sanctions under this section.

(d) For the purposes of this section, the term "principal wage earner" shall be defined as the parent who earns the greatest amount of income during the 2-year period immediately preceding application for benefits.

SEC. 22. Section 11310 of the Welfare and Institutions Code is amended to read:

11310. (a) Except for individuals provided for in Section 11251 and as provided in subdivision (b), every individual, as a condition for eligibility for aid under this chapter, shall register and remain so registered with the Employment Development Department for manpower services, training, and employment.

(b) The following individuals are not required to register with the Employment Development Department:

(1) An individual under 16.

(2) A child attending school full time. For purposes of this subdivision, school does not include postsecondary education.

(3) An individual who is ill, incapacitated or of advanced age.

(4) An individual so remote from a work incentive project that his or her effective participation is precluded.

(5) An individual whose presence in the home is required because of illness or incapacity of another member of the household.

(6) A parent with primary responsibility for the care of a child under the age of six or other relative who is caring for such child if the parent or adult relative is providing care with only brief or infrequent absences from the child.

(7) A parent or other relative who is caring for a child if the other parent or another adult relative meets all of the following requirements:

(A) The other parent or adult relative is in the home.

(B) He or she is not excluded by paragraph (1), (2), (3), (4), or (5) of this subdivision.

(C) He or she has not failed to register as required by this section or has not been found pursuant to Chapter 4 (commencing with Section 5300) of Division 2 of the Unemployment Insurance Code to have refused without good cause to participate under a work incentive program or to accept employment, to the extent not in conflict with federal law.

(c) Any individual not required to register with the Employment Development Department may choose to register voluntarily for manpower services, training, and employment, and may withdraw such registration at any time without loss of eligibility for aid under this chapter, if his or her status has not changed in a way which would require registration.

SEC. 23. Section 11311 is added to the Welfare and Institutions Code, to read:

11311. The Employment Development Department, in consultation with the State Department of Social Services, shall contract with San Diego County, at the county's option, to provide experimental work experience assignments, for unemployed parents receiving aid under this chapter who have completed job search assistance workshops and are still unemployed and for whom such work experience assignments are appropriate based upon an assessment by the county under contract with the Employment Development Department. Primary participants will be the designated unemployed parent from two-parent AFDC families.

A work experience assignment shall provide all of the following:

(a) Appropriate standards for health, safety, and other conditions applicable to the performance of work.

(b) Assignments which do not result in displacement of persons currently employed, or the filling of established unfilled position vacancies.

(c) Reasonable conditions of work, taking into account the geographic region, the residence of the participants, and the proficiency of the participants.

(d) Participants shall not be required to travel an unreasonable distance from their homes or remain away from their homes

overnight.

(e) The maximum number of hours in any month that a participant may be required to work is that number which equals the amount of aid payable with respect to the family of which such individual is a member divided by the greater of the federal or the applicable minimum wage. In no event shall the hours of required work exceed 32 hours in four days of any given workweek, the fifth day of the workweek remaining for job search.

(f) Transportation and other costs reasonably necessary and directly related to participation in the assignment.

The purpose of the work experience experiment shall be to determine the usefulness of such an approach in achieving the eventual employment of the unemployed parent.

The work experience assignment shall be in public and private nonprofit agencies which meet the requirements of subdivision (e) of Section 5007.5 of the Unemployment Insurance Code.

The County of San Diego shall be responsible for the nonfederal costs of all work-related expenses, work incentives, and the administrative costs of operating the work experience assignments which are not funded under the Work Incentive Program or any other federal program. Any unemployed parent who refuses to participate in the work experience assignment without good cause as specified in Section 5007 and Chapter 4 (commencing with Section 5300) of the Unemployment Insurance Code shall be sanctioned consistent with the provisions of federal law for the Work Incentive Program.

The Legislative Analyst in cooperation with San Diego County shall evaluate the effectiveness of the work experience assignment and report to the Legislature on this demonstration program by December 31, 1983.

This section shall remain in effect only until July 1, 1984, and on that date is repealed.

SEC. 24. Section 11350.1 of the Welfare and Institutions Code is amended to read:

11350.1. Notwithstanding the provisions of any other statute, in any action brought by the district attorney for child support of a minor child or children, the action may be prosecuted in the name of the county on behalf of the child, children or caretaker parent. The mother shall not be a necessary party in such action but may be subpoenaed as a witness. In an action under this section there shall be no joinder of actions, or coordination of actions, or cross-complaints, and the issues shall be limited strictly to the question of paternity, if applicable, and child support. Nor shall such support or paternity action be delayed or stayed because of the pendency of any other action between the parties.

In any action to enforce a spousal support order the action may be pled in the name of the county in the same manner as an action to establish a child support obligation. The same restrictions on joinder of actions, coordination of actions, and cross-complaints, and delay

because of the pendency of any other action as relates to actions to establish a child support obligation shall also apply to actions to enforce a spousal support order. Nothing herein contained shall be construed to prevent the parties from bringing an independent action under the Family Law Act or otherwise, and litigating the issue of support. In such event, the court in such proceedings shall make an independent determination on the issue of support which shall supersede the order made pursuant to this section.

SEC. 25. Section 11350.5 is added to the Welfare and Institutions Code, to read:

11350.5. The Employment Development Department shall withhold a portion of unemployment insurance benefits owing to a noncustodial parent of a recipient of aid under this chapter who has incurred past due child support obligations, pursuant to the requirements of federal law. Any amounts withheld by the Employment Development Department shall be forwarded to the State Department of Social Services, with the State Department of Social Services to reimburse the Employment Development Department for any administrative costs incurred in withholding and forwarding unemployment insurance benefits.

SEC. 26. Section 11403 of the Welfare and Institutions Code is amended to read:

11403. A child who is in foster care and receiving aid pursuant to this chapter and who is attending high school or the equivalent level of vocational or technical training on a full-time basis prior to his or her 18th birthday, may continue to receive aid following his or her 18th birthday so long as the child continues to reside in foster care placement and continues to attend high school or the equivalent level of vocational or technical training on a full-time basis and the child may reasonably be expected to complete the educational or training program before his or her 19th birthday. Aid shall be provided such an individual pursuant to this section provided both the individual and the agency responsible for the foster care placement have signed a mutual agreement, if the individual is capable of making an informed agreement, which documents the continued need for out-of-home placement.

SEC. 27. 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, not to include unborn 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) 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	$ 248
2	408
3	506
4	601
5	686
6	771
7	846
8	922
9	996
10 or more	1,071

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) When the family does not include a needy child qualified for aid under this chapter, aid shall be paid to a pregnant mother in the amount which would otherwise be paid to one person as specified in subdivision (a) from the date of verification of pregnancy if the mother, and child if born, would have qualified for aid under this chapter.

(c) The amount of seventy dollars ($70) per month shall be paid to pregnant mothers qualified for aid under subdivisions (a) or (b) to meet special needs resulting from pregnancy if the mother, and child, if born, would have qualified for aid under this chapter. County welfare departments shall refer all recipients of aid under this section to a local provider of the Women, Infants and Children program. If such payment to pregnant mothers qualified for aid under subdivision (a) is considered income under federal law in the first five months of pregnancy, payments under subdivision (c) shall not apply to persons eligible under subdivision (a), except for the month in which birth is anticipated and for the three-month period immediately prior to the month in which delivery is anticipated, if the mother, and the child if born, would have qualified for aid under this chapter.

(d) For children receiving AFDC-FC under the provisions of this chapter, there shall be paid the sum necessary for the adequate care of each child.

(e) (1) In addition to the amounts payable under subdivision (a) 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 for circumstances other than pregnancy, 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.

(f) 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. 28. Section 11450.8 is added to the Welfare and Institutions Code, to read:

11450.8. No payment of aid pursuant to Section 11450 shall be made to a family for a month in which the amount the family would receive is less than ten dollars ($10). The family shall be considered in receipt of aid for all other purposes.

SEC. 29. Section 11451.6 of the Welfare and Institutions Code is amended to read:

11451.6. Notwithstanding Section 11008, any exemption from earned income for work-related child care expenses shall be limited to the reasonable and necessary costs for child care for children during such times that the Superintendent of Public Instruction advises the welfare director of the county that he is unable to provide child care for each child eligible for services under Division 12.5 (commencing with Section 16700) of the Education Code. For purposes of this section, reasonable and necessary costs of child care are defined as actual costs, not to exceed the maximum allowance under federal law.

To the maximum extent possible, child care shall be provided as a service cost pursuant to Division 12.5 (commencing with Section 16700) of Part 3 of the Education Code.

SEC. 30. Section 11457 of the Welfare and Institutions Code is amended to read:

11457. Money from noncustodial parents for child or spousal support with respect to whom an assignment under Section 11477 has been made shall be paid directly to the district attorney or his designee and shall not be paid directly to the family. Such absent parent

support payments, when collected by or paid through any public officer or agency, shall be transmitted to the county department providing aid under this chapter.

The State Department of Social Services, by regulation, shall establish procedures not in conflict with federal law, for the distribution of such noncustodial parent support payments.

If an amount collected as child or spousal support represents payment on the required support obligation for future months, the amount shall be applied to such future months. However, no such amounts shall be applied to future months unless amounts have been collected which fully satisfy the support obligation assigned under subdivision (a) of Section 11477 for the current months and all past months.

SEC. 31. Section 11475 of the Welfare and Institutions Code is amended to read:

11475. (a) The department is hereby designated the single organizational unit whose duty it shall be to administer the state plan for securing child and spousal support where the spouse has assigned support rights under Section 11477, and is receiving public assistance under this chapter, and determining paternity. State plan functions shall be performed by other agencies as required by law, by delegation of the department, or by cooperative agreements. The director shall, not later than February 1, 1976, and annually thereafter, report to the Legislature on the administration of the state plan for securing support and determining paternity. Such report shall include, but not be limited to, the following:

(1) Information on the administration of the program, including the number of cases and a summary of the amounts collected from noncustodial parents and an analysis of the disbursement of such funds to recipients, counties, and the state.

(2) An analysis of the cost effectiveness of the program.

(3) Any changes in federal statutes or regulations which have occurred on or after July 1, 1975.

The report shall be made available to the public.

(b) The director shall formulate, adopt, amend or repeal, in accordance with provisions of Section 10554, regulations and general policies affecting the purposes, responsibilities, and jurisdiction of the department and which are consistent with law and necessary for the administration of the state plan for securing child and enforcing spousal support orders and determining paternity. The department, with the cooperation of the Department of Justice, shall insure that there is an adequate organizational structure and sufficient staff to perform functions delegated to any governmental unit relating to Title IV-D of the Social Security Act.

SEC. 32. Section 11475.1 of the Welfare and Institutions Code is amended to read:

11475.1. Each county shall maintain a single organizational unit located in the office of the district attorney which shall have responsibility for promptly and effectively enforcing child and spousal sup-

port obligations and determining paternity in the case of a child born out of wedlock. This responsibility shall apply to spousal support only where the spousal support obligation has been reduced to an order of a court of competent jurisdiction and the spouse (or former spouse) is receiving aid to families with dependent children for a child or children of the marriage or former marriage of the obligated spouse or former spouse. The district attorney shall take appropriate action, both civil and criminal, to enforce this obligation when the child and the spouse or former spouse is receiving public assistance. When the child is not receiving public assistance, the district attorney shall take appropriate action to enforce the child support obligation. There shall be prominently displayed in every public area of every office of the units established by this section a notice, in clear and simple language prescribed by the Director of Social Services, that child support enforcement services are provided to all individuals whether or not they are recipients of public social services and that spousal support enforcement services are available to those receiving public social services.

To the extent required by federal law where the child is not receiving public assistance and the District Attorney is collecting child support, or where the District Attorney is collecting sums owed as a spousal support obligation under other than the state plan as set forth in Section 11475.2, the person obligated to pay the support shall also be obligated to pay the District Attorney a fee equal to 10 percent of the total support collected by the District Attorney, including any past due support. This fee shall not apply to any support assigned under Section 11477. No part of this fee may be collected until all support installments for which the District Attorney is responsible for collecting, including past due support, have been paid in full, excluding therefrom sums to become due in the future. This fee shall be enforced the same as any other judgment or order of a superior court for child support. The effective date of the fee for purposes of applying any time limitations on the enforcement thereof shall be the date when the support collected to which the fee applies, was paid, except that such time limitations shall be tolled until all past due support to be collected by the District Attorney has been so collected. Nothing in this section shall prevent an applicant for collection of support under this section from requesting such collection be discontinued prior to the collection of sums to which the fee would otherwise apply, but such discontinuance shall have no effect on the enforcement collection of any fee which has become due because of the collection of support.

Nothing herein shall prohibit the district attorney from entering into cooperative arrangements with other county departments as necessary to carry out the responsibilities imposed by this section pursuant to plans of cooperation with such departments approved by the State Department of Social Services.

Nothing in this section shall otherwise limit the ability of the District Attorney from securing and enforcing orders for support of a

spouse or former spouse as authorized under any other provision of law.

SEC. 33. Section 11475.2 of the Welfare and Institutions Code is amended to read:

11475.2. If at any time the Director of Social Services considers any public agency, which is required by law, by delegation of the department, or by cooperative agreement, to perform functions relating to the state plan for securing child and spousal support and determining paternity, to be failing in a substantial manner to comply with any provision of the state plan, the director shall put such agency on written notice to that effect.

The state plan concerning spousal support shall apply only to spousal support while there is an order for support of a spouse, the spouse is receiving aid under this chapter and is also receiving aid under this chapter for a child of the spouse ordered to pay spousal support, and the right to spousal support has been assigned under Section 11477.

In this chapter the term spousal support shall include support for a former spouse.

If the director determines that there is a failure on the part of such public agency to comply with the provisions of the state plan, or if the State Personnel Board certifies to the director that such public agency is not in conformity with applicable merit system standards under Part 2.5 (commencing with Section 19800) of Division 5 of Title 2 of the Government Code, and that sanctions are necessary to secure compliance, the director may invoke either or both of the following sanctions:

(a) Withhold part or all of state and federal funds, including incentive funds, from such public agency until the public agency shall make a showing to the director of full compliance.

(b) Notify the Attorney General that there has been a failure to comply with the state plan and the Attorney General shall take appropriate action to secure compliance.

Nothing in this section shall be construed as relieving the board of supervisors of the responsibility to provide funds necessary for the continued operation of the state plan as required by law.

SEC. 34. Section 11476 of the Welfare and Institutions Code is amended to read:

11476. It shall be the duty of the county department to refer all cases where a parent is absent from the home, or where the parents are unmarried and parentage has not been determined by a court of competent jurisdiction, to the district attorney immediately at the time the application for assistance, or certificate of eligibility, is signed by the applicant or recipient. If an applicant is found to be ineligible, such applicant shall be notified in writing that the referral of case to the district attorney may be terminated at such applicant's request. The county department shall cooperate with the district attorney and shall make available to him all pertinent information as provided in Section 11478.

Upon referral from the county department, the district attorney shall investigate the question of nonsupport or paternity and shall take all steps necessary to obtain child support for the needy child, enforce spousal support as part of the state plan under Section 11475.2, and determine paternity in the case of a child born out of wedlock. Upon the advice of the county department that a child is being considered for adoption, the district attorney shall delay the investigation and other actions with respect to the case until advised that the adoption is no longer under consideration. The granting of aid to an applicant shall not be delayed or contingent upon investigation by the district attorney.

Where a court order has been obtained, any contractual agreement for support between the district attorney or the county department and the noncustodial parent shall be deemed null and void to the extent that it is not consistent with the court order.

Whenever a family which has been receiving aid to families with dependent children ceases to receive assistance, the district attorney shall:

(1) Continue to enforce support payments from the noncustodial parent for a period not to exceed three months from the month following the month in which such family ceased to receive assistance and pay all amounts so collected to the family; and

(2) At the end of such three-month period, if after written notice to the individual, the district attorney is requested to do so by the individual on whose behalf the enforcement efforts will be made, continue to enforce such support payments from the noncustodial parent.

The district attorney shall, where appropriate, utilize reciprocal arrangements adopted with other states in securing support from an absent parent. In individual cases where utilization of reciprocal arrangements has proven ineffective, the district attorney may forward to the Attorney General a request to utilize federal courts in order to obtain or enforce orders for child or spousal support. If reasonable efforts to collect amounts assigned pursuant to Welfare and Institutions Code Section 11477 have failed, the district attorney may request that the case be forwarded to the Treasury Department for collection in accordance with federal regulations. The Attorney General, where appropriate shall forward such requests to the Secretary of Health and Human Services, or his designated representative.

SEC. 35. Section 11476.1 of the Welfare and Institutions Code is amended to read:

11476.1. (a) In any case where the district attorney has undertaken enforcement of support, the district attorney may enter into an agreement with the noncustodial parent, on behalf of a minor child or children, a spouse, or former spouse for the entry of a judgment without action determining paternity, if applicable, and for periodic child and spousal support payments based on the noncustodial parent's reasonable ability to pay or, if for spousal support, an amount previously ordered by a court of competent jurisdiction. An

agreement for entry of a judgment under this section may be executed prior to the birth of the child and may include a provision that the judgment is not to be entered until after the birth of the child.

(b) A judgment based on the agreement shall be entered only if one of the following requirements is satisfied:

(1) The noncustodial parent is represented by legal counsel and the attorney signs a certificate stating: "I have examined the proposed judgment and have advised my client concerning his or her rights in connection with this matter and the consequences of signing or not signing the agreement for the entry of the judgment and my client, after being so advised, has agreed to the entry of the judgment.

(2) A judge of the court in which the judgment is to be entered, after advising the noncustodial parent concerning his or her rights in connection with the matter and the consequences of agreeing or not agreeing to the entry of the judgment, makes a finding that the noncustodial parent has appeared before the judge and the judge has determined that under the circumstances of the particular case the noncustodial parent has willingly, knowingly, and intelligently waived his or her due process rights in agreeing to the entry of the judgment.

(c) The clerk shall file the agreement, together with any certificate of the attorney or finding of the court, without the payment of any fees or charges. If the requirements of this section are satisfied, the court shall enter judgment thereon without action. The provisions of Section 4702 or Section 4801.7 of the Civil Code shall apply to such judgment. A judgment for suport so entered may be enforced by any means by which any other judgment for support may be enforced.

(d) Upon request of the district attorney in any case under this section, the clerk shall set the matter for hearing by the court. The hearing shall be held within 10 days after the clerk receives the request. The district attorney may require the person who signed the agreement for the entry of judgment to attend the hearing by process of subpoena in the same manner as the attendance of a witness in a civil action may be required. The presence of the person who signed the agreement for entry of judgment at the hearing shall constitute the presence of the person in court at the time the order is pronounced for the purposes of Section 1209.5 of the Code of Civil Procedure if the court makes the findings required by paragraph (2) of subdivision (b).

(e) The district attorney shall cause the following to be served, in the manner specified in Section 415.10, 415.20, 415.30, or 415.40 of the Code of Civil Procedure, upon the person who signed the agreement for entry of the judgment and shall file proof of service thereof with the court:

(1) A copy of the judgment as entered.

(2) If the judgment includes an order for child or spousal support payments, a notice stating the substance of the following: "The court

has continuing authority to make an order increasing or decreasing the amount of the child or spousal support payments. You have the right to request that the court order the child and spousal support payments be decreased or eliminated entirely."

(f) An order for child and spousal support included in a judgment entered under this section may be modified or revoked as provided in Section 4700 or Section 4801 of the Civil Code. The court may modify the order to make the support payments payable to a different person.

(g) For the purposes of this section, in making a determination of the noncustodial parent's reasonable ability to pay, any relevant circumstances set out in Section 246 of the Civil Code shall be considered.

(h) After arrest and before plea or trial, or after conviction or plea of guilty, under Section 270 of the Penal Code, if the defendant appears before the court in which the criminal action is pending and the requirements of paragraph (1) or (2) of subdivision (b) have been satisfied, the court may suspend proceedings or sentence in the criminal action, but this does not limit the later institution of a civil or criminal action or limit the use of any other procedures available to enforce the judgment entered pursuant to this section.

(i) Nothing in this section applies to a case where a civil action has been commenced.

SEC. 36. Section 11476.2 of the Welfare and Institutions Code is amended to read:

11476.2. Upon request of the custodial parent, the county department shall provide the information on the amount of child and spousal support paid by the absent parent. The custodial parent shall be notified that this information is available.

SEC. 37. 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 deter-

mining 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 and spousal 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. 38. 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 or to the extent required under the state plan under Section 11475.2, spousal support orders 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 enforc-

ing 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. 39. 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, spouse, or former spouse:

(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 and Human Services, 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 child or spousal 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. 40. Chapter 5 (commencing with Section 13000) of Part 3 of Division 9 is added to the Welfare and Institutions Code, to read:

CHAPTER 5. SOCIAL SERVICES

13000. The purpose of this chapter is to set forth those policies and procedures as are necessary to accommodate reductions in federal funds provided under Title XX of the federal Social Security Act as amended by the federal Omnibus Budget Reconciliation Act of 1981.

13001. Funding for social services programs administered by county welfare departments shall include but not be limited to federal funds received under Titles IV B and XX of the federal Social Security Act, 10 percent of federal funds received under the Low-Income Home Energy Assistance Block Grant and the State General Fund. The appropriation and allocation of these funds shall be in accordance with the annual Budget Act and the provisions of this chapter.

13002. From the funds described in Section 13001 each county shall receive two allocations. One allocation shall fund the In-Home Support Services program pursuant to Article 7 (commencing with Section 12300) of Chapter 3. The second allocation shall be for support of other county social services. Funds from the allocation of other county social services shall be available only when matched by 25 percent in county funds. With respect to the second allocation of funds for other county services, no reduction shall be made so as to allocate less funds than were allocated in the prior year unless the board of supervisors has made such a reduction at a regularly scheduled meeting. The notice of such action must be provided at least seven days prior to the meeting at which such action is to be taken. Such notice shall be provided in the same manner as the county provides notice for its regularly scheduled meetings.

13003. County allocations may be used to provide necessary training and shall be used to provide social services which meet the following five federal goals of Title XX of the federal Social Security Act.

(1) Achieve or maintaining self-support to prevent, reduce, or eliminate dependency.

(2) Achieving or maintaining self-sufficiency, including reduction or prevention of dependency.

(3) Preventing or remedying neglect, abuse, exploitation of children and adults unable to protect their own interests, or reuniting families.

(4) Preventing or reducing inappropriate institutional care by providing community-based care, home-based care, or other forms of less intensive care.

(5) Securing referral or admission for institutional care when other forms of care are not appropriate or providing services to individuals or institutions.

13004. Counties, in expending the allocation for other county social services, shall provide (a) protective services for children and

foster care services pursuant to Chapters 5 (commencing with Section 16500), 5.3 (commencing with Section 16525), and 5.5 (commencing with Section 16550) of Part 4, (b) protective services and foster care services for adults pursuant to Section 12251, (c) In-Home Supportive Services administration, and (d) information referral services and (e) transportation to and from health care facilities, or the location of other health care providers, when there is an urgent need for health care and transportation is not otherwise available from other resources. These transportation services shall be maintained at the level provided by counties, as part of health-related services as provided for in Section 12251, on September 30, 1981. Clause (e) shall remain in effect only until January 1, 1983, and on that date is repealed, unless a later enacted statute which is chaptered prior to that date, extends or deletes that date.

13005. Counties, after expending the county social services allocations for the priorities specified in Section 13004 may expend any remaining funds for other services directed at the five goals specified in Section 13003.

13006. Regulations promulgated by the department relating to protective services for adults, foster care services to adults and information and referral services shall provide counties with maximum flexibility in determining the type and level of services and use of funds for such services.

13007. Each county shall report to the State Department of Social Services all necessary information in order to comply with federal and state requirements for the social services block grant.

SEC. 41. Section 14005.1 of the Welfare and Institutions Code is amended to read:

14005.1. Public assistance recipients are eligible for health care services under Section 14005, including persons who would be eligible for public assistance, except for the provisions of subdivision (b) of Section 11450.

SEC. 42. Section 14007.5 is added to the Welfare and Institutions Code, to read:

14007.5. Any alien who is otherwise eligible for health care services under this chapter shall be eligible to receive these services if the alien certifies under penalty of perjury that to the best of his or her knowledge he or she is in the country legally and is entitled to remain indefinitely, or if the alien certifies that he or she is not under order for deportation, or if the alien certifies that he or she is married to an individual not under order for deportation.

Such certification by the alien shall, upon receipt, be forwarded to the United States Immigration and Naturalization Service for verification. Eligibility shall continue pending this verification.

If an alien has been residing in the United States continuously for five years or more at the time the county department requests certification of his or her legal right to reside, the affidavits of two United States citizens attesting to this continuous residence by the alien shall constitute a rebuttable presumption that the alien is entitled to be

in the country for purposes of determining eligibility.

If an alien subject to the provisions of this section is not fluent in English, it shall be the duty of the county department to provide an understandable explanation of the requirements of this section in a language in which the alien is fluent.

SEC. 42.5. Section 3 of Chapter 1077 of the Statutes of 1981 is repealed.

SEC. 42.6. Section 7 of Chapter 1080 of the Statutes of 1981 is repealed.

SEC. 42.7. There is hereby transferred from Item 518-101-001 (a) of the Budget Act of 1981 the amounts specified and for the purposes specified in the following schedule:

(a) Three million dollars ($3,000,000) to the In-Home Supportive Services (Item 518-101-001 (e) (2) (a)) of the Budget Act of 1981.

(b) One million dollars ($1,000,000) to protective services for children and foster care services for children (Item 518-101-001 (e) (1)).

(c) One million dollars ($1,000,000) to the Employment Development Department for employment and training programs for AFDC recipients pursuant to Employment Preparation Programs and Chapters 1077, 1078, and 1080 of the Statutes of 1981.

SEC. 43. Except as provided in Section 42.7 of this act, no appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because this act implements a federal law or regulation and involves only "costs mandated by the federal government," as defined by Section 2206 of the Revenue and Taxation Code and because the Legislature finds and declares that there are savings as well as costs in this act and in Chapter 1 of the Statutes of 1981–82 First Extraordinary Session, which, in the aggregate, do not result in additional net costs.

SEC. 44. Notwithstanding the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, emergency regulations adopted by the State Department of Health Services, the State Department of Social Services, the Employment Development Department, or the State Office of Economic Opportunity, within 120 days of the enactment of the act in order to implement the provisions of this act or the provisions of the Chapter 1 of the Statutes of the 1981–82 First Extraordinary Session shall not be subject to the review and approval of the Office of Administrative Law. The regulations shall not remain in effect more than 120 days unless the agency complies with all the provisions of Chapter 3.5 as required by subdivision (e) of Section 11346.1 of the Government Code.

SEC. 45. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to comply with provisions of the federal Omnibus Budget Reconciliation Act of 1981 relating to the Aid to Families with De-

pendent Children program, and to insure the fiscal integrity that program, it is necessary that this act go into immediate effect.

CHAPTER 4

An act to amend Section 3 of Chapter 528 of the Statutes of 1976, and to repeal Section 2 of Chapter 528 of the Statutes of 1976, relating to fiscal affairs.

[Approved by Governor February 17, 1982. Filed with Secretary of State February 17, 1982.]

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

SECTION 1. The Legislature hereby finds and declares that the General Fund is experiencing a significant decline in revenue, due, in large part, to the present unsettled condition of the economy; that General Fund expenditures for the year are running substantially higher than anticipated; and that the General Fund is experiencing major borrowing to meet cash obligations for the first time in nearly a decade.

SEC. 2. (a) Notwithstanding any other provisions of law, on the operative date of this act, nine million dollars ($9,000,000) of the unencumbered balance of the Energy and Resources Fund shall be transferred to the unappropriated surplus of the General Fund.

(b) Notwithstanding any other provisions of law, on the operative date of this act, twenty-seven million dollars ($27,000,000) of the unencumbered balance of the funds in the Special Account for Capital Outlay shall be transferred to the unappropriated surplus of the General Fund.

SEC. 3. (a) Notwithstanding any other provisions of law, on the operative date of this act, the unencumbered balance of the appropriation made by Item 857-001-037 of the Budget Act of 1981 shall revert to the unappropriated surplus of the fund from which the appropriation was made.

(b) Notwithstanding any other provisions of law, on the operative date of this act, the funds reverted by this section shall be transferred to the unappropriated surplus of the General Fund.

SEC. 4. Notwithstanding any other provisions of law, on the operative date of this act, eighteen million dollars ($18,000,000) of the unencumbered balance of the appropriation made by Item 835-101-001 of the Budget Act of 1981, one million two hundred thousand dollars ($1,200,000) of the unencumbered balance of the appropriation made by Item 425 of the Budget Act of 1980, and three million eight hundred thousand dollars ($3,800,000) of the unencumbered balance of the appropriation made by Item 384 of the Budget Act of 1979, shall revert to the unappropriated surplus of the fund from which the appropriation was made.

Notwithstanding any other provisions of law, the Controller shall not seek a deficiency appropriation to pay claims in excess of the remaining balances of the funds appropriated by Item 835-101-001 of the Budget Act of 1981, Item 425 of the Budget Act of 1980, and Item 384 of the Budget Act of 1979.

SEC. 5. Notwithstanding any other provisions of law, on the operative date of this act, the unencumbered balance of the appropriation made by Chapter 690 of the Statutes of 1979, and the reappropriation made to the Department of the Youth Authority by Section 10.11 of the Budget Act of 1980, shall revert to the unappropriated surplus of the fund from which the appropriation and reappropriation was made.

SEC. 6. Notwithstanding any other provisions of law, on the operative date of this act, five hundred thousand dollars ($500,000) of the unencumbered balance of the appropriation made by Item 084-001-001 of the Budget Act of 1981 shall revert to the unappropriated surplus of the fund from which the appropriation was made. This reversion is to reflect the termination of the making of refunds of social security taxes with respect to sick leave pay.

SEC. 7. Notwithstanding any other provisions of law, on the operative date of this act, the unencumbered balance of the funds in the Tax Preparers Fund shall be transferred to the unappropriated surplus of the General Fund.

SEC. 8. Notwithstanding any other provisions of law, on the operative date of this act, thirteen million two hundred five thousand dollars ($13,205,000) of the funds which would otherwise be transferred to the Transportation Planning and Development Account in the State Transportation Fund pursuant to subdivision (a) of Section 7102 of the Revenue and Taxation Code, shall be transferred to the unappropriated surplus of the General Fund.

SEC. 9. Section 2 of Chapter 528 of the Statutes of 1976 is repealed.

SEC. 10. Section 3 of Chapter 528 of the Statutes of 1976 is amended to read:

SEC. 8. The sum of one million five hundred eighty-two thousand two hundred twenty-three dollars ($1,582,223) is hereby appropriated from the General Fund to the State Controller for payments to local agencies pursuant to Section 2231 of the Revenue and Taxation Code to reimburse them for costs incurred pursuant to this act. This appropriation shall be available until June 30, 1974.

For purposes of this section, costs for purposes of Section 2231 of the Revenue and Taxation Code shall be computed as follows:

(a) An insured local agency shall multiply its annual premium, adjusted by its experience modification factor and less dividends received in the current year by the percentage increase in losses attributable to the cost mandate, calculated by a rating bureau, licensed in accordance with Section 11751 of the Insurance Code, using commonly accepted actuarial practices.

(b) An uninsured local agency shall claim on the basis of actual

losses or, in lieu thereof, may multiply total annual losses by the percentage increase in losses attributable to the cost mandate, calculated by a rating bureau, licensed in accordance with Section 11751 of the Insurance Code, using commonly accepted actuarial practices.

When more than one percentage increase in losses attributable to the cost mandate has been developed by rating bureaus, the State Department of Finance shall specify the applicable value to be used for the year of the claim.

Claims for reimbursement shall be prepared in the form, and payments made at the time, specified by the State Controller.

For purposes of this section, a reimbursable mandate shall mean only permanent total disability, as defined in subdivision (a) of Section 4452.2 of the Labor Code.

CHAPTER 5

An act to amend Sections 6459, 6471, 6472, 6474, 6482, 6513, 6591, 6907, 6936, 7655, 7656, 7661, 7674, 7706, 8130, 8151, 8754, 8777, 8803, 8876, 9155, 9174, 11319, 11354, 11405, 11430, 11555, 11576, 12258, 12287, 12307, 12631, 12632, 12983, 13107, 18009, 18685.05, 18686, 18687, 18688, 18689, 19062, 19062.11, 19091, 19111, 25901, 25901a, 25901b, 25901c, 25951, 26080, 26107, 26281, 30171, 30179, 30185, 30202, 30223, 30281, 30366, 30406, 32253, 32254, 32271, 32291, 32405, 32417, 38405, 38412, 38423, 38451, 38606, 38616, 40065, 40072, 40083, 40101, 40116, 40130, 41071, 41082, 41095, 41105, 41113, 43154, 43156, 43201, 43251, 43455, and 43477 of, and to add Section 19269 to, the Revenue and Taxation Code, and to amend Sections 803, 1111, 1113, 1129, and 1184 of the Unemployment Insurance Code, relating to taxation.

[Approved by Governor February 17, 1982. Filed with Secretary of State February 17, 1982.]

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

SECTION 1. Section 6459 of the Revenue and Taxation Code is amended to read:

6459. The board for good cause may extend for not to exceed one month the time for making any return or paying any amount required to be paid under this part. The extension may be granted at any time provided a request therefor is filed with the board within or prior to the period for which the extension may be granted.

Any person to whom an extension is granted shall pay, in addition to the tax, interest at the adjusted annual rate established pursuant to Section 19269 from the date on which the tax would have been due without the extension until the date of payment.

SEC. 2. Section 6471 of the Revenue and Taxation Code is amended to read:

6471. (a) Except as provided in subdivision (b), upon written notification by the board, any person whose estimated measure of tax liability under this part averages seventeen thousand dollars ($17,000) or more per month, as determined by the board, shall, without regard to the measure of tax in any one month, prepay not less than 90 percent of the amount of state and local tax liability for each of the first two monthly periods of each quarterly period. Persons engaged in their present business during all of the corresponding quarterly period of the preceding year, or persons who are successors to a business which was in operation during all of that quarterly period, may satisfy the above prepayment requirement by payment of an amount equal to one-third of the measure of tax liability reported on the return or returns filed for that quarterly period of the preceding year multiplied by the state and local tax rate in effect during the month for which the prepayment is made. Prepayment shall be made during the quarterly period designated by the board and during each succeeding quarterly period until further notified in writing by the board.

(b) Notwithstanding subdivision (a), upon written notification by the board, any person whose estimated measure of tax liability under this part averages four million dollars ($4,000,000) or more per month, as determined by the board, shall, without regard to the measure of tax in any one month, make the following prepayments:

(1) In the first, third, and fourth calendar quarters, the person shall prepay not less than 90 percent of the amount of state and local tax liability for each of the first two monthly periods of each quarterly period.

(2) In the second calendar quarter, the person shall prepay a first prepayment of 90 percent of the amount of state and local tax liability for the first monthly period of each quarterly period and a second prepayment of either:

(i) 90 percent of the amount of state and local tax liability for the second monthly period of the quarterly period plus 90 percent of the amount of state and local tax liability for the first 15 days of the third monthly period of the quarterly period; or

(ii) 90 percent of the amount of state and local tax liability for the second monthly period of the quarterly period plus 50 percent of 90 percent of the amount of the liability for the second monthly period of the quarterly period.

Persons engaged in their present business during all of the corresponding quarterly period of the preceding year, or persons who are successors to a business which was in operation during all of that quarterly period, may satisfy the above prepayment requirements for the first, third, and fourth calendar quarters by payment of an amount equal to one-third of the measure of tax liability reported on the return or returns filed for that quarterly period of the preceding year multiplied by the state and local tax rate in effect during the month for which the prepayment is made.

The persons may satisfy their prepayment requirements for the second calendar quarter by making a first prepayment of an amount equal to one-third of the measure of tax liability reported, and a second prepayment of an amount equal to one-half of the measure of tax liability reported, on the return or returns filed for that quarterly period of the preceding year multiplied by the state and local tax rate in effect during the month for which the prepayment is made.

Prepayments shall be made during the quarterly periods designated by the board and during each succeeding quarterly periods until further notified in writing by the board.

SEC. 2.3. Section 6472 of the Revenue and Taxation Code is amended to read:

6472. (a) For purposes of subdivision (a) of Section 6471, prepayment shall be accompanied by a report of the amount of such prepayment in a form prescribed by the board and shall be made to the board on or before the 20th day next following the end of each of the first two monthly periods of each quarterly period.

(b) For purposes of subdivision (b) of Section 6471, prepayment shall be accompanied by a report of the amount of such prepayment in a form prescribed by the board and shall be made to the board as follows:

(1) In the first, third, and fourth calendar quarters, on or before the 23rd day next following the end of each of the first two monthly periods of each quarterly period.

(2) In the second calendar quarter as follows:

(i) The first prepayment on or before the 23rd day next following the end of the first monthly period of each quarterly period.

(ii) The second prepayment on or before the 23rd day of the third monthly period of each quarterly period for the second monthly period and the first 15 days of the third monthly period of each quarterly period.

SEC. 2.5. Section 6474 of the Revenue and Taxation Code is amended to read:

6474. In determining whether a person's estimated measure of tax liability averages seventeen thousand dollars ($17,000) or more per month for purposes of subdivision (a) of Section 6471, or four million dollars ($4,000,000) or more per month for purposes of subdivision (b) of Section 6471, the board may consider tax returns filed pursuant to this part as well as any information in the board's possession or which may come into its possession.

SEC. 2.7. Section 6482 of the Revenue and Taxation Code is amended to read:

6482. The amount of the determination, exclusive of penalties, shall bear interest at the adjusted annual rate established pursuant to Section 19269 from the last day of the month following the quarterly period for which the amount or any portion thereof should have been returned until the date of payment.

SEC. 3. Section 6513 of the Revenue and Taxation Code is

amended to read:

6513. The amount of the determination, exclusive of penalties, shall bear interest at the adjusted annual rate established pursuant to Section 19269 from the last day of the month following the quarterly period for which the amount or any portion thereof should have been returned until the date of payment.

SEC. 4. Section 6591 of the Revenue and Taxation Code is amended to read:

6591. Any person who fails to pay any tax to the state or any amount of tax required to be collected and paid to the state, except amounts of determinations made by the board under Article 2 (commencing with Section 6481) or Article 3 (commencing with Section 6511) of this chapter, within the time required shall pay a penalty of 10 percent of the tax or amount of the tax, in addition to the tax or amount of tax, plus interest at the adjusted annual rate established pursuant to Section 19269 from the date on which the tax or the amount of tax required to be collected became due and payable to the state until the date of payment.

SEC. 5. Section 6907 of the Revenue and Taxation Code is amended to read:

6907. Interest shall be paid upon any overpayment of any amount of tax at the adjusted annual rate established pursuant to Section 19269 from the last day of the calendar month following the quarterly period for which the overpayment was made; but no refund or credit shall be made of any interest imposed upon the person making the overpayment with respect to the amount being refunded or credited.

The interest shall be paid:

(a) In the case of a refund, to the last day of the calendar month following the date upon which the person making the overpayment, if he has not already filed a claim, is notified by the board that a claim may be filed or the date upon which the claim is approved by the board, whichever date is the earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the tax or amount against which the credit is applied.

SEC. 6. Section 6936 of the Revenue and Taxation Code is amended to read:

6936. In any judgment, interest shall be allowed at the adjusted annual rate established pursuant to Section 19269 upon the amount found to have been illegally collected from the date of payment of the amount to the date of allowance of credit on account of the judgment or to a date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the board.

SEC. 7. Section 7655 of the Revenue and Taxation Code is amended to read:

7655. Any distributor who fails to pay the amount of license tax shown to be due by his return on or before the first day of the second calendar month following the monthly period to which it relates

must pay a penalty of 10 percent of the license tax, together with interest on such license tax at the adjusted annual rate established pursuant to Section 19269 from the date on which the license tax became due and payable to the state until the date of payment.

SEC. 8. Section 7656 of the Revenue and Taxation Code is amended to read:

7656. The board for good cause may extend for not to exceed one month the time for making any report or return or paying any tax required under this part. The extension may be granted at any time; provided, a request therefor is filed with the board within or prior to the period for which the extension may be granted.

Any distributor to whom an extension is granted shall pay, in addition to the tax, interest at the adjusted annual rate established pursuant to Section 19269 from the date on which the tax would have been due without the extension to the date of payment.

SEC. 9. Section 7661 of the Revenue and Taxation Code is amended to read:

7661. All determinations so made, exclusive of penalties, shall bear interest at the adjusted annual rate established pursuant to Section 19269 from the first day of the second calendar month after the close of the monthly period for which the amount or any portion thereof should have been returned until the date of payment.

SEC. 10. Section 7674 of the Revenue and Taxation Code is amended to read:

7674. All deficiency determinations, exclusive of penalty, shall bear interest at the adjusted annual rate established pursuant to Section 19269 from the first day of the second calendar month following the close of the monthly period for which the amount or any portion thereof should have been returned until the date of payment.

SEC. 11. Section 7706 of the Revenue and Taxation Code is amended to read:

7706. All jeopardy determinations including those made under Section 7704, exclusive of penalty, shall bear interest at the adjusted annual rate established pursuant to Section 19269 from the first day of the second calendar month following the close of the monthly period for which the amount or any portion thereof should have been returned until the date of payment.

SEC. 12. Section 8130 of the Revenue and Taxation Code is amended to read:

8130. Interest shall be paid upon any overpayment of any amount of tax at the adjusted annual rate established pursuant to Section 19269 from the first day of the second calendar month following the monthly period for which the overpayment is made; but no refund or credit shall be made of any interest imposed upon the claimant with respect to the amount being refunded or credited.

The interest shall be paid:

(a) In the case of a refund, if the claimant files a claim on his own initiative or within 30 days after he is notified by the board that a

claim may be filed, to the 10th day after the date upon which the claim is certified to the State Board of Control; otherwise to the 30th day after the date upon which claimant is notified by the board that the claim may be filed.

(b) In the case of a credit, to the same date as that to which interest is computed on the tax or amount against which the credit is applied.

SEC. 13. Section 8151 of the Revenue and Taxation Code is amended to read:

8151. In any judgment, interest shall be allowed at the adjusted annual rate established pursuant to Section 19269 upon the amount of the license tax found to have been illegally collected from the date of payment thereof to the date of allowance of credit on account of the judgment or to a date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the board.

SEC. 14. Section 8754 of the Revenue and Taxation Code is amended to read:

8754. The board for good cause may extend for not to exceed one month the time for making any return or paying any tax required under this part. The extension may be granted at any time; provided, a request therefor is filed with the board within or prior to the period for which the extension may be granted.

Any user to whom an extension is granted shall pay, in addition to the tax, interest at the adjusted annual rate established pursuant to Section 19269 from the date on which the tax would have been due without the extension to the date of payment.

SEC. 15. Section 8777 of the Revenue and Taxation Code is amended to read:

8777. The amount of the determination, exclusive of penalties, shall bear interest at the adjusted annual rate established pursuant to Section 19269 from the last day of the month following the month for which the amount of the tax, or any portion thereof, should have been reported until the date of payment.

SEC. 16. Section 8803 of the Revenue and Taxation Code is amended to read:

8803. The amount of the determination, exclusive of penalties, shall bear interest at the adjusted annual rate established pursuant to Section 19269 from the last day of the month following the month for which the amount, or any portion thereof, should have been reported until the date of payment.

SEC. 17. Section 8876 of the Revenue and Taxation Code is amended to read:

8876. Any user who fails to pay any tax, except taxes determined by the board under Article 2 (commencing with Section 8776) or Article 3 (commencing with Section 8801) of this chapter, within the time required shall pay a penalty of 10 percent of the amount of the tax, in addition to the tax, plus interest at the adjusted annual rate established pursuant to Section 19269 from the date on which the tax became due and payable until the date of payment.

SEC. 18. Section 9155 of the Revenue and Taxation Code is amended to read:

9155. Interest shall be paid upon any overpayment of any amount of tax at the adjusted annual rate established pursuant to Section 19269 from the last day of the calendar month following the period for which the overpayment was made; but no refund or credit shall be made of any interest imposed upon the person making the overpayment with respect to the amount being refunded or credited.

The interest shall be paid:

(a) In the case of a refund, to the last day of the calendar month following the date upon which the person making the overpayment, if he has not already filed a claim, is notified by the board that a claim may be filed or the date upon which the claim is approved by the board, whichever date is the earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the tax or amount against which the credit is applied.

SEC. 19. Section 9174 of the Revenue and Taxation Code is amended to read:

9174. If judgment is rendered for the plaintiff, the amount of the judgment shall first be credited on any amounts due from the plaintiff under this part and Part 2 (commencing with Section 7301) of this division, and the balance of the judgment shall be refunded to the plaintiff. In any judgment, interest shall be allowed at the adjusted annual rate established pursuant to Section 19269 upon the amount found to have been illegally collected from the date of payment of the amount to the date of allowance of credit on account of the judgment or to a date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the board.

SEC. 19.5. Section 11319 of the Revenue and Taxation Code is amended to read:

11319. If any assessment made pursuant to this article results in a tax that is paid after December 10 of the year to which the assessment relates, the tax shall bear interest at the adjusted annual rate established pursuant to Section 19269 for the period it remains unpaid from such date to the date of payment.

SEC. 19.7. Section 11354 of the Revenue and Taxation Code is amended to read:

11354. A jeopardy assessment is delinquent at the time it becomes final, and if unpaid at this time, a penalty of 10 percent of the tax shall be added thereto, plus interest on the amount of tax at the adjusted annual rate established pursuant to Section 19269 from the date on which the tax becomes due and payable until the date of payment.

SEC. 20. Section 11405 of the Revenue and Taxation Code is amended to read:

11405. If the tax is not paid on or before December 10th following the levy of the tax, a penalty of 10 percent of the amount of the tax shall be added thereto plus interest on the amount of the tax at the

adjusted annual rate established pursuant to Section 19269 from December 10th until the date of payment.

SEC. 21. Section 11430 of the Revenue and Taxation Code is amended to read:

11430. If the additional tax is not paid within the time specified in Section 11429, it is delinquent and a penalty of 10 percent of the amount of the additional tax shall be added thereto, plus interest on the amount of the additional tax at the adjusted annual rate established pursuant to Section 19269 from the date on which the additional tax became due and payable until the time of payment.

SEC. 22. Section 11555 of the Revenue and Taxation Code is amended to read:

11555. Interest shall be paid upon the amount of any overpayment of tax at the adjusted annual rate established pursuant to Section 19269 upon the amount found to have been illegally collected from the date of payment of the amount to the date of allowance of credit on account of the overpayment or to a date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the board from the first day of the month following the month the tax becomes due. The interest shall be paid:

(a) In the case of a refund, to the last day of the calendar month following the date upon which the person making the overpayment, if he has not already filed a claim, is notified by the board that a claim may be filed or the date upon which the claim is approved by the board, whichever date is the earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the tax or amount against which the credit is applied.

SEC. 23. Section 11576 of the Revenue and Taxation Code is amended to read:

11576. In any judgment, interest shall be allowed at the adjusted annual rate established pursuant to Section 19269 upon the amount found to have been illegally collected from the date of payment of the amount to the date of allowance of credit on account of the judgment or to a date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the board.

SEC. 24. Section 12258 of the Revenue and Taxation Code is amended to read:

12258. Any insurer who fails to pay any prepayment within the time required shall pay a penalty of 10 percent of the amount of the required prepayment, plus interest at the adjusted annual rate established pursuant to Section 19269 from the due date of the prepayment until the date of payment but not for any period after the due date of the annual tax. Assessments of prepayment deficiencies may be made in the manner provided by deficiency assessments of the annual tax.

SEC. 25. Section 12287 of the Revenue and Taxation Code is amended to read:

12287. The retaliatory tax shall be due and payable on or before December 1st and shall be paid by remittance made payable to the Controller. If not paid on or before the due date, the amount of retaliatory tax shall bear interest at the adjusted annual rate established pursuant to Section 19269 from December 1st until the date of payment, and there shall be paid in addition to the tax and interest, a penalty of 10 percent of the amount of the retaliatory tax.

SEC. 26. Section 12307 of the Revenue and Taxation Code is amended to read:

12307. Any insurer to whom an extension is granted shall pay, in addition to the tax, interest at the adjusted annual rate established pursuant to Section 19269 from April 1st until the date of payment.

SEC. 27. Section 12631 of the Revenue and Taxation Code is amended to read:

12631. Any insurer who fails to pay any tax, except a tax determined as a deficiency assessment by the board under Article 3 (commencing with Section 12421) of Chapter 4 of this part, within the time required shall pay a penalty of 10 percent of the amount of the tax in addition to the tax, plus interest at the adjusted annual rate established pursuant to Section 19269 from the due date of the tax until the date of payment.

SEC. 28. Section 12632 of the Revenue and Taxation Code is amended to read:

12632. An insurer who fails to pay any deficiency assessment when it becomes due and payable shall, in addition to the deficiency assessment, pay a penalty of 10 percent of the amount of the deficiency assessment, exclusive of interest and penalties. The amount of any deficiency assessment, exclusive of penalties, shall bear interest at the adjusted annual rate established pursuant to Section 19269 from the date on which the amount, or any portion thereof, would have been payable if properly reported and assessed until the date of payment.

SEC. 29. Section 12983 of the Revenue and Taxation Code is amended to read:

12983. Interest shall be allowed upon the amount of any overpayment of tax pursuant to this part at the adjusted annual rate established pursuant to Section 19269 from the due date of the tax for the year for which the overpayment was made, but no refund or credit shall be made of any interest imposed upon the claimant with respect to the amount being refunded or credited. The interest shall be paid:

(a) In the case of a refund, to the last day of the calendar month following the date upon which the claimant is notified in writing that a claim may be filed or the date upon which the claim is approved by the board, whichever date is the earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the tax or amount against which the credit is applied.

SEC. 30. Section 13107 of the Revenue and Taxation Code is

amended to read:

13107. In any judgment, interest shall be allowed, subject to the same limitations as are prescribed by Section 12984, at the adjusted annual rate established pursuant to Section 19269 upon the amount found to have been illegally collected from the date of payment of the amount to the date of allowance of credit on account of the judgment or to a date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the Controller.

SEC. 31. Section 18009 of the Revenue and Taxation Code is amended to read:

18009. Interest shall be assessed, collected and paid in the same manner as the tax at the adjusted annual rate established pursuant to Section 19269 from the date the credit was allowed under this part to the date of payment.

SEC. 32. Section 18685.05 of the Revenue and Taxation Code is amended to read:

18685.05. (a) In the case of any underpayment of estimated tax required to be paid under Section 18556 by the date prescribed therein (or the period as extended under Section 18433), with respect to declarations required by Section 18415, there shall be added to the tax for the taxable year an amount determined at the adjusted annual rate established pursuant to Section 19269 upon the amount of the underpayment (determined under Sections 18685.7 and 18685.8) for the period of the underpayment (determined under subdivision (b) of Section 18685.8).

(b) The application of this section to taxable years of less than 12 months shall be in accordance with regulations prescribed by the Franchise Tax Board.

SEC. 33. Section 18686 of the Revenue and Taxation Code is amended to read:

18686. If the tax imposed by this part, whether assessed by the Franchise Tax Board or the taxpayer, or any portion of the tax is not paid on or before the date prescribed for its payment, interest shall be assessed, collected and paid in the same manner as the tax upon the unpaid amount at the adjusted annual rate established pursuant to Section 19269 from the date prescribed for its payment until it is paid.

SEC. 34. Section 18687 of the Revenue and Taxation Code is amended to read:

18687. If the time for the payment of the tax is extended, interest thereon shall be assessed, collected and paid in the same manner as the tax at the adjusted annual rate established pursuant to Section 19269 from the date upon which such payment should have been made if no extension had been granted until the date the tax is paid.

SEC. 35. Section 18688 of the Revenue and Taxation Code is amended to read:

18688. Interest upon the amount assessed as a deficiency shall be assessed, collected and paid in the same manner as the tax at the adjusted annual rate established pursuant to Section 19269 from the

date prescribed for the payment of the tax until the date the tax is paid. If any portion of the deficiency is paid prior to the date it is assessed, interest shall accrue on such portion only to the date paid.

SEC. 35.5. Section 18689 of the Revenue and Taxation Code is amended to read:

18689. Interest at the adjusted annual rate established pursuant to Section 19269 shall be imposed under this article in respect of any assessable penalty only if such assessable penalty is not paid within 10 days from the date of notice and demand, or within 10 days of the date of the notice of deficiency proposed to be assessed, whichever date is applicable. In such case, interest shall be imposed only for the period from the applicable date of the notice to the date of payment.

SEC. 36. Section 19062 of the Revenue and Taxation Code is amended to read:

19062. Interest shall be allowed and paid on any overpayment in respect of any tax, at the adjusted annual rate established pursuant to Section 19269 as follows:

(a) In the case of a credit, from the date of the overpayment to the due date of the amount for which the credit is allowed. Any interest allowed on any credit shall first be credited on any taxes due from the taxpayer under this part.

(b) In the case of a refund, including a refund in excess of tax liability as prescribed in subdivision (h) of Section 17053.5, from the date of the overpayment to a date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the Franchise Tax Board.

SEC. 36.5. Section 19062.11 of the Revenue and Taxation Code is amended to read:

19062.11. (a) Except as provided in subdivision (b), if any overpayment of tax imposed by this part is refunded or credited within 90 days after the return is filed, or within 90 days after the last day prescribed for filing the return of such tax (determined without regard to any extension of time for filing the return), whichever is later, no interest shall be allowed under Section 19062 on such overpayment

For the purposes of this section, the term "overpayment of tax" shall be defined to include a refund in excess of tax liability as prescribed in subdivision (h) of Section 17053.5.

(b) For the 1982 taxable year, the 90-day time periods specified in subdivision (a) shall be 45 days. For the 1983 taxable year, and each taxable year thereafter, the time periods specified in subdivision (a) shall be 30 days.

SEC. 37. Section 19091 of the Revenue and Taxation Code is amended to read:

19091. In any judgment of any court rendered for any overpayment, interest shall be allowed at the adjusted annual rate established pursuant to Section 19269 upon the amount of the overpayment, from the date of the payment or collection thereof to the date of allowance of credit on account of such judgment or to a

date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the Franchise Tax Board.

SEC. 38. Section 19111 of the Revenue and Taxation Code is amended to read:

19111. The Franchise Tax Board may recover any refund or credit or any portion thereof which is erroneously made or allowed, together with interest at the adjusted annual rate established pursuant to Section 19269 from the date demand for recovery was made, in an action brought in a court of competent jurisdiction in the County of Sacramento in the name of the people of the State of California within: (a) two years after the refund or credit was made, or (b) during the period within which the Franchise Tax Board may mail a notice of proposed additional assessment, whichever period expires the later.

SEC. 39. Section 19269 is added to the Revenue and Taxation Code, to read:

19269. (a) The annual rate established under this section shall be the adjusted rate established by the Franchise Tax Board under subdivision (b).

(b) (1) The Franchise Tax Board shall establish an adjusted rate of interest for the purpose of subdivision (a) not later than November 15 of any year if the adjusted prime rate charged by banks during September of that year, rounded to the nearest full percent, is at least a full percentage point more or less than the interest rate 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, beginning on January 1, 1983, on January 1 of the immediately succeeding year.

(2) For the period from the effective date of this section to December 31, 1982, inclusive, the adjusted rate of interest for the purpose of subdivision (a) shall be 18 percent per annum.

(c) For purposes of subdivision (b), the term "adjusted prime rate charged by banks" means the average predominant prime rate quoted by commercial banks to large businesses, as determined by the Board of Governors of the Federal Reserve System.

SEC. 40. Section 25901 of the Revenue and Taxation Code is amended to read:

25901. If the tax imposed by this part, whether determined by the Franchise Tax Board or the taxpayer, or any portion of the tax is not paid on or before the date prescribed for its payment, interest shall be assessed, collected and paid in the same manner as the tax upon such unpaid amount at the adjusted annual rate established pursuant to Section 19269 from the date prescribed for its payment until it is paid.

SEC. 41. Section 25901a of the Revenue and Taxation Code is amended to read:

25901a. If the time for the payment of the tax is extended interest thereon shall be assessed, collected and paid in the same manner as the tax at the adjusted annual rate established pursuant to Section

19269 from the date upon which such payment should have been made if no extension had been granted until the date the tax is paid.

SEC. 42. Section 25901b of the Revenue and Taxation Code is amended to read:

25901b. Interest upon the amount determined as a deficiency shall be assessed, collected and paid in the same manner as the tax at the adjusted annual rate established pursuant to Section 19269 from the date prescribed for the payment of the tax or, if the tax is paid in installments, from the date prescribed for the payment of the first installment, until the date the tax is paid. If any portion of the deficiency is paid prior to the date it is assessed, interest shall accrue on such portion only to the date paid.

SEC. 42.5. Section 25901c of the Revenue and Taxation Code is amended to read:

25901c. Interest at the adjusted annual rate established pursuant to Section 19269 shall be imposed under this article in respect of any assessable penalty only if such assessable penalty is not paid within 10 days from the date of notice and demand, or within 10 days of the date of the notice of deficiency proposed to be assessed, whichever date is applicable. In such case, interest shall be imposed only for the period from the applicable date of the notice to the date of payment.

SEC. 43. Section 25951 of the Revenue and Taxation Code is amended to read:

25951. In case of any underpayment of estimated tax, except as provided in Section 25954, there shall be added to the tax for the taxable year an amount determined at the adjusted annual rate established pursuant to Section 19269 upon the amount of underpayment (determined under Section 25952) for the period of the underpayment (determined under Section 25953).

SEC. 44. Section 26080 of the Revenue and Taxation Code is amended to read:

26080. Interest shall be allowed and paid upon any overpayment in respect of any tax imposed by this part, at the adjusted annual rate established pursuant to Section 19269 as follows:

(a) In the case of a credit, from the date of the overpayment to the date of the allowance of the credit. Any interest allowed on any credit shall first be credited on any taxes due from the taxpayer under this part.

(b) In the case of a refund, from the date of the overpayment to a date preceding the date of the refund warrant by not more than 30 days, such date to be determined by the Franchise Tax Board.

SEC. 45. Section 26107 of the Revenue and Taxation Code is amended to read:

26107. In any judgment of any court rendered for any overpayment of tax imposed by this part, interest shall be allowed at the adjusted annual rate established pursuant to Section 19269 upon the amount of the overpayment, from the date of the payment or collection thereof to the date of allowance of credit on account of the judgment or to a date determined by the Franchise Tax Board

preceding the date of the refund warrant by not more than 30 days.

SEC. 46. Section 26281 of the Revenue and Taxation Code is amended to read:

26281. Any refund or any portion thereof which is erroneously made, and any credit or any portion thereof which is erroneously allowed, may be recovered, together with interest at the adjusted annual rate established pursuant to Section 19269 from the date the refund was made or the credit allowed, in an action brought by the Franchise Tax Board after the refund or credit was made, in a court of competent jurisdiction in the County of Sacramento in the name of the people of the State of California within: (a) two years after the refund or credit was made, or (b) during the period within which the Franchise Tax Board may mail a notice of proposed additional assessment, whichever period expires the later.

SEC. 47. Section 30171 of the Revenue and Taxation Code is amended to read:

30171. Any distributor who fails to pay any amount owing for the purchase of stamps or meter register settings within the time required, shall pay a penalty of 10 percent of the amount due in addition to the amount plus interest at the adjusted annual rate established pursuant to Section 19269 from the date on which the amount became due and payable until the date of payment.

SEC. 48. Section 30179 of the Revenue and Taxation Code is amended to read:

30179. Interest shall be computed, allowed and paid upon any overpayment for the purchase of stamps or meter register settings at the adjusted annual rate established pursuant to Section 19269 from the due date for payment of the purchase for which the overpayment was made, but no refund or credit shall be made of any interest imposed upon the claimant with respect to the amount being refunded or credited. The interest shall be paid:

(a) In the case of a refund, to the 15th day of the calendar month following the date upon which the claimant is notified by the board that a claim may be filed or the date upon which the claim is certified to the State Board of Control, whichever date is the earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the tax or amount against which the credit is applied.

SEC. 49. Section 30185 of the Revenue and Taxation Code is amended to read:

30185. Except as otherwise provided in Section 30172, the board for good cause may extend for not to exceed one month the time for making any report or paying any amount of tax required under this part. The extension may be granted at any time provided a request therefor is filed with the board within or prior to the period for which the extension may be granted.

Any person to whom an extension is granted pursuant to this section shall pay, in addition to the amount of tax, interest at the adjusted annual rate established pursuant to Section 19269 from the

date on which the amount of tax would have been due without the extension to the date of payment.

SEC. 50. Section 30202 of the Revenue and Taxation Code is amended to read:

30202. The amount of the determination, exclusive of penalties, shall bear interest at the adjusted annual rate established pursuant to Section 19269 from the date the amount of the tax, or any portion thereof, should have been reported until the date of payment.

SEC. 51. Section 30223 of the Revenue and Taxation Code is amended to read:

30223. The amount of the determination, exclusive of penalties, shall bear interest at the adjusted annual rate established pursuant to Section 19269 from the date the amount, or any portion thereof, should have been reported until the date of payment.

SEC. 52. Section 30281 of the Revenue and Taxation Code is amended to read:

30281. Any person who fails to pay any tax, except a tax determined by the board under Article 2 (commencing with Section 30201) or 3 (commencing with Section 30221) of this chapter, within the time required shall pay a penalty of 10 percent of the amount of the tax, in addition to the tax, plus interest at the adjusted annual rate established pursuant to Section 19269 from the date on which the tax became due and payable until the date of payment.

SEC. 53. Section 30366 of the Revenue and Taxation Code is amended to read:

30366. Interest shall be computed, allowed, and paid upon any overpayment of any amount of tax at the adjusted annual rate established pursuant to Section 19269 from the 25th day of the calendar month following the monthly period for which the overpayment was made, but no refund or credit shall be made of any interest imposed upon the claimant with respect to the amount being refunded or credited.

The interest shall be paid:

(a) In the case of a refund, to the 25th day of the calendar month following the date upon which the claimant is notified by the board that a claim may be filed or the date upon which the claim is certified to the State Board of Control, whichever date is the earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the tax or amount against which the credit is applied.

SEC. 54. Section 30406 of the Revenue and Taxation Code is amended to read:

30406. If judgment is rendered for the plaintiff, the amount of the judgment shall first be credited on any amounts due from the plaintiff under this part, and the balance of the judgment shall be refunded to the plaintiff. In any judgment, interest shall be allowed at the adjusted annual rate established pursuant to Section 19269 upon the amount found to have been illegally collected from the date of payment of the amount to the date of allowance of credit on

account of the judgment or to a date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the board.

SEC. 55. Section 32253 of the Revenue and Taxation Code is amended to read:

32253. The board for good cause may extend for not to exceed one month the time for making any report or paying any tax. Any person to whom an extension is granted and who pays the tax within the period for which the extension is granted shall pay, in addition to the tax, interest at the adjusted annual rate established pursuant to Section 19269 from the date the tax would have been due without the extension to the date of payment.

SEC. 56. Section 32254 of the Revenue and Taxation Code is amended to read:

32254. All taxes not paid on the date when due and payable shall bear interest at the adjusted annual rate established pursuant to Section 19269 from and after that date until paid.

SEC. 57. Section 32271 of the Revenue and Taxation Code is amended to read:

32271. If the board is dissatisfied with the return or returns filed or amount of tax paid to the state by any taxpayer, it may compute and determine the amount to be paid based upon any information available to it. One or more additional determinations may be made of the amount of tax due for one or for more than one period. The amount of tax so determined shall bear interest at the adjusted annual rate established pursuant to Section 19269 from the 15th day after the close of the period for which the amount of the tax, or any portion thereof, should have been reported until the date of payment. In making a determination, the board may offset overpayment for a period or periods against underpayments for another period or periods and against the interest and penalties on the underpayments. If any part of the deficiency for which a determination of an additional amount due is made is found to have been occasioned by negligence or intentional disregard of this part or authorized rules, a penalty of 10 percent of the amount of the determination shall be added, plus interest as above provided. If any part of the deficiency for which a determination of an additional amount due is made is found to be occasioned by fraud or an intent to evade this part or authorized rules, a penalty of 25 percent of the amount of the determination shall be added, plus interest as above provided. The board shall give to the taxpayer written notice of its determination. The notice shall be placed in a sealed envelope, with postage paid, addressed to the taxpayer at his address as it appears in the records of the board. The giving of notice shall be deemed complete at the time of the deposit of the notice in the United States Post Office, or a mailbox, sub-post office, substation or mail chute or other facility regularly maintained or provided by the United States Postal Service without extension of time for any reason. In lieu of mailing, a notice may be served personally by delivering to the

person to be served and service shall be deemed complete at the time of such delivery. Personal service to a corporation may be made by delivery of a notice to any person designated in the Code of Civil Procedure to be served for the corporation with summons and complaint in a civil action.

SEC. 58. Section 32291 of the Revenue and Taxation Code is amended to read:

32291. If any taxpayer fails to make a return required by this part, the board shall make an estimate, based upon any information available to it, for the period or periods with respect to which the taxpayer failed to make a return of all alcoholic beverages sold in this state by him. Upon the basis of this estimate the board shall compute and determine the amount required to be paid to the state, adding to the sum thus fixed a penalty equal to 5 percent thereof. One or more determinations may be made of the amount of tax due for one or for more than one period. The amount of tax so determined shall bear interest at the adjusted annual rate established pursuant to Section 19269 from the 15th day of the calendar month following the close of the period for which the amount of the tax, or any portion thereof, should have been returned until the date of payment. In making a determination the board may offset overpayments for a period or periods against underpayments for another period or periods and against interest and penalties on the underpayments. If any part of the deficiency for which a determination is made is due to negligence or intentional disregard of this part or authorized rules, an additional penalty of 10 percent of the amount of the determination shall be added. If the neglect or refusal of a taxpayer to file a return as required by this part was due to fraud or an intent to evade the tax, there shall be added to the tax a penalty equal to 25 percent thereof in addition to the 5 percent penalty. The board shall give to the taxpayer written notice of the estimate and determination, the notice to be served personally or by mail in the same manner as prescribed for service of notice by Section 32271.

SEC. 59. Section 32405 of the Revenue and Taxation Code is amended to read:

32405. Interest shall be computed, allowed, and paid upon any overpayment of any amount of tax at the adjusted annual rate established pursuant to Section 19269 from the 15th day of the calendar month following the period for which the overpayment was made, but no refund or credit shall be made of any interest imposed upon the claimant with respect to the amount being refunded or credited.

The interest shall be paid:

(a) In the case of a refund, to the 15th day of the calendar month following the date upon which the claimant is notified by the board that a claim may be filed or the date upon which the claim is certified to the State Board of Control, whichever date is the earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the tax or amount against which the credit

is applied.

SEC. 60. Section 32417 of the Revenue and Taxation Code is amended to read:

32417. In any judgment, interest shall be allowed at the adjusted annual rate established pursuant to Section 19269 upon the amount found to have been illegally collected from the date of payment of the amount to the date of allowance of credit on account of the judgment or to a date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the board.

SEC. 61. Section 38405 of the Revenue and Taxation Code is amended to read:

38405. The board for good cause may extend for not to exceed one month the time for making any return or paying any amount required to be paid under this part. The extension may be granted at any time provided a request therefor is filed with the board within or prior to the period for which the extension may be granted.

Any person to whom an extension is granted shall pay, in addition to the tax, interest at the adjusted annual rate established pursuant to Section 19269 from the date on which the tax would have been due without the extension until the date of payment.

SEC. 62. Section 38412 of the Revenue and Taxation Code is amended to read:

38412. The amount of the determination, exclusive of penalties, shall bear interest at the adjusted annual rate established pursuant to Section 19269 from the last day of the month following the quarterly period for which the amount or any portion thereof should have been returned until the date of payment.

SEC. 63. Section 38423 of the Revenue and Taxation Code is amended to read:

38423. The amount of the determination, exclusive of penalties, shall bear interest at the adjusted annual rate established pursuant to Section 19269 from the last day of the month following the quarterly period for which the amount or any portion thereof should have been returned until the date of payment.

SEC. 64. Section 38451 of the Revenue and Taxation Code is amended to read:

38451. Any person who fails to pay any tax to the state or any amount of tax required to be collected and paid to the state, except amounts of determinations made by the board under Articles 2 or 3 of this chapter, within the time required shall pay a penalty of 10 percent of the tax or amount of the tax, in addition to the tax or amount of tax, plus interest at the adjusted annual rate established pursuant to Section 19269 from the date on which the tax or the amount of tax required to be collected became due and payable to the state until the date of payment.

SEC. 65. Section 38606 of the Revenue and Taxation Code is amended to read:

38606. Interest shall be paid upon any overpayment of any amount of tax at the adjusted annual rate established pursuant to

Section 19269 from the last day of the calendar month following the quarterly period for which the overpayment was made; but no refund or credit shall be made of any interest imposed upon the person making the overpayment with respect to the amount being refunded or credited.

The interest shall be paid:

(a) In the case of a refund, to the last day of the calendar month following the date upon which the person making the overpayment, if he has not already filed a claim, is notified by the board that a claim may be filed or the date upon which the claim is approved by the board, whichever date is the earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the tax or amount against which the credit is applied.

SEC. 66. Section 38616 of the Revenue and Taxation Code is amended to read:

38616. In any judgment, interest shall be allowed at the adjusted annual rate established pursuant to Section 19269 upon the amount found to have been illegally collected from the date of payment of the amount to the date of allowance of credit on account of the judgment or to a date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the board.

SEC. 67. Section 40065 of the Revenue and Taxation Code is amended to read:

40065. The board for good cause may extend not to exceed one month the time for making any return or paying any amount required to be paid under this part. The extension may be granted at any time provided a request therefor is filed with the board within or prior to the period for which the extension may be granted.

Any person to whom an extension is granted shall pay, in addition to the surcharge, interest at the adjusted annual rate established pursuant to Section 19269 from the date on which the surcharge would have been due without the extension of the date of payment.

SEC. 68. Section 40072 of the Revenue and Taxation Code is amended to read:

40072. The amount of the determination, exclusive of penalties, shall bear interest from the last day of the month following the quarterly period for which the amount or any portion thereof should have been returned until the day of payment. Interest shall be computed at the adjusted annual rate established pursuant to Section 19269.

SEC. 69. Section 40083 of the Revenue and Taxation Code is amended to read:

40083. The amount of the determination, exclusive of penalties, shall bear interest from the last day of the month following the quarterly period for which the amount or any portion thereof should have been returned until the date of payment. Interest shall be computed at the adjusted annual rate established pursuant to Section 19269.

SEC. 70. Section 40101 of the Revenue and Taxation Code is amended to read:

40101. Any person who fails to pay any surcharge to the state or any amount of surcharge required to be collected and paid to the state, except amounts of determinations made by the board under Article 3 (commencing with Section 40071) or 4 (commencing with Section 40081) of this chapter, within the time required shall pay a penalty of 10 percent of the surcharge or amount of the surcharge, in addition to the surcharge or amount of surcharge, plus interest from the date on which the surcharge or the amount of surcharge required to be collected became due and payable to the state until the date of payment. Interest shall be computed at the adjusted annual rate established pursuant to Section 19269.

SEC. 71. Section 40116 of the Revenue and Taxation Code is amended to read:

40116. Interest shall be paid upon any overpayment of any amount of surcharge from the last day of the calendar month following the quarterly period for which the overpayment was made; but no refund or credit shall be made of any interest imposed upon the person making the overpayment with respect to the amount being refunded or credited.

The interest shall be paid:

(a) In the case of a refund, to the last day of the calendar month following the date upon which the person making the overpayment, if he has not already filed a claim, is notified by the board that a claim may be filed or the date upon which the claim is approved by the board, whichever date is the earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the surcharge or amount against which the credit is applied.

(c) Interest shall be computed at the adjusted annual rate established pursuant to Section 19269.

SEC. 72. Section 40130 of the Revenue and Taxation Code is amended to read:

40130. In any judgment, interest shall be allowed at the adjusted annual rate established pursuant to Section 19269 upon the amount found to have been illegally collected from the date of payment of the amount to the date of allowance of credit on account of the judgment or to a date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the board.

SEC. 73. Section 41071 of the Revenue and Taxation Code is amended to read:

41071. The amount of the determination, exclusive of penalties, shall bear interest at the adjusted annual rate established pursuant to Section 19269 from the last day of the month following the month for which the amount or any portion thereof should have been returned until the date of payment.

SEC. 74. Section 41082 of the Revenue and Taxation Code is amended to read:

41082. The amount of the determination, exclusive of penalties, shall bear interest at the adjusted annual rate established pursuant to Section 19269 from the last day of the month following the quarterly period for which the amount or any portion thereof should have been returned until the date of payment.

SEC. 75. Section 41095 of the Revenue and Taxation Code is amended to read:

41095. Any person who fails to pay any surcharge to the state or any amount of surcharge required to be collected and paid to the state, except amounts of determinations made by the board under Article 3 (commencing with Section 41070) or Article 4 (commencing with Section 41080), of this chapter, within the time required shall pay a penalty of 10 percent of the surcharge or amount of the surcharge or ten dollars ($10), whichever is greater, in addition to the tax or amount of surcharge, plus interest at the adjusted annual rate established pursuant to Section 19269 from the date on which the surcharge or the amount of tax required to be collected became due and payable to the state until the date of payment.

SEC. 76. Section 41105 of the Revenue and Taxation Code is amended to read:

41105. Interest shall be paid upon any overpayment of any amount of tax at the adjusted annual rate established pursuant to Section 19269 from the date the return is due following the quarterly period for which the overpayment was made; but no refund or credit shall be made of any interest imposed upon the person making the overpayment with respect to the amount being refunded or credited.

The interest shall be paid:

(a) In the case of a refund, to the last day of the calendar month following the date upon which the person making the overpayment, if he has not already filed a claim, is notified by the board that a claim may be filed or the date upon which the claim is approved by the board, whichever date is the earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the surcharge or amount against which the credit is applied.

SEC. 77. Section 41113 of the Revenue and Taxation Code is amended to read:

41113. In any judgment, interest shall be allowed at the adjusted annual rate established pursuant to Section 19269 upon the amount found to have been illegally collected from the date of payment of the amount to the date of allowance of credit on account of the judgment or to a date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the board.

SEC. 78. Section 43154 of the Revenue and Taxation Code is amended to read:

43154. The board for good cause may extend, for a period of time not to exceed one month, the time for making any return or paying

any amount required to be paid under this part. The extension may be granted at any time provided a request therefor is filed with the board within or prior to the period for which the extension may be granted.

Any person to whom an extension is granted shall pay, in addition to the tax, interest at the adjusted annual rate established pursuant to Section 19269 from the date on which the tax would have been due without the extension until the date of payment.

SEC. 79. Section 43156 of the Revenue and Taxation Code is amended to read:

43156. All taxes not paid on the date when due and payable shall bear interest at the adjusted annual rate established pursuant to Section 19269 from and after that date until paid.

SEC. 80. Section 43201 of the Revenue and Taxation Code is amended to read:

43201. If the board is dissatisfied with the return or returns filed or the amount of tax paid to the state by any taxpayer, it may compute and determine the amount to be paid based upon any information available to it. One or more additional determinations may be made of the amount of tax due for one, or for more than one, period. The amount of tax so determined shall bear interest at the adjusted annual rate established pursuant to Section 19269 from the date the amount of the tax, or any portion thereof, should have been reported until the date of payment. In making a determination, the board may offset overpayments for a period or periods against underpayments for another period or periods and against the interest and penalties on the underpayments. If any part of the deficiency for which a determination of an additional amount due is made is found to have been occasioned by negligence or intentional disregard of this part or authorized rules, a penalty of 10 percent of the amount of the determination shall be added, plus interest as provided above. If any part of the deficiency for which a determination of an additional amount due is made is found to be occasioned by fraud or an intent to evade this part or authorized rules, a penalty of 25 percent of the amount of the determination shall be added, plus interest as provided above. The board shall give to the taxpayer written notice of its determination. The notice shall be placed in a sealed envelope, with postage paid, addressed to the taxpayer at his or her address as it appears in the records of the board. The giving of notice shall be deemed complete at the time of the deposit of the notice in the United States Post Office, or a mailbox, sub-post office, substation or mail chute or other facility regularly maintained or provided by the United States Postal Service without extension of time for any reason. In lieu of mailing, a notice may be served personally by delivering to the person to be served and service shall be deemed complete at the time of such delivery. Personal service to a corporation may be made by delivery of a notice to any person designated in the Code of Civil Procedure to be served for the corporation with summons and complaint in a civil action.

SEC. 81. Section 43251 of the Revenue and Taxation Code is amended to read:

43251. If any taxpayer fails to make a return required by this part, the board shall make an estimate, based upon any information available to it, for the period or periods with respect to which the taxpayer failed to make a return of all hazardous wastes disposed of in this state by the taxpayer. Upon the basis of this estimate the board shall compute and determine the amount required to be paid to the state, adding to the sum thus fixed a penalty equal to 10 percent thereof. One or more determinations may be made of the amount of tax due for one, or for more than one, period. The amount of tax so determined shall bear interest at the adjusted annual rate established pursuant to Section 19269, from the date the amount of the tax, or any portion thereof, should have been returned until the date of payment. In making a determination the board may offset overpayments for a period or periods against underpayments for another period or periods and against interest and penalties on the underpayments. If any part of the deficiency for which a determination is made is due to negligence or intentional disregard of this part or authorized rules, an additional penalty of 10 percent of the amount of the determination shall be added. If the neglect or refusal of a taxpayer to file a return as required by this part was due to fraud or an intent to evade the tax, there shall be added to the tax a penalty equal to 25 percent thereof in addition to the 10 percent penalty. The board shall give to the taxpayer written notice of the estimate and determination, the notice to be served personally or by mail in the same manner as prescribed for service of notice by Section 43201.

SEC. 82. Section 43455 of the Revenue and Taxation Code is amended to read:

43455. Interest shall be computed, allowed, and paid upon any overpayment of any amount of tax at the adjusted annual rate established pursuant to Section 19269 from the due date of the return for the period for which the overpayment was made, but no refund or credit shall be made of any interest imposed upon the claimant with respect to the amount being refunded or credited.

The interest shall be paid as follows:

(a) In the case of a refund, to the 15th day of the calendar month following the date upon which the claimant is notified by the board that a claim may be filed or the date upon which the claim is certified to the State Board of Control, whichever date is earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the tax or amount against which the credit is applied.

SEC. 83. Section 43477 of the Revenue and Taxation Code is amended to read:

43477. In any judgment, interest shall be allowed at the adjusted annual rate established pursuant to Section 19269 upon the amount found to have been illegally collected from the date of payment of

the amount to the date of allowance of credit on account of the judgment, or to a date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the board.

SEC. 84. 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 adjusted annual rate established pursuant to Section 19269 of the Revenue and Taxation Code 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. 85. Section 1111 of the Unemployment Insurance Code is amended to read:

1111. The director for good cause may extend for not to exceed 60 days the time for making a return or paying without penalty any amount required to be paid under this division. Any employer to whom an extension is granted and who pays the amount required within the period for which the extension is granted shall pay, in addition to the contributions, interest at the adjusted annual rate established pursuant to Section 19269 of the Revenue and Taxation Code from the date on which the payment would have been delinquent without the extension until the date of payment.

SEC. 86. Section 1113 of the Unemployment Insurance Code is amended to read:

1113. Any employer who fails to pay any contributions required of him or of his workers, except amounts assessed under Article 8 (commencing with Section 1126) of this chapter, within the time required shall become liable for interest on such contributions at the adjusted annual rate established pursuant to Section 19269 of the Revenue and Taxation Code from and after the date of delinquency until paid.

SEC. 87. Section 1129 of the Unemployment Insurance Code is amended to read:

1129. The amount of each assessment, exclusive of penalty, shall bear interest at the adjusted annual rate established pursuant to Section 19269 of the Revenue and Taxation Code from and after the last day of the month following the close of the calendar quarter, or from and after the 15th day of the month following the close of the calendar month, for which the contributions should have been returned until the date of payment.

SEC. 88. 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 adjusted annual rate established pursuant to Section 19269 of the Revenue and Taxation Code 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 1140.

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. 89. The provisions of this act shall apply to all interest and additions to tax accruing on or after the effective date of this act.

SEC. 90. This act shall only become operative if SB 982 is chaptered during the 1981–82 Regular Session of the Legislature.

SEC. 91. Notwithstanding any other provisions of law, additional revenues deposited to the credit of any fund or account, except the General Fund, which are attributable to the increase in interest pursuant to this act shall only be appropriated as provided in legislation enacted after the effective date of this act, and no increase attributable to this act in the interest payable for sums the state owes to taxpayers shall be made unless and until an appropriation is made by the Legislature for that purpose.

CONCURRENT RESOLUTIONS

1981-82

FIRST EXTRAORDINARY SESSION

1982 RESOLUTION CHAPTERS

RESOLUTION CHAPTER 1

Senate Concurrent Resolution No. 1—Relative to the Joint Rules of the Senate and Assembly.

[Filed with Secretary of State November 12, 1981.]

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Temporary Joint Rules of the Senate and Assembly for the 1981–82 Regular Session, except for Joint Rules 51, 55, 61, that provision of Joint Rule 29.5(a) requiring notice of a meeting of a conference committee be published in the Daily File, and that provision of Joint Rule 62(a) requiring notice of a hearing of a bill be published in the Daily File, are hereby adopted as the Temporary Joint Rules of the Senate and Assembly for the 1981–82 First Extraordinary Session.

RESOLUTION CHAPTER 2

Assembly Concurrent Resolution No. 1—Relative to adjournment of the 1981–82 First Extraordinary Session of the Legislature.

[Filed with Secretary of State February 26, 1982.]

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the 1981–82 First Extraordinary Session of the Legislature of the State of California shall adjourn sine die on adjournment at 4 p.m., February 25, 1982.
